



April 15, 2015

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

The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable John Thune
Co-Chair, Business Income Tax Working
Group
United States Senate
511 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Benjamin Cardin
Co-Chair, Business Income Tax Working
Group
United States Senate
509 Hart Senate Office Building
Washington, DC 20510

The Honorable Dean Heller
Co-Chair, Community Development &
Infrastructure Working Group
United States Senate
324 Hart Senate Office Building
Washington, DC 20510

The Honorable Michael Bennet
Co-Chair, Community Development &
Infrastructure Working Group
United States Senate
458 Russell Senate Office Building
Washington, DC 20510

Dear Senators:

Our five renewable biofuel trade associations, representing the majority of the United States' second-generation biofuel capacity, have come together to provide these consensus recommendations to the working groups of the Senate Committee on Finance on reforming the Internal Revenue Code's biofuel tax incentives.

Today, federal renewable energy policies are largely carried out through temporary provisions in the tax code (as opposed to permanent incentive provisions that benefit incumbent fossil energy producers). Tax policy has played a vital role in developing new domestic energy resources to power America's long-term economic prosperity and growth. While we are unanimously

supportive of the Committee's goals of simplifying the tax code and lowering tax rates, it is important to recognize that the tax policy helps support important energy and environmental policy goals, such as developing Second Generation biofuel facilities that in general will not be stimulated by lowering the business income tax rate. In circumstances like these, we believe there continues to be an appropriate role for modernized, technology-neutral, performance-based tax incentives.

Second Generation biofuels (e.g. cellulosic ethanol and algal fuels) have an important role to play in U.S. energy security. These fuels need a clear path to commercial development with amendments to the current law (expired) tax incentives that focus on bringing commercial volumes of affordable Second Generation biofuels to market in the near term; lowering the environmental footprint of transportation fuels and basing incentives on fuel environmental performance; creating technology-neutral incentive mechanisms; displacing foreign oil and gas, and providing parity between incentives for incumbent energy resources and renewable resources.

As working group members and staff contemplate tax reform, our group respectfully urges you to consider a suite of common-sense reforms that would finally accomplish the energy policy objectives that drove Congress to approve the original biofuel incentive package.

Perhaps most importantly, Congress should make tax incentives for Second Generation biofuels permanent. While financing and constructing these facilities takes on average 5-6 years, the PTC and associated depreciation provisions have never been enacted for a sufficient length of time to allow investors to depend upon their existence once the facilities are eventually placed in service. If you conclude that it is necessary to create some sort of phase-out for renewable energy incentives, we believe that it is more appropriate from a policy perspective to tie phase-outs to specific environmental benchmarks or industry capacity accomplishments (as featured in the previous Baucus Energy Discussion Draft), rather than to arbitrary dates.

Another reform of the Code that would better harmonize tax incentives for renewables would be to allow developers of Second Generation biofuels facilities the option to elect a one-time 30% Investment Tax Credit (ITC) in lieu of a stream of production tax credits. This would mirror the treatment allowed for wind and biomass renewable electricity generation facilities under Section 45 (currently expired), and we believe would stimulate additional development in instances where the PTC is not best suited to the prospective project.

Given technological advancements that have occurred in our sector since enactment of the underlying statutes, we would also recommend that Congress consider modernizing the definitions used in IRC section 40 to identify eligible Second Generation fuels. While cellulosic ethanol and algal fuels would qualify under the language as currently constructed, there are a number of other biofuels, including Farnesene, alcohol-to-jet fuels, and bio-butanols, that are excluded. Our groups stand ready to work with the committee in modernizing these definitions to make them more technology-neutral and performance oriented.

Finally, we continue to strongly support proposals that would broaden IRC section 7704 to make income from renewable energy businesses, including Second Generation biofuels, qualify for Master Limited Partnership treatment (as proposed in S. 795 as introduced in the 113th Congress). This would equalize tax treatment for conventional and renewable energy resources and we expect would go a long way to levelling the playing field between these complimentary, but competing, resources.