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**Testimony of Henry H. Chamberlain, APR, FASAE, CAE
President and Chief Operating Officer, Building Owners and Managers
Association (BOMA) International**

**Before the United States House of Representatives, Ways and Means
Subcommittee on Tax Policy**

Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions

March 14, 2018

Chairman Buchanan, Ranking Member Doggett and members of the committee:

The Building Owners and Managers Association (BOMA) International appreciates the opportunity to offer its testimony in support of 26 § U.S. Code Section 179D, the Energy Efficient Commercial Building Tax Deduction. BOMA International is a federation of 89 U.S. local associations and 18 international affiliates. Founded in 1907, BOMA represents the owners and managers of all commercial property types, including nearly 10.5 billion square feet of U.S. office space that supports 1.7 million jobs and contributes \$234.9 billion to the U.S. gross domestic product (GDP). BOMA, as a ten-time recipient of the U.S. Environmental Protection Agency's ENERGY STAR® awards, has been helping push the industry towards greater efficiency for decades.

BOMA is a long-time supporter of 179D, and we have been actively working with members of Congress to extend this important incentive since its original enactment in 2005. 179D offers building owners a deduction of up to \$1.80 per square foot for energy-efficient improvements made to heating, ventilation and air conditioning (HVAC) systems; the building envelope, including windows; and lighting upgrades that exceed ASHRAE Standard 90.1 by 50 percent. Buildings must be independently certified to receive this deduction. By providing a financial incentive, the tax deduction helps real estate owners who might not otherwise have the necessary capital make the decision to design, retrofit and operate energy-efficient structures. We continue to applaud these efforts, but more can be done.

According to the U.S. Energy Information Administration's Commercial Buildings Energy Consumption Survey (CBECS), the commercial building sector accounts for nearly 30 percent of all U.S. energy usage. On average, a U.S. office building spends nearly 29 percent of its operating expenses on energy.

The financial savings from energy efficient upgrades is compelling, but the return on investment is not always sufficient to justify the initial costs, and many owners simply do not have the necessary capital to launch such projects. A recent study commissioned by BOMA International, along with other members of the Coalition to Extend and

Improve the 179D Tax deduction, highlights the costs and benefits of extending and modernizing the incentive. The study estimates that as many as 77,000 jobs will be created and \$7.4 billion will be added annually to the GDP if Congress passes a long-term extension and modification of 179D. Strengthening and modernizing 179D would come with huge benefits, such as adding \$5.7 billion in personal income for the first 10 years after enactment. Additionally, it would lead to an estimated average annual gain of 39,388 jobs, \$3.7 billion in GDP and \$3 billion in personal income for the first ten years after enactment.

The biggest impediment for our members in utilizing this incentive is the historical short-term nature of its extension. The recent short-term or retroactive extensions don't account for real estate's planning horizons, which are generally three to five years for a capital investment. Even when the deduction was extended for five years between 2009 and 2013 by the Emergency Economic Stabilization Act of 2008, the recession made these investments very difficult, and by the time the industry found itself on stronger financial footing, the extension was set to expire again.

Additionally, certain real estate entities have not been able to utilize 179D in its current form. Real estate investment trusts (REITs), which account for more than \$1 trillion in equity market capitalization, cannot take advantage of 179D because of the way their profits are distributed as dividends to their shareholders. If the deduction was made a transferable tax credit, the problem would be resolved. As far back as 2012, Congress has recognized this problem and introduced the Commercial Building Modernization Act (S. 3591, 112th), co-sponsored by Senators Olympia Snowe (R-Maine) and Jeff Bingaman (D-N.M.), which enhanced the deduction to \$3.00 per square foot and made it feasible for REITs to use it. Snowe and Bingaman also sought to address this by allowing a building to measure its performance against its own pre-retrofit baseline, which would illustrate real-world improvements while also making the deduction achievable by buildings that otherwise could never afford the cost of the upgrades. Unfortunately, this legislation was never enacted.

While it is generally easier for new construction to consider energy efficiency from the start, it accounts for only 2 percent of buildings at a given time. For the remaining 98 percent of the existing commercial building stock, exceeding ASHRAE 90.1 (2007) is an incredibly difficult and costly task. Not all buildings are trophy or Class A properties, nor do they have the tenant income stream to justify the expense of a major building system overhaul. Class B and C buildings have long been missing from the energy efficiency equation, and cash flow is the reason. Since most commercial leases are triple net and energy costs are also borne in part by the tenant, this means that smaller businesses that lease space in non-trophy buildings also could see the benefit of reduced costs and higher efficiency.

Legislation was introduced in this session of Congress by Representatives Dave Reichert (R-Wash.), Earl Blumenauer (D-Ore.) and Tom Reed (R-N.Y.) to make 179D permanent and give our members the confidence and stability they need to plan for major

efficiency improvements and retrofits. We applaud them for their leadership on this issue, and we hope the committee will move forward on their bill.

The most effective way for the federal government to enact change and encourage and incentivize increased energy efficiency in commercial buildings is to provide a permanent extension of 179D. We look forward to working with this committee to continue providing input as you evaluate this important tax incentive in a post-tax reform environment.