National Air Transportation Association
The Voice of Aviation Business

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The Honorable Kevin Brady
Chairman
Committee on Ways and Means
United States House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

The Honorable Orrin Hatch
Chairman
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairmen Brady and Hatch:

As the House and Senate begin the conference to resolve differences between H.R. 1 and S. 1, the Tax Cuts and Jobs Act, the National Air Transportation Association (NATA) respectfully requests retention of two important provisions: one from the House version related to full and immediate expensing, and one from the Senate version related to the tax treatment of aircraft management companies. We believe these provisions are critical to your desire to create a long-term climate for investment here in the United States and overall tax simplification.

Founded in 1940, NATA's nearly 2,300-member companies provide a broad range of aeronautical services to the aviation community including: aircraft sales and acquisitions, fuel, aircraft ground support, on-demand air charter, aircraft maintenance and overhaul facilities, and business aircraft and fractional ownership fleet management. NATA members range in size from large companies with international presence to smaller, single-location operators that depend exclusively on general aviation for their livelihood. Smaller companies account for the majority of NATA's membership and most NATA members have fewer than 40 employees and are designated as small businesses by the U.S. Small Business Administration.

Retain House Provision Related to Immediate Expensing (H.R. 1; Section 3101)

NATA has long-supported full and immediate expensing as a cornerstone of tax reform. It is important to the future manufacture and sale of aircraft in this nation that the related House language (H.R.1; Section 3101) be retained in the final bill. The House language provides for the immediate expensing of both new and used equipment, a critical difference between the respective versions of the bill. This is particularly important given the fact both bills repeal Like-Kind Exchanges (IRS Sec. 1031).

In the United States there are far more used aircraft transactions than new aircraft purchases. The Senate language, which excludes used property, would make the purchase of a used, albeit newer and potentially safer aircraft, a much more expensive proposition. The used aircraft market has been struggling, and tax reform legislation should not discourage the upgrade of aircraft with its related positive effect throughout the entire aircraft manufacture sector.

Retain Senate Provision Clarifying the Status of Aircraft Management Services (S.1; Section 13822)

NATA also hopes conferees will retain Senate language (S.1; Section 13822), clarifying the tax treatment of aircraft management services. Similar language was approved by the House Ways and Means Committee in July 2016. A 2012 IRS Chief Counsel opinion (expanding the application of Federal Excise Taxes), left aviation management companies – mostly small businesses that oversee non-movement based services – vulnerable to back taxes and penalties. Following numerous successful audit appeals to FET assessments on aircraft management services, the IRS opinion was put on hold in May 2013 pending further clarification. In July 2017, the IRS decided to close pending audits where the agency sought assessment of the FET on fees paid for aircraft management services.

However, for aircraft management businesses, the risk of additional IRS assessments on this issue still remains. NATA urges conferees to accept this provision and modify its effective date to provide these small businesses the tax relief for which they have been waiting.

Unfortunately, some have characterized the provision as a giveaway to wealthy aircraft owners. Far from it. Rather, the provision provides these small businesses with long-sought tax certainty. It is these small businesses – not aircraft owners – that have been vulnerable to IRS back taxes and penalties. For that reason, the Joint Committee on Taxation has concluded the provision will cost the federal government less than $500,000, in total, over the next ten years. We are pleased to note that recent articles in the Washington Post, New York Times and Cleveland Plain Dealer have all accurately portrayed the dilemma being addressed by the clarification.

NATA appreciates the conferees' consideration of our request. We stand ready to answer any questions you might have and look forward to a successful conclusion of the conference and enactment into law of this important legislation.

Sincerely,

Martin H. Hiller
President