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April 11, 2013

The Honorable Lynn Jenkins
Chair
Tax Reform Working Group on
Income and Tax Distribution
1027 Longworth HOB
Washington, DC 20515

The Honorable Joseph Crowley
Vice Chair
Tax Reform Working Group on
Income and Tax Distribution
1436 Longworth HOB
Washington, DC 20515

Dear Chairwoman Jenkins and Vice Chairman Crowley:

I am writing on behalf of Skechers USA, Inc. Skechers is a leading designer and distributor of Skechers branded footwear throughout the United States and the world. I am Skechers' Director of Corporate Tax.

We at Skechers have been reading with interest about the House Ways and Means Committee's efforts to push for comprehensive tax reform in 2013, and we support such efforts.

This letter has been particularly inspired by statements made by Chairman Dave Camp indicating that the starting point for discussions on tax reform would be a 25% corporate tax rate and the elimination of all tax breaks. In Skechers' opinion that is not just a good starting point. It is a good ending point.

The vast majority of American businesses go silently about their business out of earshot of Washington. They are not frequently heard from in Washington because, like Skechers, they are not in the habit of soliciting the government for legislation and tax breaks favoring their companies. Companies not looking for a tax break are pretty quiet. They don't write Congress and they don't hire lobbyists.

These are the companies that day after day quietly provide the products and services that make up the backbone of the US economy. They are not interested in asking for special favors. Their focus is not on Washington. Their focus is on business. They benefit very little from available tax breaks and they don't seek them out. All they really want from Washington is to be left alone.

If asked, I think most of these businesses would agree with Skechers that reforming the tax code is the single most important thing that Congress can do for them. They may lose a few tax breaks in the process, but this would be a small price to pay to reduce the burdens of complying with an overly complicated tax code and to receive a much needed reduction in their corporate tax rate.

It is Skechers' understanding that the Committee has set up several Tax Reform Working Groups charged with reviewing and obtaining feedback on a wide range of corporate tax preferences, exemptions, credits, and industry targeted tax provisions (hereafter collectively referred to as "tax breaks"). As each working group reviews these tax breaks and hears the inevitable appeals for the preservation of such tax breaks we would ask that all members of the Committee keep in mind the following principles as a guide in the reformation of the federal income tax:

The same rules should apply to all businesses. Any tax break that is available to one set of taxpayers but not to another is inherently unfair. Taxpayers should be treated equally. The US tax code generally follows US Generally Accepted Accounting Principles (GAAP) in determining taxable net income, and it should continue to do so. GAAP is not perfect but it does provide a reasonably uniform and logical set of rules that apply to all businesses. It is when the tax code starts to deviate from GAAP in order to target certain industries or certain types of expenditures for favorable or unfavorable tax treatment that the desired equality of the US tax system breaks down. This desire to grant favors is what should be avoided in any attempt to reform the US tax system.

Deductions for expenses incurred in the normal course of business are not tax breaks. Provisions of the tax code aimed at properly calculating a business's taxable net income, even if the provision is unique to a certain category of business (such as retail), are not tax breaks. It may be tempting to eliminate certain business deductions (such as for interest expense) in order to raise revenue, but this would always end up favoring certain taxpayers over other taxpayers (for instance non-capital intensive industries such as online retailers over capital intensive industries such as commercial real estate).

Normal business deductions for depreciation, interest, and research expenses are not tax breaks and they should not be cut. They go towards properly determining a company's taxable net income. Conversely, accelerated "Bonus" depreciation, exempt interest, and the research tax credit are all genuine examples of tax breaks (all of which Skechers has taken advantage of). In Skechers' view, these types of tax breaks should all be eliminated in favor of a reduced corporate tax rate. To instead add "punishments" to the tax code for certain business deductions is not tax reform.

Income earned outside the United States should not be taxed in the United States. We should not attempt to tax income earned in other countries any more than we should tolerate other countries attempting to tax income earned in the United States. The United States should join the rest of the developed world in moving towards a more territorial tax system. This would make American companies more competitive abroad, and would allow for the free-flow of capital back to the United States where it can then be put to its best and most efficient use.

The purpose of the US income tax is to raise revenue for the necessary operations of the federal government. This should be its only purpose. It should not be used to implement corporate or social welfare programs. It is not supposed to be a system of carrots and sticks used to manipulate taxpayers into behaving in whatever way Washington thinks they should behave. Regardless of one's opinion of governmental intervention in the economy, using the tax code to manipulate taxpayers in this way makes the tax code unnecessarily complicated and is of necessity costly, wasteful, and disruptive to the business operations of taxpayers. If Congress wants to manipulate the economy, it should attempt do so directly and openly through legislation, not through some obscure provision of the tax code. Of course, Skechers would prefer that Congress attempt to do neither.

Tax breaks are disguised subsidies. Every tax break that favors one industry over another or favors one type of economic activity over another is of necessity paid for by all the businesses not in the favored industry or not performing the favored economic activity. Such favoritism turns the tax code into a method of offering disguised subsidies to the favored, paid for by the not so favored.

The reason tax breaks are such a popular form of subsidy is that they provide a means of quietly subsidizing certain favored industries and business activities while simultaneously providing the funding for that subsidy. Since it is not called a subsidy, and is not listed in the Congressional Budget as an expenditure, all this is accomplished without the public scrutiny and resistance a direct subsidy would draw. Taxpayers don't much like subsidies because it is clear that subsidies are a form of government patronage paid directly with their tax dollars. If instead the subsidy is given in the form of a tax break, taxpayers put up very little resistance. Everyone can empathize with a desire to pay less tax. Not so much with government handouts. But in the end these tax breaks are being paid for with the same taxpayer dollars as would be a subsidy. The end result is the same.

Tax breaks breed more tax breaks. If one industry receives a tax break, then the next industry is emboldened to seek an even better tax break. Once tax breaks are offered to one industry, on what basis would they be denied to the next? Every industry is important to the US economy in one way or another.

There is now a certain kind of competition among businesses. Not a competition over who can offer the best products and services at the best price, but a competition over who can plead the best case for obtaining a tax break of their very own. Unrelated businesses are suddenly pitted against one another: industry against industry; big business against small business; importers against exporters, all appealing to Congress to be relieved in some small way of their onerous tax burden. As each industry has its day, the tax breaks keep piling up.

The end result is a US corporate tax rate that is the highest in the world and there are calls to raise it even higher. At the current rate, companies that would never consider seeking government subsidies find themselves seeking out whatever tax break is available to them as a necessary and essential step towards reducing their tax burden. Who can blame them?

Every business in America probably receives some form of tax break or another. Most have not sought out those tax breaks, but they take advantage of what is available to them simply out of economic necessity. In the end, all these tax breaks are illusory. A typical company may receive tax breaks providing a 2 or 3 % reduction in its tax burden but its tax burden is 10% higher than it needs to be because the company has to help pay for the 15% tax break received by companies in some other industry of which the company is not even a part.

Eliminating tax breaks in exchange for reductions in the overall tax rate will always be the best and most just course of action. A single low tax rate, applied equally to all businesses across all industries, with no tax breaks for favored industries or favored activities, is the fairest means by which the government can raise revenue. It simplifies the tax code, significantly reduces compliance costs, and treats all taxpayers equally. It removes the economic distortions, inefficiencies, and lack of transparency inherent in using the tax code to implement government social policy, and in puts US businesses on a competitive economic footing with businesses operating overseas.

With such reform in place we can expect substantial growth in the US economy which will be spurred on by the low rates, economic efficiency, and business certainty of a reformed and simplified tax code. After a few years, we will also find that this new tax code is the most effective at raising revenue.

It may be politically difficult to accomplish, but everyone in the country would truly be better off if we threw out all the tax breaks and adopted a simple low tax rate.

Sincerely,

Brian Cross
Corporate Tax Director
Skechers USA, Inc.

CC: The Honorable Dave Camp, Chairman of the Committee on Ways and Means
The Honorable Sander Levin, Ranking Member of the Committee on Ways and Means