November 2, 2016

CC:PA:LPD:PR (REG–163113–02)
Room 5203
Internal Revenue Service
POB 7604
Ben Franklin Station
Washington, DC 20044

Re: IRS REG–163113– 02
Estate, Gift, and Generation-Skipping Transfer Taxes; Restrictions on Liquidation of an Interest

The undersigned organizations, representing a broad cross section of America's material producers and equipment suppliers and manufacturers to the transportation and construction industries, are writing to submit comments regarding the August 4, 2016 Internal Revenue Service (IRS) notice of proposed rulemaking and notice of proposed hearing titled, "Estate, Gift, and Generation-Skipping Transfer Taxes; Restrictions on Liquidation of an Interest"[1] (proposal).

Our organizations represent both national and multinational companies that operate in every congressional district in the United States. However, a vast majority of our member companies are small-to-medium-sized, family-owned/operated businesses. We supply the materials, equipment and professional services that build and maintain the nation's roads, highways and bridges, homes and high-rises, and other infrastructure projects that are the lifeblood of our nation's commerce.

We strongly oppose the Internal Revenue Service's (IRS) notice of proposed rulemaking (NPRM) altering Section 2704 of the Internal Revenue Code, which provides valuation rules for purposes of subtitle B (relating to estate, gift, and GST taxes) for interests in corporations and partnerships.

[1] *81 Federal Register 51413*

Specifically, the proposal restricts the discounting of shareholder stock in family-owned operations for the purpose of determining federal estate tax liability and changes long-standing practices, including permitting the valuation of privately-owned business interests to include a “lack of control” and “lack of marketability” discount. These deductions are essential to family businesses because some stakes are worth less since they are harder to sell or represent a minority interest. The NPRM, which applies to corporations, partnerships and limited-liability companies, also disregards any restrictions on liquidation or redemption an heir uses to claim a valuation discount if that restriction either lapses after the transfer or the heir or heir’s family has the ability to remove the restriction after transfer.

The IRS’s proposal will disproportionately and unfairly impact our organization’s family-owned/operated businesses. The modifications will eliminate a valuable, as well as significant, estate planning tool that allows businesses the ability to apply proper valuation discounts for estate, gift and generation skipping taxes. This practice permits families to continue their businesses by transferring interests during their lifetime to children instead of waiting until one’s death, which is important for planning purposes and for the long-term viability of family-owned/operated businesses.

If finalized, the proposal will significantly change the succession plans of family-owned/operated companies. Valuation discounts offer a legitimate planning tool to prevent the overvaluation at the time of death before shares are transferred. The tax code has long recognized the concept that families should not be forced to sell the family business in order to pay inheritance taxes, and thus lose their company forever. This proposed regulation runs counter to basic estate planning principles that are meant to facilitate a smooth transition of family-owned/operated businesses to the next generation.

Family-owned /operated businesses in the construction industry are, by their nature, capital-intensive businesses; most of the profits generated are plowed back into new investment. Expanding estate tax liability and by removing long-recognized valuation discounts stretches the little remaining cash these businesses have after reinvesting in their companies. This complicated and burdensome regulation will detrimentally impact the small, family-owned/operated businesses that create jobs and economic growth across the country.

We appreciate the opportunity to comment and share our industry's perspectives on this important issue. We urge the IRS to immediately withdraw the NPRM and refrain from finalizing the proposal in its current form.

Sincerely,

American Coal Ash Association
American Concrete Pavement Association
American Concrete Pumping Association
American Council of Engineering Companies
American Road & Transportation Builders Association
American Traffic Safety Services Association
Associated Equipment Distributors
Associated General Contractors of America
Concrete Foundations Association
Concrete Reinforcing Steel Institute
Interlocking Concrete Pavement Institute
National Concrete Masonry Association
National Electrical Contractors Association
National Precast Concrete Association
National Ready Mixed Concrete Association
National Stone, Sand and Gravel Association
Precast/Prestressed Concrete Institute