Mr. Chairman and Members of the Committee:

My name is Stefan F. Tucker. I appear before you today in my capacity as Chair of the American Bar Association Section of Taxation. This testimony is presented on behalf of the Section of Taxation. Accordingly, except as otherwise indicated, it has not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the policy of the Association.

The Section of Taxation appreciates the opportunity to appear before the Committee today. We believe that several proposals in the President’s Fiscal Year 2000 Budget raise very important issues. While the Section does not necessarily endorse the specific proposals set forth by the President, we believe that such proposals highlight growing problems with our tax system that should be addressed by this Committee and the Congress. Our testimony today will not include comments on each and every item in the President’s Budget. We do anticipate, however, that additional individual comments on various proposals will be submitted in the near future. In addition, individual members of the Tax Section would be pleased to provide assistance and comments to members of the Finance Committee and your Staff on any proposals you might identify.

As you know, the ABA Tax Section is comprised of approximately 20,000 tax lawyers. As the largest and broadest based professional organization of tax lawyers in the country, we serve as the national representative of the legal profession with regard to the tax system. We advise individuals, trusts and estates, small businesses, exempt organizations and major national and multi-national corporations. We serve as attorneys in law firms, as in-house counsel, and as advisors in other, multidisciplinary practices. Many of the Section’s members have served on the staffs of the Congressional tax-writing Committees, in the Treasury Department and the Internal Revenue Service, and the Tax Division of the Department of Justice. Virtually every former Assistant Secretary of the Treasury for Tax Policy, Commissioner of Internal Revenue, Chief Counsel of the Internal Revenue Service and Chief of Staff of the Joint Committee on Taxation is a member of the Section.

We have limited our specific comments today to two areas: corporate tax shelters and the taxation of investment income of trade associations. Before we shift to those specific issues, however, I would like to reiterate the Tax Section's concerns about the growing complexity of the Tax Code and the need for this Committee and the Congress to dedicate themselves to broad simplification of the tax laws.

**SIMPLIFICATION AND COMPLEXITY**
My colleague, Bill Wilkins, Director of Communications of the Tax Section, testified before this Committee on April 15, 1999, on behalf of the Tax Section, concerning simplification and complexity. I will not restate the many thoughtful proposals contained in Bill’s statement. I would, however, like to reiterate the urgency with which we view this problem.

As Bill’s statement makes clear, the ABA and its Tax Section are not Johnny-come-latelies to this debate. The ABA has long-standing resolutions urging tax law simplicity, a broad tax base and lower tax rates. We have reiterated this position in testimony before the House Ways and Means and Senate Finance Committees on numerous occasions.

We remain very concerned. Over the past two decades, the Code has become more and more complex. That trend must be stopped and reversed. Otherwise, we fear that the weight of these various complicated provisions could cause the collapse of our system, as more and more taxpayers find it more and more difficult to cope with the intricate and arcane system, or quit out of frustration. You no doubt hear often about our voluntary tax system. While that is somewhat of a misnomer, there is no question that individual willingness to satisfy one’s tax obligations without coercion is central to the smooth functioning of the system. Complexity takes a tremendous toll on taxpayer confidence, evidence of which can be found in the broad public support for the IRS restructuring legislation championed by the Chairman of this Committee last year. The willingness and ability of the taxpaying public to keep up with the pace and complexity of changes is at a point beyond which it should not be pushed.

We urge this Committee to do two things during the next few months. First, do not, under any circumstances, make things worse than they are already. There are many proposals being discussed, some of which are contained in the President’s Budget that would add significant new complexity to an already overloaded Tax Code. We urge you to resist the political seductiveness of many of these proposals and avoid the layering of new complexity over old. It is very easy to focus on the merits of a particular provision in isolation, and ignore the cumulative effect of a series of changes, such as was done in the context the 1997 tax act. To paraphrase Hippocrates, if Congress chooses to reduce taxes in 1999, we urge you to do no harm.

Second, we urge you, wherever possible, to rectify the mistakes of the past. Our testimony of April 15 set forth a list of areas we believe can, and clearly should, be addressed. The individual alternative minimum tax and phase-outs top that list, but there are many others.

It is vital that this Committee take on and deal with the hard choices that simplification presents. To date, simplification has not achieved the commitment we believe is required. Too often, other objectives have tended to crowd simplification out as a priority. We urge this Committee to adjust this balance. Simplification may not garner political capital or headlines, but it is crucial. Complexity breeds non-compliance; simplification enhances understanding and compliance.

Members of the Finance Committee must endorse simplification as a bedrock principle, and that principle must be communicated to all involved in the tax-writing process. The time must be taken, and the effort must be made, to ensure that this goal remains paramount.

We would now like to address the growing problem we perceive with regard to corporate tax shelters.

**PROVISIONS RELATING TO CORPORATE TAX SHELTERS**

The Administration's Budget includes no fewer than 16 provisions dealing in one way or another with the issue of aggressive corporate tax shelters. We will not in this statement provide detailed comments on the Administration's proposals. The Treasury Department has stated that it will shortly release a "white paper" on the issues presented by the corporate tax shelter problem. It is our plan to provide an analysis of
the proposals following issuance of the Treasury white paper. In the meantime, we wish to offer our own comments on the corporate tax shelter problem and suggest a course of action.

The sheer number of proposals included in the Budget obviously reflects the Treasury Department's concern about the growing corporate tax shelter phenomenon. Our initial conclusion is that some of Treasury's proposed solutions are vague and incomplete. Thus, we believe that the Committee should carefully and critically analyze the proposals included in the Budget, their possible overlap and their potential impact on normal business transactions.

However, the Tax Section strongly shares the Treasury's concerns about very aggressive positions being taken by taxpayers and their advisors in connection with tax-motivated transactions and the fact that these transactions frequently are being mass marketed. We think Congressional action to address this problem is definitely called for. We understand that the Chairman shares these concerns.

A. The Problem

We have witnessed with growing alarm the aggressive use by large corporate taxpayers of tax "products" that have little or no purpose other than reduction of Federal income taxes. We are particularly concerned about this phenomenon because it appears that the lynchpin of these transactions is the opinion of the professional tax advisor. The opinion provides a level of assurance to the purchaser of the tax plan that it will have a good chance of achieving its intended purpose. Even if the taxpayer ultimately loses, the existence of a favorable opinion is generally thought to insulate the taxpayer from penalties for attempting to understate its tax liability. While some might dispute this as a legal conclusion, recent cases tend to support the absence of risk for penalties where favorable tax opinions have been given.

Because of our concern that opinions of tax professionals are playing such a key role in the increased use of corporate tax shelters, the Tax Section has established a task force to consider amendments to the American Bar Association’s rules for standards of practice of our members. We undertook a similar project in the early 1980s when so-called "retail" tax shelters aimed at high-income individuals proliferated. That effort resulted in the promulgation of ABA Formal Ethics Opinion 346 and in the adoption of a similar standard in Treasury’s Circular 230, which contains the ethical standards that tax professionals must observe under threat of losing the right to practice before Treasury and IRS. We expect that our task force will recommend changes in these disciplinary rules to address the current tax shelter phenomenon.

Likewise, we are concerned about the blatant, yet secretive, marketing of these corporate tax shelters. As discussed below, unless penalties that cannot be seen as mere minor costs of doing business by the promoters are imposed upon the promoters, and strongly and diligently enforced, no end is or will be in sight.

The tax shelter products that concern us generally have the following features. First, there is a discrepancy between the book treatment of the transaction and its treatment for Federal income tax purposes (stated simply, the creation of a significant tax loss with no similar loss for financial accounting purposes). Second, there is little economic risk to the corporation from entering into the transaction other than transaction costs. Third, one party to the transaction is frequently what Treasury refers to as "tax indifferent" (that is, a foreign taxpayer not subject to U.S. tax, a U.S. organization exempt from Federal income tax, or a taxable U.S. corporation that has large net operating loss carryovers). Finally, and most telling, it is generally assumed by the promoter, by counsel and apparently by the taxpayer itself that, if the "product" comes to the attention of Treasury or Congressional staffs, it will be blocked, but almost invariably prospectively, by administrative action or by legislation.

The hallmark of the aggressive tax shelters that concern us is not the use of tax benefits consciously granted by Congress (such as accelerated depreciation or credits), nor is it the use of tax-favored methods of accomplishing a business acquisition or financing. It is transactions that achieve economic results that
the parties themselves would generally concede have little or no support in sound tax policy, but achieve very substantial tax benefits that, the parties assert, are not clearly prohibited by existing law. It is not surprising, therefore, that explicit or implicit confidentiality is also a common feature of today's tax shelter products.

The modern tax shelter transaction usually feeds off a glitch or mistake in the tax law, often one that is accessed by finding, or even creating, a purported business purpose for entering into the transaction. Tax shelter products that capitalize solely on mistakes in the Code are not as troublesome to us as those that also depend upon the existence of questionable facts to support the success of the product. Mistakes in the Code will eventually be discovered and corrected by the IRS, Treasury or the tax-writing Committees of Congress. When mistakes are discovered and corrected by legislation, it is the prerogative of Congress to determine whether the situation warrants retroactive application of the correction.

Far more troublesome is the practice of reducing taxes by misusing sound provisions of the Code. Exploitation of rules that generally work correctly by applying them in contexts for which they were never intended, supported by questionable factual conclusions, is the hallmark of the most aggressive tax shelters today. Discovery on audit is the tax system's principal defense, but, in a self-assessment system, the audit tool cannot be expected to uncover every sophisticated tax avoidance device. The law should provide clear incentives for taxpayers to comply with the rules and, in all events, properly to disclose the true substance of complex transactions.

Thus, our concern is centered on the transaction that depends upon a dubious factual setting for success. Foremost among these is the conclusion or assertion that there is a real, non-tax business purpose or motive for entering into the transaction. There are others. In some cases, it will be essential for the opinion-giver to conclude that the transaction in question is not a step in a series of transactions which, if collapsed into a single transaction, would not achieve the tax benefits sought. A third type of factual underpinning often essential to the delivery of a favorable tax opinion is the permanence, or intended long-term economic viability, of a business arrangement among the parties (for example, a joint venture, partnership or newly formed corporation). A venture may be represented to be a long-term business undertaking among the parties, when in fact it is a complex, single-purpose, tax-motivated arrangement which was formed shortly before and will be dissolved shortly after the tax benefit is realized.

In most of these cases, the tax law is quite clear. Without the presence of a sufficient business purpose, unless the transaction is not a step in a series of related events, or unless the new business venture represents a valid business arrangement with a sufficient degree of longevity, the tax benefit claimed is simply not available under existing law. That bears repeating. Most if not all of the tax shelter transactions that concern us depend upon avoidance of well-established principles of law such as the business purpose doctrine, the step transaction rule, the substance-over-form doctrine, or the clear reflection of income standard. Thus, the role of the opinion giver often disintegrates into the job of designing or blessing a factual setting to support applicability of the Code provisions that will arguably produce the desired benefit. The result is the application of a provision of the Internal Revenue Code that otherwise has a logical and sound policy purpose to reach a result that is nonsensical, and in some cases almost ludicrous.

A sad additional fact is that all parties to these transactions know there is a substantial likelihood that the device employed, including the imaginative assertion of the proper factual setting, will not be uncovered by IRS agents even if the corporation is audited, as most large taxpayers are. The tax law is too complex and the returns of major taxpayers are too voluminous. Many tax shelter products involve numerous parties and complex financial arrangements, and invoke very sophisticated provisions of the tax law. It often takes extensive time and painstaking analysis by well-informed auditors to ascertain that what is reported as a legitimate business transaction has little, if any, purpose other than the avoidance of Federal income taxes. Accordingly, there is a very reasonable prospect that a product will win the "audit lottery."
This aspect of the problem is compounded by the fact that present law gives no reward for full disclosure in the case of corporate tax shelter transactions.

Let me emphasize that the transactions that concern us -- and the tax opinions that support them -- are altogether different than attempts to reduce taxes on a business transaction that has a true business or economic objective independent of reduction of Federal income taxes. But drawing distinctions between tax-dominated transactions and true business transactions that may involve major tax planning is sometimes tricky, particularly in the legislative context. For that reason, we recommend that the Congressional response to the tax shelter problem be measured and appropriate. It should not overreach; it should not inhibit legitimate business transactions. As we all know, taxpayers clearly have the right to arrange their financial affairs to pay the minimum amount of tax required under the law. Our desire is that in doing so they not avoid the intent of the law by benignly neglecting the judicial and administrative principles in which the tax law is quite properly grounded. These principles require the presence of substantial non-tax business or economic objectives in all business transactions; these principles are an essential part of the fabric of our tax law.

B. Possible Solutions

We recommend that you require clear disclosure of the true nature and economic impact of specified classes of transactions. The emphasis should be on the quality and clarity of the disclosure, not the volume of material furnished. You should also require that the individuals implementing the transaction be personally accountable for the factual conclusions on which the transaction is grounded. No taxpayer, or taxpayer's advisor, has the right to ignore or obfuscate the actual facts of a transaction in order to support a legal position relied upon to produce a desired tax benefit. Nor should any such party be allowed to claim a significant tax benefit relying on crucial facts without having the duty to investigate their accuracy.

Thus, we recommend that provisions be added to the Code that would give the parties a clear incentive to focus on the essential facts relied upon to bring the transaction within the applicable Code provisions. If that factual underpinning, and its legal significance, is properly understood by the taxpayer and its advisors at the time the transaction is entered into, and is clearly disclosed on the tax return, then the system will work much better. The facts to which we refer include objective facts that bear on the subjective business purpose inquiry the law requires. The inquiry would not need to state a conclusion as to the taxpayer’s state of mind, but the objective facts that indicate the taxpayer’s actual intent or purpose should be fully understood by the parties and clearly disclosed and explained on the tax return.

In order to focus the inquiry on the facts relied upon to support these tax-sensitive transactions, there should be a realistic possibility that penalties will be levied where the non-tax economic benefits from a transaction are slight when compared to the potential tax benefits. We agree with the Treasury Department that, in these types of transactions, promoters who market the tax shelter and professionals, including attorneys, who render opinions supporting them should face penalties as well as the taxpayer. The Treasury Department has, in addition, suggested that tax indifferent parties should face a potential tax if the transaction is ultimately found wanting. Under proper circumstances, that may be appropriate as well. All essential parties to a tax-driven transaction should have an incentive to make certain that the transaction is within the law.

In addition to better disclosure and accountability for the factual underpinnings of large tax shelter transactions, we think a substantive clarification of the law is likely necessary. Taxpayers and their advisors sometime support tax-driven transactions by citing court opinions that are not consistent with the mainstream of the case law. For example, authorities exist which can be read to say that even a scintilla of pre-tax profit potential, or any plausible non-tax purpose, no matter how insignificant, will support a tax-driven transaction. Treasury has proposed a significant broadening of the Commissioner's authority under Code section 269 to disallow claimed tax benefits in such cases. We do not think such a broad change in
section 269 is appropriate or desirable. The application of section 269 is not uniform and leaves too much discretion to the agent in the field.

In lieu of Treasury's proposed section 269 amendment, we suggest a new Code provision applicable only to transactions to which the economic substance doctrine now applies. In such cases, the Code should make it clear that the expected economic benefits of the transaction must be meaningful (i.e., more than a de minimis or nominal amount) in relation to the expected tax benefits. We think this would serve to restate and reinforce the intent of Congress, the rule applied by most courts and the advice given by most, if not all, careful tax advisors. It would remove the cover questionable or unclear judicial opinions now provide for less careful advisors.

You may hear the argument that changes such as those we are advocating will cause uncertainty and unreliability in the tax law. As noted earlier in our testimony today and in our April 15 testimony, the Tax Section strongly supports, and indeed urges, as much simplicity and clarity as possible throughout the Code. However, total certainty is impossible where complex transactions are involved. This is particularly true when the parties seek to avoid judicial principles developed to deny tax benefits to overly tax-motivated transactions. Taxpayers and their advisors know that relative certainty can easily be achieved in legitimate business transactions by steering a safer course and staying in the middle of the road. The more clearly the transaction stays within established judicial and administrative principles, the more certainty is assured. When they venture to the outer edge, certainty cannot be assured, nor should it be; the parties who consciously risk going over the edge should clearly understand there are severe consequences for doing so.

In an important way, the protection of common law and general anti-abuse principles contributes to certainty and reliability in the tax law. Tax shelter transactions commonly depend in large part on very literal interpretations of the words of the Code or regulations. They utilize the clarity in the way the tax law is written to undermine its purpose. In so doing, these transactions discourage the writing of clear and certain tax law in favor of more vaguely stated principles that cannot be so easily misused. One of the important results of anti-abuse principles developed by the courts is the protection of clearly-stated provisions of law on which taxpayers can rely with certainty for every day business transactions.

As you can see, we think the best and most effective route for this Committee to follow in dealing with the corporate tax shelter problem is more meaningful and clearer disclosure, with proper due diligence of, and accountability for, the factual conclusions relied upon by the taxpayer. This may, perforce, have to involve an expanded penalty structure, as well to provide the appropriate incentives and disincentives for certain types of behavior. If this is done properly, there should be no need for some of the more complex and broader changes Treasury has proposed. Consistent with our often-expressed views on simplicity, we would encourage the Committee to be mindful of the significant complexity that could be imposed on thousands of taxpayers who are not employing tax shelters if the solutions selected to address this problem are overly broad.

Finally, this Committee and the Congress need to be certain that the Internal Revenue Service’s resources are adequate to deal with the tax shelter issues. In part, promoters of tax shelters are successful in marketing their products because they and large taxpayers have concluded that the IRS is less to be feared today. They are aware of the problems within the agency, the Congressional criticism it has received, and its dwindling resources. Our recommendations are directed primarily at more meaningful reporting and disclosure for "large tax shelters." We think such changes, together with expanded penalties, will increase voluntary compliance. However, the Internal Revenue Service must have the resources to analyze the information reported and to pursue noncompliance vigorously, or the additional reporting will be a paper tiger.

C. Specific Proposals

We suggest the following changes in the Internal Revenue Code to accomplish the goals outlined:
1. Require specific, clear reporting for large "tax shelters"

A question should be added to the corporate income tax return requiring the taxpayer to state whether any item on the return is attributable to an entity, plan, arrangement or transaction that constitutes a "large tax shelter" (as defined below). If the answer is yes, specific information describing the nature and business or economic objective of the transaction should be required to be furnished with the return, including:

(a) A detailed description of the facts, assumptions of facts and factual conclusions with respect to the business or economic purposes or objectives of the transaction that are relied upon to support the manner in which it is reported on the return;

(b) A description of the due diligence performed to ascertain the accuracy of such facts, assumptions and factual conclusions;

(c) A statement signed by one or more corporate officer with detailed knowledge of the business or economic purposes or objectives of the transaction that the facts, assumptions or factual conclusions relied upon in reporting the transaction are true and correct as of the date the return is filed, to the best of such person's knowledge and belief. If the actual facts varied materially from the facts, assumptions or factual conclusions relied upon, the statement would need to describe such variances;

(d) Copies of any written material provided in connection with the offer of the tax shelter to the taxpayer by a third party;

(e) A full description of any express or implied agreement or arrangement with any advisor, or with any offeror, that the fee payable to such person would be contingent or subject to possible reimbursement; and

(f) A full description of any express or implied warranty from any person with respect to the anticipated tax results from the tax shelter.

The questions should elicit clear and accurate responses, not voluminous material that might serve to obfuscate the true nature of the transaction. The required statements of business officers of the taxpayer should impose personal accountability for the accuracy of the factual underpinning of the transaction.

2. Broaden the substantial understatement penalty to cover outside advisors, promoters and "tax indifferent parties"

If the substantial understatement penalty of existing law is imposed on the taxpayer, a penalty should be imposed on any outside advisors who rendered favorable tax opinions, and promoters who actively participated in the sale, planning or implementation of the tax shelter. The same type of penalty should also be imposed on any "tax indifferent party," unless any such party can establish that it had no reason to believe the transaction was a tax shelter with respect to the taxpayer.

Such penalties should be set at levels commensurate with the fees or benefits such parties stood to realize if the transaction were successful. In addition, separate procedural rules should be provided to assure such parties of due process, similar to the rules applicable in the case of penalties on tax return preparers.

3. Define "large tax shelter" for purposes of the substantial understatement penalty

The definition of "tax shelter" presently contained in section 6662(d)(2)(C)(iii) should be retained. The term "large tax shelter" would be defined as any tax shelter involving more than $10 million of tax benefits in which the potential business or economic benefit is immaterial or insignificant in relation to the tax benefit that might result to the taxpayer from entering into the transaction. In addition, if any element of a tax shelter that could be implemented separately would itself be a "large tax shelter" if it were implemented as a stand-alone event, the entire transaction would constitute a "large tax shelter."
4. Provide specific new penalties in the case of tax shelters that fail to disclose the required information (whether or not the tax shelter is ultimately sustained or rejected by the courts)

In a self-assessment system, accurate reporting and disclosure are essential. Where that does not occur, stringent penalties are necessary. This is particularly true in the case of large and complex tax-motivated transactions. There should be a clear disincentive to playing the audit lottery in these types of transactions. This could be coupled with a reduction in the rate of any otherwise applicable penalties for those taxpayers that comply with the disclosure requirements set forth in 1, above. This would provide an incentive (and not just a disincentive) to make such disclosures.

5. Clarify that, where the economic substance doctrine applies, the nontax considerations must be substantial in relation to the potential tax benefits

Most courts, as well as careful tax advisors, apply the economic substance doctrine by weighing the potential tax and nontax results of a contemplated transaction. We think this is entirely consistent with long-standing Congressional intent. Codification of this rule would provide a clear statement of the standard generally applied by courts under the economic substance doctrine, and would prevent reliance on unclear or conflicting judicial articulations of that standard in rendering opinions on tax-driven transactions. Any such codification would not, however, displace current law where the business purpose test is currently applied without a weighing of the tax and business objectives, such as the business purpose rules applied in the context of section 355 and in most tax-free corporate acquisitions.

6. Articulate a clear Congressional policy that existing enforcement tools should be utilized to stop the proliferation of large tax shelters

Congress should make clear its view that examination of large tax shelter transactions by the Internal Revenue Service should be considered a tax administration priority. This should include the application of both civil and criminal penalties when appropriate.

Mr. Chairman, the Section of Taxation is convinced that the concerns being voiced about corporate tax shelters are very real; these concerns are not hollow or misplaced, as some would assert. We deal with corporate and other major taxpayer clients every day who are bombarded, on a regular and continuous basis, with ideas or "products" of questionable merit. The sophistication of these proposals and the daunting task they present to IRS auditors lead us to conclude that Congress cannot, and should not, ignore this growing – and very troubling – trend. We have offered to you today what we view to be workable solutions that do not overreach. We would be pleased to discuss them further with you and your staff.

TAXATION OF INVESTMENT INCOME OF TRADE ASSOCIATIONS

Finally, on behalf of the entire American Bar Association, I wish to raise concerns about one of the proposals included in the President’s Budget. We have been asked by the ABA to convey to this Committee its grave concerns about this proposal.

The proposal would tax all net investment income of trade associations, business leagues, chambers of commerce and professional sports leagues (under IRC § 501(c)(6)) in excess of $10,000 per year. The tax would be imposed at generally applicable corporate rates. The tax would not be imposed to the extent such net income was set aside to be used for any charitable purpose described in IRC § 170(c)(4).

The principal basis for the Administration’s proposal is the erroneous assumption that the endowments accumulated by some trade associations represent excessive dues payments by the members of these organizations. Thus, the Administration argues, the investment income earned on these excessive dues payments should be subject to tax just as they would have been if the dues had been set at the proper level, and the "excess" invested individually by the members of the association.
The ABA has serious reservations about this analysis. Even if it were, for purposes of argument, correct to assume that these endowments represent excessive dues payments received in earlier years, the investment income earned on the excess (whether earned by the trade association or by its members) has the practical effect of reducing dues that become payable in future years. Therefore, the only significant consequence of permitting these excess dues to be invested by a tax-exempt entity without taxation is to defer the government’s receipt of the tax on such income from the year of the initial dues payment to the year in which the excess dues are applied to carry out the trade association’s exempt activities.

We understand the theoretical economic analysis that underlies this proposal. We would submit, however, that this theoretical analysis ignores the real world, practical implications of the proposal. As a large trade association, the ABA must point out that this proposal will discourage the accumulation of endowments, severely hamper multi-year planning, and limit the ability of these organizations to fund socially desirable programs.

For example, these organizations (like any other) fund large outlays over time, rather than in the year of the outlay. Dues of trade associations and other section 501(c)(6) organizations are set at levels necessary to fund such outlays by allowing them to accumulate funds for capital expenditures, etc. A tax on investment income would make planning for such large expenditures very difficult, and highly impractical. The organizations would be forced either to collect their dues on a level basis and incur the tax (thus necessitating higher, fully deductible dues to make up the difference) or to lower their dues, not accumulate any savings, and then make special assessments in the year of the large expenditure in order to fund the project (with such special assessments also being tax deductible). There is simply no good reason to put these organizations to that choice.

There is also no valid policy reason for singling out trade associations for this treatment, but excluding other mutual-benefit organizations such as labor unions, agricultural and horticultural organizations, and civic associations. All these types of organizations, although exempt from income tax under different provisions of the Code, are essentially treated the same for tax purposes. Given this identity of treatment, it is not appropriate to single out organizations exempt from tax under section 501(c)(6) for this new investment tax.

CONCLUSION

Mr. Chairman, thank you for the opportunity to appear before the Committee today. I will be pleased to respond to any questions.