ACEC
AMERICAN COUNCIL OF ENGINEERING COMPANIES
100 Years of Excellence

DAVID A. RAYMOND
PRESIDENT & CEO

January 10, 2014

The Honorable Max Baucus
Chairman
Senate Finance Committee
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Baucus:

On behalf of the American Council of Engineering Companies (ACEC) – the national association of the nation's engineering industry – I am writing to share our comments on the staff discussion draft on cost recovery and accounting that was released on November 21, 2013.

ACEC members – numbering more than 5,000 firms representing hundreds of thousands of engineers and other specialists throughout the country – are engaged in a wide range of engineering works that propel the nation's economy, and enhance and safeguard America's quality of life. The Council represents engineering businesses of all sizes, from the single professional engineer to firms that employ tens of thousands of professionals working in the United States and throughout the world.

A key concern for ACEC members in the discussion draft is the proposal to change the rules regarding the use of the cash method of accounting. Under current law, professional services firms, including engineering firms, can generally use cash accounting for tax purposes. The discussion draft proposes to limit the use of the cash method to sole proprietorships and firms with less than $10 million in gross receipts.

ACEC supports the increase in the small business threshold to $10 million. However, a significant number of engineering firms with revenues over $10 million currently use the cash method of accounting, either under the QPSC exception, or because they are organized as S corporations or partnerships.

Engineering firms normally carry large balances of accounts receivable and work in progress, representing work performed for clients for which they have not yet been paid. The primary cost for engineering firms is labor, and approximately 85 percent of a typical firm's expenses can be attributed to payroll, benefits, and similar regular expenses. Engineering firms generally have to wait at least 120 days to be paid for services rendered to their clients –sometimes significantly longer – and at the same time must pay their employees and related payroll taxes every two weeks. While this situation can

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create cash flow challenges for firms, the use of cash accounting helps to mitigate those challenges by allowing firms to make tax payments after receiving payment for their services.

By contrast, forcing firms to switch to accrual accounting would create serious cash flow problems, particularly for small and mid-sized firms. In order to satisfy tax obligations prior to being paid for services rendered, firms would be required to increase capital requirements or resort to debt financing, options which are difficult and expensive. The cash flow challenges resulting from a switch to accrual accounting would create additional negative consequences, including workforce downsizing among some firms, delayed hiring plans, and decreased shareholder distributions, which are often used to facilitate ownership transition and protect a firm's long-term viability. All of these outcomes would take money out of the productive economy, jeopardize well-paying jobs, and burden firms that continue to struggle in the soft economy.

The simple premise of cash accounting allows engineering firms to pay income taxes on their revenue when they are actually paid, rather than when they submit an invoice. At the same time, firms may not take deductions for expenses when they are incurred, but when the expense is actually paid. We believe this is the correct approach for an industry whose product is intellectual capital, not hard physical inventory.

For these reasons, ACEC strongly recommends that the Senate Finance Committee continue to allow engineering firms and other similar businesses to use cash accounting as they have done for decades.

We also appreciate the opportunity to comment on the proposal to eliminate the Section 179D energy efficient commercial buildings tax deduction. Section 179D plays an important role in our national energy policy by encouraging energy efficiency in commercial and multifamily buildings.

Without Section 179D, the tax code would allow the deductibility of a building's utility costs, but would provide no incentive for making systems such as lighting, heating and cooling, and windows more efficient. We believe that U.S. energy policy should support programs and tax provisions that reduce energy usage. Repeal of Section 179D would leave a gap in our energy policy, and ACEC urges you to reconsider this proposal.

ACEC and our member firms appreciate the opportunity to share our concerns with you as the Senate pursues tax reform, and we look forward to working with you to accomplish this important goal.

Sincerely,

David A. Raymond
President & CEO