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June 24, 2015

The Honorable Rob Portman
The Honorable Charles E. Schumer
United States Senate
Washington, D.C. 20510

Dear Senators Portman and Schumer:

We are writing to request urgent corporate tax law changes be enacted in 2015 to ensure the U.S. remains competitive in a global marketplace. Actions taken by the OECD and foreign governments create an immediate need for U.S. corporate tax law changes before companies have to make decisions (to mitigate the impact of such international tax changes) that could adversely impact U.S. jobs and investment, as well as reduce the U.S. revenue base.

The Silicon Valley Tax Directors Group is composed of 78 high technology companies with operations in Silicon Valley. A listing of member companies is attached. Since our inception, our purpose has been to help promote long-term tax policies that encourage innovation and growth in the U.S. high technology industry.

Our companies have been strong proponents of comprehensive U.S. tax reform that we believe should feature a reduced corporate tax rate consistent with international norms, and a competitive dividend exemption regime with appropriate base-erosion provisions and transition rules. These changes would help level the competitive playing field for U.S. companies and would generate significant economic and job growth in the United States.

Unfortunately, actions are currently taking place overseas, in the context of the OECD Base Erosion and Profits Shifting (BEPS) project and otherwise, that create an urgent need for changes to the U.S. international tax rules. Many countries, including some of our largest trading partners (e.g., China, United Kingdom, Australia), are being increasingly aggressive by using BEPS concepts to support unilateral law changes and audits that will increase foreign taxes on U.S. businesses. At the same time, many of those same countries are also offering incentive tax rates on intellectual property (IP) income to attract the income and operations of U.S. businesses.

The combination of these actions by foreign governments will shrink U.S. tax revenues by both diminishing the U.S. tax base attributable to IP development and commercialization, and causing greater U.S. foreign tax credits for foreign taxes paid. This revenue loss to the U.S. tax base will be felt on a long-term and permanent basis, making it more difficult in the future for the U.S. to achieve revenue neutral tax reform.

The U.S.'s failure to act has emboldened the OECD, the EU, and individual countries to act on their own. The longer U.S. action is delayed, the more entitled other countries will feel towards tax revenue from U.S. multinational companies and the more entrenched foreign governments' positions will become.

Without immediate changes to U.S. international tax rules and adoption of a U.S. IP box, these actions by other countries are likely to cause greater migration of IP ownership and R&D jobs from the U.S. to other developed countries. If no action is taken, the incentives for U.S. multinational companies to create and own IP abroad will likely be even greater in the future than it is now. The impact of the OECD BEPS project and unilateral law changes in other countries influenced by BEPS are already forcing companies to rethink decisions regarding where to locate R&D investment and ownership of IP. Once decisions are made to shift existing and/or locate new R&D jobs and investment overseas, they will be difficult and costly to reverse. As a result, the U.S. could lose (or not gain) significant high-paying jobs as well as the revenue base associated with the IP.

The U.S. still has a window of opportunity to respond, but must act quickly. We strongly urge the Congress to pass tax legislation in 2015 that encourages innovative companies to maintain and grow jobs in the U.S. If it is not possible to move forward on comprehensive tax reform this year, we recommend the Congress pass an incremental approach that adopts an IP box and makes competitive changes to the U.S. international tax rules to promote U.S. economic growth, investment and job creation.

Sincerely,

Jeffrey K. Bergmann
Co-Chair, Silicon Valley Tax Directors Group

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