



November 29, 2021

Hon. Lily Batchelder
Assistant Secretary (Tax Policy)
Department of the Treasury
1500 Pennsylvania Ave., NW, Room 3120
Washington, DC 20220

Re: Request for Meeting

Dear Assistant Secretary Batchelder:

On behalf of the National Automobile Dealers Association (NADA) and the American Institute of Certified Public Accountants (AICPA), we are writing to request the opportunity to meet with the Office of Tax Policy to further discuss the letters that NADA and AICPA submitted to Treasury requesting that the Secretary of the Treasury provide relief under section 473 of the Internal Revenue Code for taxpayers who (i) inventory their merchandise under the last-in, first-out ("LIFO") accounting method, and (ii) have experienced a decrease in their closing inventories because a major foreign trade interruption has made the replacement of inventories difficult or impossible. The decrease in inventory resulting from the major foreign trade interruption is drastic, widespread, unprecedented, and expected to cause thousands of impacted businesses to incur significant, unexpected tax liability that will constrain capital, hamper cash flow and, in turn, cause a range of adverse economic consequences for employment and local investments in this fragile economy. Time is of the essence because tax on ordinary income triggered by LIFO recapture for 2020 already had to be paid, and LIFO recapture tax for 2021 will be due very soon.

We also want to address a question that Treasury raised during a public meeting of the AICPA. The question concerned the scope of the relief and how Treasury should administer it. Specifically, "which parts of the supply chain disruptions are foreign and which have a domestic element."ⁱ We understand the question to be directed at which taxpayers are affected by the major foreign trade interruption that has occurred, not whether a major foreign trade interruption has occurred.ⁱⁱ

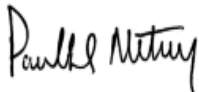
In that regard, the statute requires the Secretary to determine which class of goods and which class of taxpayers have been affected by the major foreign trade interruption. Given the statute and the circumstances, we request that the Secretary define the class of taxpayers and class of goods to include taxpayers whose LIFO inventory included goods the replacement of which was made difficult or impossible because a foreign factory or distributor from which the

replacements, or components of the replacements, could have been sourced was either closed or had reduced output as a result of actions related to the novel coronavirus.

We recognize that providing relief under section 473 is unprecedented, but the dire and ongoing situation affecting taxpayers on LIFO is similarly unprecedented and warrants relief from Treasury under the statute. We therefore respectfully request that Treasury move expeditiously under section 473 to assist this critical segment of the economy.

Thank you for your continued consideration of our request. Please let us know if there is any additional information we can provide to your office.

Sincerely,



Paul D. Metrey
Senior Vice President, NADA Regulatory Affairs



Jan Lewis
Chair, AICPA Tax Executive Committee

cc: The Honorable Janet Yellen, Secretary, Department of the Treasury
The Honorable Charles P. Rettig, Commissioner, Internal Revenue Service
Mr. William Paul, Acting Chief Counsel, Internal Revenue Service

ⁱ Nathan J. Richman, "Fewer Tax Rate Planning Incentives Could Increase Methods Relief," Tax Notes Today, November 11, 2021.

ⁱⁱ The foreign trade disruptions caused by actions related to the novel coronavirus, including "lockdowns" that resulted in factory closures and reduced output, have been widely reported and have had a direct and substantial effect on businesses that maintain inventories. One salient example of this disruption involves new automobile and truck dealers. One hundred percent of new motor vehicles retailed in the United States rely on semiconductors and other parts that are manufactured in foreign countries, and the ongoing supply chain disruptions have dramatically reduced the number of new vehicles being manufactured and delivered to motor vehicle dealers. This is evident on dealer lots throughout the country where new vehicle inventories have all but dried up. Indeed, one hundred and twelve Members from both houses of Congress have signed bipartisan letters to Treasury acknowledging the foreign trade disruptions and stating that they are the type of "major foreign trade interruption" that Congress intended to address in section 473. Thus, we believe the only issue is which taxpayers have been affected by it.