Supporting America’s Rural Forest-based Economy and Environment:

*American Forest Foundation’s Principles for Federal Tax Reform*

America’s forests provide critical benefits to Americans—from clean air and water, to wildlife habitat, places to hike, hunt, and fish, good paying jobs, and forest products we all use every day. Over one-third of America’s forests, more than the acreage owned by the federal government or corporations, is owned by 20 million American families. These families are often the backbone of rural America: one out of every four rural residents owns forests.

As stewards of America’s forests, family forest owners have a long commitment to their conservation and management for generations to come, and often care for their land and provide these public benefits at little to no cost to the taxpayer.

On top of this, family forest owners also provide jobs. Over 2.4 million jobs, and more than half of the wood harvested in the United States, comes from family and other privately owned woodlands.

The role of family forest owners is more important than ever. Unfortunately, these families also face a unique situation that is often overlooked by current tax policy. While family forest owners cultivate a crop like any other farmer, the extended growth period for productive timber harvests mean some families will only harvest a piece of land once per generation. Tax laws designed for agricultural row crops can inadvertently leave these family forest owners out in the cold, even while they invest heavily in their lands for the duration of the growth cycle. Forests are also capital intensive, especially when it comes to planting, and in the event of a natural disaster, losses suffered by small, family operations can many times have a cataclysmic effect an owner’s finances. In some cases, a single natural disaster could force a family business to close and sell their land to developers.

Our tax code must be deliberative, putting family forest owners on an equal footing with other farmers to ensure owners can continue providing the positive benefits to communities across our country. For these family forest owners, sound federal tax policy means tax rules that promote, and are consistent with, the conservation and management of America’s woodlands. The following are the key tax policies that family forest owners will be watching for in tax reform:

**Regular forest management.** Tax policy should facilitate sound woodland management practices, including fire prevention, thinning and timber stand improvement, and management of wildlife habitat. Most forests, especially in today’s environment of increasing threats from wildfire, insects, and diseases, need regular management. Forest owners must regularly maintain roads, culverts, fire breaks, and must often thin their forests and control invasive species, all of these are business costs that yield little if any income. Under current law, expenses for those activities are deductible as ordinary business expenses for forest owners who operate their woodlands as a business.

*It is critically important that Congress maintain this deduction in any tax reform measure.*
Reforestation. The tax code currently facilitates reforestation after harvesting. This is often a significant, frontloaded expense, involving both tree planting as well as controlling competing vegetation, which does not yield returns for decades. Current rules allow forest owners to amortize reforestation expenses over seven years and to deduct up to $10,000 of such expenses in the year incurred. If landowners must wait to deduct these costs until they harvest the timber, many will not be able to afford this expense.

*Congress must preserve those rules in tax reform to continue to facilitate sound reforestation practices.*

Recognition of long-term nature of forest management. Tax policy must recognize the uniquely long-term nature of forest management. Unlike almost any other business, forest management can involve gaps of years or decades between the years in which expenses are incurred for the business and the years in which income is realized through the harvest of trees. The tax code currently accommodates the unique nature of forest management in two ways:

**Capital gains treatment.** The tax code treats income from the harvesting of timber as capital gains and not ordinary income. Capital gains are taxed at a reduced rate. Capital gains treatment for timber harvesting effectively helps insulate forest owners from paying tax on inflationary gains in the value of their timber when they harvest trees after many years of ownership. The provision serves to recognize the uniquely long-term nature of forest management.

*Congress must preserve this provision in any tax reform measure to avoid imposing an inflation tax on forest owners.*

**Hobby losses.** Current tax rules allow taxpayers to make a factual demonstration to the IRS that their management of property constitutes a business activity and not a hobby (thus allowing for business deductions). This provision is critical for forest owners, who may realize no income from their lands for many years at a time and thus could not meet the default IRS standards for distinguishing business activities from hobbies.

*Congress must preserve this provision in tax reform, and should clarify that in determining whether a forest owner is engaged in a business activity, current IRS rules that determine whether a taxpayer is a “material participant” under the tax code’s passive loss rules should apply when a landowner can demonstrate their management with a forest management plan or their use of a forester or other natural resources professional.*

**Stepped-up basis.** Forest lands (like other assets) receive a “stepped-up” tax basis when received by a taxpayer as an inheritance. This allows families to pass their forestland on to the next generation without the heir paying tax on inflationary gains built up by the decedent for many years before death.
It is critically important that Congress preserve the stepped-up basis provision in tax reform to ensure heirs don’t pay tax on inflationary gains built up by the decedent.

**Estate tax.** Tax policy should facilitate the inheritance of forest lands by family members – rather than spur sales to third parties, conversion to non-forest uses or parcelation, or premature harvesting of timber by heirs when they are faced with the tax. Families that have long owned and managed forest lands are best suited to continue that stewardship. While many forest owners will not face the estate tax with the current exemption levels, not all are exempted, meaning some owners may still face the choice of selling or harvesting timber prematurely to pay the tax.

*When considering tax reform, Congress should seek to eliminate or reduce this tax burden on family forest owners.*

**Casualty losses.** For family forest owners, a major storm, wildfire, or insect infestation can destroy value built up through hard work and expense over decades. Unlike farmers who also face these types of risks, most forest insurance is cost-prohibitive for family forest owners. Many forest owners experience these types of losses, yet when surveyed, most are not able to recoup any of these losses. Again, unlike farmers, there are few programs that help forest owners recoup their losses and get back on their feet after such disasters.

*Congress must preserve the deduction for such casualty losses. In addition, Congress should modify the law to ensure that timber owners are not deprived of the deduction by current rules limiting the deduction to cost basis.*

**Charitable tax deductions.** Conservation easements provide a valuable tool for landowners to protect their property from conversion to non-forest uses while still maintaining the land as a working forest. As a reward for the public benefit provided by conservation, the government currently allows for a deduction of the value of the easement as a charitable contribution. While this is far from the only reason a landowner would chose this course of action, it is also an important tool for making easements economically viable for many landowners.

*Congress must maintain the ability to deduct easements as charitable contributions.*

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**About the American Forest Foundation**
The American Forest Foundation, as a forest conservation organization, helps ensure family and private forest owners have the tools and resources they need to manage their forests and measurably improve the wildlife habitat, clean water and sustainable wood supplies that Americans count on.

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