SEMICONDUCTOR INDUSTRY ASSOCIATION

John Neuffer, President & CEO

December 5, 2017

The Honorable Mitch McConnell
Majority Leader, U.S. Senate
S-230, The Capitol
Washington, D.C. 20510

The Honorable Paul Ryan
Speaker, U.S. House of Representatives
H-232, The Capitol
Washington, D.C. 20515

The Honorable Orrin Hatch
Chairman, Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Kevin Brady
Chairman, House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Leader McConnell, Speaker Ryan, Chairman Hatch and Chairman Brady:

Thank you for your leadership on tax reform legislation. As a conference committee convenes, I'm writing to convey the priorities of the Semiconductor Industry Association (SIA)[1] for the conference report on H.R. 1, the Tax Cuts and Jobs Act. Corporate tax reform is a critical issue for the semiconductor industry and we strongly support legislation to modernize the U.S. tax code and enhance the competitiveness of U.S. semiconductor companies.

SIA has long been a committed, public supporter of U.S. corporate tax reform. In March, SIA announced its support for the corporate tax reform provisions in the House "Better Way" tax reform blueprint. In September, SIA announced its support for the corporate elements of the Unified Tax Reform Framework. Finally, last month, SIA announced its support for the corporate reforms in the tax legislation reported out of the Senate Finance Committee.

SIA's long-standing goals for corporate tax reform are to achieve a globally competitive statutory rate, modernize America's international tax system, and preserve incentives for U.S. research and development (R&D). We are very pleased that both the House and Senate bills meet these goals by reducing the statutory rate to 20 percent, establishing a 100-percent dividends received deduction (DRD) for foreign subsidiary earnings, and retaining the R&D credit. These policies will improve the competitiveness of semiconductor research, design and manufacturing in the U.S., and we prefer they be implemented effective January 1, 2018, as provided for in the House bill.

In general, SIA favors the balanced international reforms contained in the Senate bill. SIA strongly supports the foreign-derived intangible income deduction (FDIID, Section 14202) and provisions for the distribution and favorable treatment of intellectual property (IP) repatriated to the U.S. (Section 14203). The combination of these two provisions will expand the U.S. tax base, improve the competitiveness of the American semiconductor industry, and help keep semiconductor IP and manufacturing in the U.S. We urge their inclusion in the conference

[1] SIA is the voice of the U.S. semiconductor industry, one of America's top export industries and a key driver of America's economic strength, national security, and global competitiveness. Semiconductors – microchips that control all modern electronics – enable the systems and products we use to work, communicate, travel, entertain, harness energy, treat illness, and make new scientific discoveries. In 2016, the U.S. semiconductor company sales totaled $164 billion, and semiconductors make the global trillion-dollar electronics industry possible.

report. Also, SIA prefers the Senate's limitation on the use of net operating losses (NOLs) (Section 13302), which applies only to NOLs arising in future tax years, to the House limitation, which could result in NOLs generated during cyclical downturns prior to 2018 expiring unused, if subject to a 90-percent limitation (Section 3302).

SIA members have serious concerns with the House bill's excise tax on outbound payments (Section 4303). Although we are also concerned with the Senate bill's tax on base erosion payments (Section 14401), this provision is ameliorated by its exclusion of cost-of-goods-sold payments, and it would be less damaging for U.S. companies operating abroad if a similar approach were adopted by trading partner nations. However, we note that both proposals may be inconsistent with U.S. tax treaty obligations.

SIA also favors several aspects of the House bill compared with the Senate's approach. We support repeal of the corporate Alternative Minimum Tax (AMT), included in the House bill (Section 2001), to ensure that the reforms made by this important legislation are not undermined by potential AMT liability. The maintenance of the AMT in the Senate bill effectively repeals the R&D tax credit – a significant consequence that runs counter to the efforts of both chambers to preserve its utility. Maintaining the corporate AMT not only adds the complexity of a second tax system, it penalizes companies that engage in U.S. research and potentially limits their ability to claim the FDIID and DRD. Retaining the corporate AMT creates several important, unintended consequences and it should not be retained in the conference report.

SIA supports the nominally lower rates applied to the deemed repatriation of foreign subsidiary earnings found in the House bill (Section 4004). Furthermore, we believe the definition of aggregate foreign cash position in Section 4004 appropriately balances Congress' desire to deter potential gaming of the system while ensuring important strategic business decisions are not unduly penalized. By using a three-year average, the House bill more accurately reflects the current fiscal position of a company.

Thank you for considering the views of SIA as you craft a conference report on this significant tax reform legislation. A conference report that combines the elements identified above from each chamber's legislation will significantly improve the competitiveness of semiconductor design and manufacturing in the U.S., and help maintain our position among America's leading export industries.

Sincerely,

John Neuffer
President & CEO
Semiconductor Industry Association