NATIONAL STONE, SAND & GRAVEL ASSOCIATION

Natural building blocks for quality of life

STATEMENT ON TAX REFORM PRIORITIES

OF THE

NATIONAL STONE, SAND & GRAVEL ASSOCIATION

SUBMITTED TO

THE HOUSE COMMITTEE ON WAYS AND MEANS

TAX REFORM WORKING GROUPS

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INTRODUCTION

Thank you for the opportunity to submit comments on possible changes to the tax code now being considered by working groups of the House Ways & Means Committee for inclusion in tax reform legislation.

Based near the nation's capital, NSSGA is the world's largest mining association by product volume. Its member companies represent more than 90% of the crushed stone and 70% of the sand and gravel consumed annually in the U.S. and employ 107,800 working men and women.

Stone, sand and gravel – aggregates -- are a base construction material essential to the built environment. The sale of natural aggregates generates nearly $40 billion annually for the U.S. economy. During 2012, nearly two billion metric tons of aggregates—valued at roughly $17 billion – were produced and sold in the U.S. The materials are used in nearly all residential, commercial and industrial building and in most public works projects, such as: roads, highways, bridges, railroad beds, dams, airports, water and sewage treatment plants and tunnels.

There are more than 10,000 construction aggregates operations nationwide. Almost every congressional district is home to a crushed stone, sand or gravel operation. Proximity to market is critical due to high transportation costs, so 70% of our nation's counties include an aggregates operation. Approximately 70% of NSSGA member companies are considered small businesses.

While the American public pays little attention to these raw natural materials, they go into the manufacture of asphalt, concrete, glass, paper, paint, pharmaceuticals, cosmetics, chewing gum, household cleaners and many other consumer goods.

NSSGA supports tax reform that would simplify the tax code and result in lower administrative and compliance costs, and provide the certainty that allows informed and cost-effective allocation of human and financial resources. The complexities of the tax code have placed an ever heavier burden on businesses and their employees who are the drivers of economic growth and job creation.

ENSURE SOLVENCY OF THE HIGHWAY TRUST FUND

Aggregates compose 94% of asphalt and 74% of concrete. As a result, road and highway building is the number one priority issue of the industry. The current law funding the nation's surface transportation infrastructure, Moving Ahead for Progress in the 21st Century (MAP-21), expires on Sept. 30, 2014. Current projections find that the Highway Trust Fund will run out of money in 2015. History shows that fiscal situations such as this are best resolved in the context of broad fiscal reform and have been proposed and implemented by Republicans and Democrats alike.

Freedom of mobility is a treasured American value. If we continue to ignore the condition of our nation's surface transportation network, which is the foundation of America and essential to economic growth and global competitiveness, costs of maintaining and improving it only will increase.

According to the World Economic Forum, U.S. infrastructure ranks 23rd in the world, just behind Spain, Oman Belgium, Taiwan, and Barbados. America always has had a surface transportation system that was the envy of the world. Although the overall grade of America's transportation infrastructure system improved from a D to a D+ according to the latest Infrastructure Report Card from the American Society of Civil Engineers, we cannot settle for receiving a near failing grade.

Additionally, the National Highway Traffic Safety Administration's statistical projection of traffic fatalities for the first nine months of 2012 shows that an estimated 25,580 people died in motor vehicle traffic crashes. This represents an increase of about 7.1 percent as compared to the 23,884 fatalities that occurred in the first nine months of 2011. The estimated 7.1 increase during the first nine months of 2012 represents the largest such increase during the first nine months of the year since 1975, the first year the NHSTA began collecting the data. Although it is not clear yet to what the increase is attributable, in previous years one-third of these fatalities were due to poor road conditions. In 2011, poor road conditions surpassed alcohol as the leading cause of traffic fatalities. According to The Road Information Program, motor vehicle crashes in 2011cost the U.S. $230 billion per year, $819 for each resident, in medical costs, lost productivity, travel delays workplace costs, insurance costs and legal costs.

The Federal Highway Administration estimates that every dollar invested in roads and bridges returns $5.20 in lower vehicle maintenance, less traffic delays, less fuel consumption, fewer crashes, less road and bridge maintenance costs and fewer vehicular emissions. Additionally, transportation construction is a very important part of the nation's economy. It annually generates some $380 billion in economic activity or about 3% of our GDP.

The system is supported by a fuel tax, which is the nearest thing to a user fee (one pays to use the roads) that exists. Fuel user fee revenues into the highway trust fund continue to erode due to the increased use of alternative fuels and more fuel efficient vehicles.

The fuel tax has not been increased since 1993. The past two increases have occurred in the context of comprehensive tax reform. We urge the 113th Congress to take the opportunity of tax reform to ensure solvency of the Highway Trust Fund into the future. Many potential funding options have been proposed. [See attached chart.] Whether it is an increase in the user fee on fuels, which would be the most efficient, indexing of the current user fee, or a combination of other options, addressing this issue is imperative to the way of life American's enjoy.

OTHER PRIORITY ISSUES

Maintain the Percentage Depletion Allowance

Percentage depletion is the capital cost recovery method recognized in the tax code for the aggregates industry and other natural resources industries. It is 5% for sand gravel and crushed stone and varying amounts up to 22% for other minerals. Percentage depletion is limited to 50% of net income, less exploration costs, and is a preference item for the corporate minimum tax.

During earlier tax reform debates, in the search for additional revenues, efforts have been made to eliminate the percent depletion deduction for hard rock minerals. Although not the target of these efforts, aggregates producers are concerned that there will be attempts to eliminate the percentage depletion deduction for aggregates.

Sold on a competitive basis, crushed stone, sand, and gravel are low-value commodities that are very sensitive to cost-production factors including percentage depletion, with a penny per ton making a significant difference. Repealing percentage depletion for aggregates would increase the cost of constructing public works and infrastructure by raising mining costs that would be passed on, in higher prices, to the end users of aggregates. Repealing percentage depletion would disrupt the production of needed construction materials and it would unfairly tax the western states where mining is more prevalent.

NSSGA urges Congress to resist efforts to repeal the percentage depletion for aggregates. NSSGA also urges Congress to eliminate percentage depletion as a tax preference item.

Repeal the Estate Tax

A majority of our members are what would be considered small businesses, and many are family-owned. As such, changes in the federal estate tax fall very heavily on our members. NSSGA supports reduction or elimination of the estate tax that was repealed by the *Economic Growth and Tax Relief Reconciliation Act of 2001,* but returned in 2011. Before the tax returned to its pre-2001 rate of 55% and a $1 million per person exemption, President Obama and congressional Republicans crafted a compromise top rate of 35 percent with an exemption of $5 million per person for the years 2011 and 2012. The 2013 “fiscal cliff” deal made reform permanent, but increased the top rate to 40 percent while maintaining the exemption levels.

Numerous attempts to repeal or scale back the “death” tax have been introduced in the House. The Senate, too, has considered amendments to repeal the tax. NSSGA believes the time is ripe to finally put the stake in a tax that disadvantages small business owners and family businesses that are the engine of economic growth.

Continue the Depreciation Bonus

The *Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010* provided 50% depreciation bonus for capital investment placed in service after December 31, 2011, and through December 31, 2012. The *American Taxpayer Relief Act*, H.R. 8, that temporarily averted the “fiscal cliff,” extended the 50% bonus depreciation through 2013. ATRA also increased Sec. 179 expensing levels to $500,000 with a $2 million phase-out for 2012 and 2013. Additionally, the law allows companies the option to accelerate AMT credits in lieu of the depreciation bonus and to permit businesses using PCM (percentage completion method of accounting) to benefit from the capital investment incentive.

The bonus depreciation particularly helps natural resources businesses, like aggregates, that require use of large and costly machinery. It allows businesses that cut their tax bill to purchase new equipment.

The increases in Sec. 179 expensing can be used for both new and used equipment and can be combined with the depreciation bonus, which also is very helpful to businesses.

Continuation of the 50% bonus depreciation and the comparable treatment of AMT in lieu of bonus will accelerate investment, create jobs, and fuel ongoing economic recovery and growth.

Retain the LIFO Accounting Method

There have been earlier recommendations to repeal the last-in, first-out (LIFO) method of accounting for inventories. NSSGA urges that this method of accounting be retained.

The current tax code permits a taxpayer with inventories to determine the value of its inventory and its cost of goods sold using a number of different methods. The first-in, first-out (FIFO) method, which matches current sales with the costs of the earliest acquired (or manufactured) inventory items, is the most frequently used. Alternatively, and a method often used by aggregates producers, is the last-in, first-out method (LIFO), which treats the most recently acquired (or manufactured) goods as having been sold during the year. The LIFO method can provide a tax benefit for a taxpayer facing rising inventory costs, since the cost of goods sold under this method is based on more recent, higher inventory values, resulting in lower taxable income. Our members understand if inventory levels fall during the year, a LIFO taxpayer must include lower-cost LIFO inventory values (reflecting one or more prior-year inventory accumulations) in the cost of goods sold, and its taxable income will be correspondingly higher.

Reject Temporary Regulations on Capitalization Rules on Tangible Property

The Treasury and the IRS issued temporary tangible property regulations (the Temporary Regulations) regarding the tax treatment of amounts paid to acquire, produce, or improve tangible property and on the accounting for and disposition of property on Dec. 23, 2011. As originally issued, the Temporary Regulations would be applicable to tax years beginning on or after January 1, 2012. In general, these regulations would require taxpayers to capitalize and depreciate many items that they currently expense. In addition, the Temporary Regulations contain overly burdensome rules regarding the timing of dispositions.

On Dec. 14, 2012, Treasury and the IRS released technical amendments to the Temporary Regulations that change the effective date to tax years beginning on or after Jan. 1, 2014. In addition, taxpayers were also given notice of the anticipated issuance of the Final Regulations in 2013. It is expected that there will be some changes made to address taxpayer concerns in the Final Regulations. Although the delay in implementation was welcomed by taxpayers, the Final Regulations are still anticipated to require significant capitalization of items previously expensed. For an asset intensive industry like the aggregates industry, the impact on current cash taxes plus the additional cost of administering the temporary regulations rules will be material and could slow down the industry's recovery.

Provide Capital Gains Tax Relief

Relief from capital gains taxes is imperative and supported by NSSGA members. Taxes on capital gains have significantly increased since the mid 1980s. Reduction in taxes on capital gains would have a positive impact on the economy through increased domestic investment, real income and revenue for the Treasury.

Reduce the Tax Burden on Business

NSSGA supports lowering the tax burden on business, which helps the crushed stone, sand, and gravel industries contribute to new construction for critical highway and airport projects necessary to ensure safe and cost effective transportation infrastructure.

Reducing the tax rates provides significant tax relief to millions of aggregates businesses that are structured as sole proprietors, partnerships, or S-corporations.

CONCLUSION

NSSGA appreciates the opportunity to submit comments as the committee considers tax reform. The importance of the effort to ensure equity, simplify, increase the efficiency of the nation’s tax system cannot be overstated. If you have any questions or comments, please contact Pam Whitted, Sr. Vice President, Legislative & Regulatory Affairs at pwhitted@nssga.org.

Attachment