March 4, 2015

The American Chemistry Council represents the leading companies engaged in the business of chemistry. ACC member companies apply the science of chemistry to create innovative products and services that make people’s lives better, healthier and safer. The business of chemistry is a $760 billion enterprise and a key element in of the nation’s economy, accounting for ten cents of every export dollar. Emphasis on R&D and technology means that the industry holds approximately one in seven U.S. patents. Approximately 96% of all U.S. goods contain chemical products, in effect, making the chemical industry the prime manufacturer in the country.

The ACC strongly opposes proposals to tax historical foreign earnings. For most chemical companies, such proposals would tax earnings from previous years reinvested abroad to serve our customers and grow our businesses, rather than held as cash or cash equivalents. Among proposals under consideration for raising tax revenue to pay for highway and infrastructure projects is a device referred to as “deemed repatriation” or “mandatory repatriation” to U.S. parent corporations of foreign earnings accumulated by foreign subsidiary corporations and permanently reinvested abroad. Use of the term “repatriation” in these contexts is inaccurate and misleading because the proposals do not require nor anticipate any actual return of cash. The proposals mandate U.S. tax on foreign earnings as though the earnings were distributed to U.S. parent corporations as dividends. In the case of the chemical industry and other manufacturers, the distinction between actual and deemed dividends is very real and has very serious consequences.
With the exception of relatively small amounts of working capital to pay receivables and meet other current expenses, foreign subsidiaries of U.S. parent chemical companies typically keep only incidental cash funds offshore. Earnings from manufacturing operations of the foreign subsidiaries are reinvested in plant and equipment in order to serve foreign markets and compete internationally. As a consequence, only minimal foreign cash earnings exist for actual repatriation, such that parent companies would borrow money in order to pay the U.S. tax with respect to deemed transfers of deemed cash.

The tax on reinvested earnings would reduce amounts and availability of capital in the U.S., weakening balance sheets, lowering share prices, limiting investment in new plant and equipment, stifling growth, and eroding payroll and job creation. As noted above, the chemical industry is among the largest U.S. exporters, with an outsized share of export dollars, with many jobs in the industry supporting exports as well as foreign operations.

ACC member companies oppose proposals to tax current or historical earnings of foreign subsidiaries, all the more so when such proposals are without regard to and separate from efforts to enact fundamental business tax reform. Reformers regard the U.S. worldwide system of taxation as obsolete, with the U.S. alone among developed countries retaining it. Deemed repatriation would make the situation worse by taxing reinvested historical earnings, thereby draining U.S. operating assets, with negative consequences noted above.

Sincerely,

Walter K. Moore

cc: Members of the Senate Committee on Finance and House Committee on Ways and Means