Dear Chairman Hatch:

ASAE and the association sector commend you for spearheading efforts in Congress to overhaul the nation’s tax code to make it simpler and fairer. We recognize that comprehensive tax reform is no easy undertaking. As one of your stated goals of tax reform is to enhance the competitiveness of American businesses and grow jobs, ASAE and the attached list of associations respectfully urge you to reconsider several proposals in the Tax Cuts and Jobs Act that would severely impact the thousands of trade and professional associations that support every industry and countless professions across the nation.

With more than 39,000 members, the American Society of Association Executives (ASAE) is the largest organization in the world representing the interests of associations. Together, our members represent 7,400 organizations that make the world smarter, safer, and better every day. Associations build a stronger economy, enhance job skills, improve systems and structures, and strengthen lives. At the heart of our community are people – researchers, innovators, mentors, communicators – whose expertise and hard work collectively help to create a stronger America and world.

The chairman’s mark released November 9 includes three proposals that ASAE and the signees strongly believe would harm associations and other nonprofit employers:

**Nonqualified deferred compensation**

The chairman’s mark proposes to eliminate nonqualified deferred compensation arrangements for nonprofit employers like associations. Eliminating 457 plans outright, without grandfathering existing arrangements, is unfair. It would hurt nonprofit employees who in good faith entered into contractual agreements with their employers, and are counting on this benefit as part of their retirement planning. This provision also hurts nonprofit employers in attracting and retaining top talent. Large nonprofits are complex organizations that demand a high level of executive leadership. Nonprofit employers can’t offer performance stock options, but 457 plans are an alternative benefit, allowing nonprofits to offer key employees a limited amount of nonqualified vested deferred compensation to supplement the retirement benefits.

Because of the potential impact of this provision on retirement planning and executive recruitment and retention, we urge you to consider grandfathering existing deferred compensation plans past the current pay-out year of 2027.

**Intermediate sanctions**

The chairman’s mark proposes to apply intermediate sanction rules to Section 501(c)(5) and 501(c)(6) organizations and eliminate the “presumption of reasonableness” for nonprofit organizations that practice due diligence in setting compensation arrangements. This proposal gives the IRS the power to determine what constitutes an excess benefit transaction and removes the safe harbor for nonprofit
organizations that follow reasonable, responsible processes for determining compensation, including review by a governing body or committee; use of appropriate data as to comparability; and adequate documentation supporting the decision on compensation at the time it was made. Organizations should not be subject to penalty when they practice due diligence in determining compensation.

**Name and logo royalties treated as UBIT**

The chairman’s mark proposes to subject royalty income derived from the licensing of a nonprofit organization’s name or logo to unrelated business income tax (UBIT). Royalties closely resemble other passive income for tax-exempt organizations – such as rent, interest and dividends. Whether a particular income-generating activity is a royalty must be determined by the facts and circumstances of each case, but ASAE contends that royalties should not be taxed when there is little service offered by the tax-exempt organization in return for the payment. Royalties are a significant source of non-dues revenue or non-contributed revenue that can be reinvested in education, skills training, standard-setting, research and other activities critical to the mission of a tax-exempt entity.

Thank you for the opportunity to provide comments on this important issue. As you finalize the difficult work of reforming the tax code, our request is that you consider the positive impact of our sector before making any changes to the tax code that would negatively impact our work. Please let us know how we can contribute in any way to this important discussion by contacting Jim Clarke, senior vice president of public policy, at 202.626.2865 or jclarke@asaecenter.org. Sincerely,

The American Society of Association Executives (ASAE)

[Signatories]

CC:
The Honorable Ron Wyden, Ranking Member
ASAE Sign-On Letter on Senate Tax Bill
Signatories as of 11/14/2017

The American Society of Association Executives (ASAE)
Academy for Eating Disorders
ACG National Capital
ACPA--College Student Educators International
AdvaMed--Advanced Medical Technology Association
Aerospace Medical Association
AIA Florida
Air-Conditioning, Heating, and Refrigeration Institute
American Academy of Audiology
American Alliance of Orthopedic Executives
American Beverage Association
American Bus Association
American College of Cardiology
American College of Osteopathic Surgeons
American Composites Manufacturers Association
American Counseling Association
American Feed Industry Association
American Group Psychotherapy Association
American Institute of Architects
American Mensa, Ltd.
American Rental Association
American Society for Dermatologic Surgery Association (ASDSA)
American Society of Anesthesiologists
American Society of Clinical Oncology
American Speech-Language-Hearing Association
American Traffic Safety Services Association
AMPEd Association Management
Arizona Technology Council
ASHRAE, Inc.
ASIS International
Associated General Contractors of America
Association Activision, LLC
Association Connection
Association for Research in Vision and Ophthalmology
Association of American Medical Colleges
Association of Boards of Certification
Association of Towns of the State of New York
Association of Women’s Health, Obstetric and Neonatal Nurses
Associations North
Bond Dealers of America
Brainsy, Inc.
Builders Exchange of Central Ohio
Building Owners and Manager Association (BOMA) International
Club Managers Association of America
Commission on Rehabilitation Counselor Certification
Consortium for School Networking
Construction Management Association of America
Construction Specifications Institute
Consumer Specialty Products Association
Consumer Technology Association
Cook County Farm Bureau
Cook-Witter, Inc.
Council For Affordable and Rural Housing
Denver Metro BOMA
Destinations International
DHI Door Security and Safety Professionals
Diving Equipment and Marketing Association (DEMA)
Door Security and Safety Foundation
Electrical Apparatus Service Association, Inc. (EASA)
Entertainment Services and Technology Association
Eye Bank Association of America
Farm Equipment Manufacturers Association
Financial Services Institute
Foodservice Equipment Distributors Association
Greater Milwaukee Association of REALTORS
Hawaii Association of REALTORS
Healthcare Distribution Alliance
Healthcare Financial Management Association
Healthy Air Research and Certification Authority
Heating, Air-conditioning & Refrigeration Distributors International (HARDI)
HIGH IMPACT Mission-based Consulting & Training
Home Ventilating Institute
Houston Association of Realtors
Illinois Academy of Family Physicians
Illinois Association of School Boards
Illinois Chiropractic Society
Independent Bankers Association of Texas
Independent Electrical Contractors
Independent Insurance Agents and Brokers of America
Indiana Society of Association Executives
Infectious Diseases Society of America
Institute for Supply Management
Institute of Electrical and Electronics Engineers, Inc.
Institute of Food Technologists
Institute of Hazardous Materials Management
Institute of Internal Auditors
Inter-Mission, LLC
International Association of Campus Law Enforcement Administrators
International Association of Forensic Nurses
International Association of Lighting Designers
International Association of Venue Managers
International Council of Shopping Centers
International Foodservice Distributors Association
International Franchise Association
International Public Management Association for Human Resources
International Society for Magnetic Resonance in Medicine (ISMRM)
International Society on Thrombosis and Haemostasis
International SPA Association
Invest In the USA
Iowa Soybean Association
Jewelers of America
Kansas Livestock Association
Kappa Alpha Order
Laureus Sport for Good Foundation USA
Metals Service Center Institute
Metropolitan Builders Association
Middle Tennessee Association of REALTORS
Minnesota Association of Townships
Missouri Pharmacy Association
NACAS
NAFSA: Association of International Educators
NAHAD - Association for Hose and Hose Accessories Distribution
NAMA
National Active and Retired Federal Employees Association (NARFE)
National Affordable Housing Management Association (NAHMA)
National Apartment Association
National Association of Chain Drug Stores
National Association of Credit Management - Gulf States
National Association of Credit Management - North Central
National Association of Independent Life Brokerage Agencies (NAILBA)
National Association of Independent Schools
National Association of Insurance and Financial Advisors (NAIFA)
National Association of School Psychologists
National Association of Veterans’ Research and Education Foundations (NAVREF)
National Business Officers Association
National Cancer Registrars Assn.
National Electrical Contractors Association
National Grocers Association
National Investor Relations Institute
National Pawnbrokers Association
National Potato Council
National Restaurant Association
National Shooting Sports Foundation
National Society for Histotechnology
National Truck Equipment Association
Nevada Chapter Associated General Contractors
New Hampshire Grocers Association
New York State Council of School Superintendents
NIRSA: Leaders in Collegiate Recreation
North American Association of Food Equipment Manufacturers (NAFEM)
North American Vascular Biology Organization
NSSGA
ODVA
Ohio Insurance Agents Association
Ohio Osteopathic Association
Ohio Society of CPAs
Organization of American Historians
Pa State Association of Township Supervisors
Pet Industry Joint Advisory Council
PMMI, The Association of Packaging and Processing Technologies
Population Association of America (PAA)
Radio Television Digital News Association
Recreation Vehicle Industry Association
Retail Packaging Association
Salon & Spa Professional Association
Senior Executives Association (SEA)
Sesame Workshop
Society for Marketing Professional Services
Society for MR Radiographers and Technologists
Society of Actuaries
Society of Actuaries (SOA)
Society of Economic Geologists
Society of Petroleum Engineers
Soroptimist International of the Americas
Specialty Graphic Imaging Association
State Universities Annuitants Association
Student & Youth Travel Association
Tennessee Concrete Association
Texas and Southwestern Cattle Raisers Association
Texas Association of REALTORS
Texas Nursery & Landscape Association
The Apartment Association of Greater Orlando
The Builders Exchange, Inc.
The Council of Insurance Agents & Brokers
The Fertilizer Institute
The Honor Society of Phi Kappa Phi
The New Jersey Association of Mental Health and Addiction Agencies, Inc.
The Ohio Society of Association Executives
The Society for Human Resource Management (SHRM)
Townships of Minnesota
Transportation Intermediaries Association
United Fresh Produce Association
United Motorcoach Association
University Risk Management & Insurance Association
US Poultry & Egg Association
Virginia Sheriffs’ Institute
Virginia Society of Certified Public Accountants
Washington Society of Association Executives
Water Environment Federation
Wine & Spirits Wholesalers of America
Wisconsin Association of Mutual Insurance Companies
Wisconsin Restaurant Association
Wisconsin Towns Association