NADA National Automobile Dealers Association

Congress Should Pass the Bipartisan, Non-Controversial "Supply Chain Disruptions Relief Act"

Requirement that Treasury Uses Existing Authority to Address Auto Production Still Needed

(H.R. 700/S. 443)

ISSUE

Supply chain disruptions, which were beyond auto dealers' control, significantly impacted dealers using the last-in first out (LIFO) accounting method. The resulting LIFO recapture triggered significant, unexpected tax liability that continues to harm many smaller, multi-generational family dealerships across the nation. Under current law, the Treasury Department has authority to provide extra time for businesses that utilize LIFO to replace depleted inventory if a "major foreign trade interruption" makes inventory replacement difficult or impossible. After Treasury declined to use its existing authority, despite pandemic-related global disruptions and drastically reduced auto production making it impossible for dealers to replenish new vehicle supply, the "Supply Chain Disruptions Relief Act" (H.R. 700/S. 443) was introduced. The bill, which Treasury has indicated it supports, would direct Treasury to use its existing authority to grant additional time for affected dealers to replace vehicle inventories and avoid the unintended, unexpected and significant tax liability triggered under LIFO recapture that will take years to recover. **Senate leaders should add the "Supply Chain Disruptions Relief Act," an overwhelmingly bipartisan and noncontroversial small business measure, to the House-passed tax package.**

BACKGROUND

In 1980, Congress provided the Treasury Department authority (Sec. 473 of the Internal Revenue Code) to grant temporary LIFO relief to businesses if a "major foreign trade interruption" makes inventory replacement difficult or impossible. As the pandemic slowed or stopped production at vehicle assembly plants and suppliers across the globe, dramatic supply constraints helped create the lowest dealer inventory levels in decades.

Last-in first-out accounting is an accounting method that allows businesses to manage the year-to-year inflationary risks of replacing inventory. To avoid potential LIFO recapture tax liability, dealers must generally restock inventory by year's end. Inventory shortfalls can trigger recapture liability, which is generally taxed as ordinary income. With no way to replace vehicle inventory, dealers utilizing the LIFO method of accounting experienced major unanticipated tax liability due to circumstances beyond their control.

The Alliance for Automotive Innovation and a White House Fact Sheet have documented that automakers could not complete the final assembly of sufficient vehicles, and dealers were unable to replace inventory due to pandemic-related foreign trade interruptions, including a severe shortage of critical semiconductor chips. The bill would allow dealers to delay the recognition of income triggered by LIFO recapture for tax years 2020 and 2021 and extend the period to replenish inventory and compute LIFO reserve/recapture to the end of 2025.

KEY POINTS

- **As a result of supply chain disruptions beyond the dealers' control, LIFO recapture triggered significant, unexpected tax liability that continues to harm many smaller, multi-generational family dealerships.** While vehicle inventory is recovering gradually, the LIFO recapture penalty has imposed massive tax bills on small businesses that will take years to recover and could otherwise be used to invest in workers, replenished inventory, EV infrastructure, and community projects.
- **The Treasury Department has indicated its support of a legislative solution, the "Supply Chain Disruptions Relief Act,"** that explicitly provides the Department the legislative justification under existing law to address this pandemic-related supply chain issue, which severely affected vehicle inventories and the auto industry.
- **H.R. 700/S. 443 is technical and noncontroversial legislation** and is identical to the bills from last Congress which received overwhelming bipartisan support and passed the Senate by unanimous consent.

STATUS

The "Supply Chain Disruptions Relief Act" (H.R. 700) has 167 cosponsors, and the Senate version (S. 443) has 62 cosponsors. Three quarters of the House Ways and Means Committee and Senate Finance Committee Members are cosponsors. NADA recently sent a letter urging the Senate to add the bipartisan and noncontroversial "Supply Chain Disruptions Relief Act" to H.R. 7024, the "Tax Relief for American Families and Workers Act of 2024," when considered by the Senate.

Feb. 22, 2024