December 8, 2017

The Honorable Orrin Hatch
Chairman
Senate Committee on Finance
219 Dirksen Senate Office Bldg
Washington, DC 20510

The Honorable Kevin Brady
Chairman
House Committee on Ways and Means
1102 Longworth House Office Bldg
Washington, DC 20515

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

The Honorable Richard Neal
Ranking Member
House Committee on Ways and Means
1139E Longworth House Office Bldg
Washington, DC 20515

Dear Chairmen Hatch and Brady and Ranking Members Wyden and Neal:

During the conference negotiations over H.R.1 the Tax Cuts and Jobs Act, I urge you to consider the potential impact several provisions could have on the forthcoming infrastructure package and overall growth.

As you know, the nation faces $3 trillion in infrastructure needs, including roads, bridges, water systems, ports, harbors, airports and broadband. To meet this overwhelming need, all possible tools must be available to each level of government and their private sector partners. The Bipartisan Policy Center's Executive Council on Infrastructure has issued a series of recommendations to increase private investment in public infrastructure and has argued for a combination of public funding and private finance.

Importantly, the council has recommended lifting the cap on private activity bonds and maintaining the interest exemption for municipal bonds. While both the House and Senate maintain the exemption, they eliminate the ability of localities to advance refund municipal bonds, an issue of critical importance to the water and wastewater community. According to the water and wastewater community, between 2012 and 2016, states and localities advance refunded 941 tax-exempt municipal bonds that saved communities and ratepayers at least

1225 Eye Street, NW Suite 1000
Washington, D.C. 20005

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$1.36 billion. At a minimum, because many communities are already in the process of advance refunding some bonds, please consider a short grace-period before the prohibition kicks in.

Additionally, both bills would limit the interest deduction for companies that invest in infrastructure projects. Private sector investment in public infrastructure often results in the private investor taking on large amounts of debt at the beginning of the project to make the necessary upfront payments to build or acquire the asset. The private investor pays off its debt over a longer period as it achieves modest but stable and long-term returns on its investment. Limiting the interest deduction in such a situation could make these projects uneconomical for private investors. If conferees opt to maintain the provision, I encourage you to take the House position which includes depreciation and amortization. These are critical to promoting private investment in infrastructure, which is a capital-intensive investment. Without the inclusion of depreciation and amortization in the calculation private investments in public infrastructure may not be economical.

While retained by the Senate, the bill passed the by the House would eliminate tax exempt-Private Activity Bonds (PABs), a key tool used by municipal governments to address infrastructure costs. Just like municipal bonds, PABs are issued by a local government for infrastructure projects that serve a public good while maintaining private ownership of the project. Despite being subject to the Alternative Minimum Tax (AMT) and a volume cap, PABs still provide a lower cost source of financing than otherwise achievable. As the Trump administration has recommended, the limitations to PABs could further increase the functionality of PABs and create more infrastructure projects.

Importantly, eliminating PABs would also undermine another key bipartisan objective: growing the supply of affordable rental homes. PABs are required for the four percent Low Income Housing Tax Credit (LIHTC), which finances the construction and rehabilitation of tens of thousands of affordable homes each year. While otherwise leaving LIHTC mostly untouched, the corporate tax rate reductions included in both the House and Senate bills would further undermine LIHTC by lowering its value and the equity available from it. Retaining PABs and increasing federal support for LIHTC would help to maintain the production and preservation of LIHTC units at current levels or above.

Tax reform is a laudable goal with significant potential to ignite additional economic growth. It is critical that tax reform not undermine other pro-growth policies, particularly much-needed investment in infrastructure and affordable housing. Therefore, BPC Action encourages you to reconsider these provisions.

Sincerely,

Michele Stockwell,
Executive Director