

## BACKGROUND, CURRENT STATUS AND TALKING POINTS ON LIFO REPEAL

### *Background:*

President Obama called for repeal of LIFO in the budget he submitted to Congress in February. The Senate Finance Committee is now considering health care reform, and they are considering a lot of "revenue options" (that's tax increases, of course, in normal English) -- including LIFO repeal -- to "pay for" or offset the additional Federal spending required to fund their health care reform proposals. And now the House Ways and Means Committee is also considering health care reform and will need to find tax revenue to fund their program expansions. It's worth noting that Ways and Means Chairman Charlie Rangel proposed LIFO repeal himself in a tax reform proposal he introduced in October, 2007.

NAW manages the LIFO Coalition -- a coalition of almost 100 trade associations/business groups and corporations -- which is working hard against repeal. Members of the Coalition have been meeting with key members of the Senate Finance and House Ways & Means Committees to make the case against repeal.

A few critical issues became very clear in key meetings we had recently with Senate Finance and House Ways and Means Committee Democratic tax-writing staff and with Committee members and their staff:

-- This is all about money; they need to raise billions of dollars in new tax revenue to pay for their health care reform initiatives;

-- They are NOT arguing that LIFO should be repealed on the merits, but only that they need more of your tax dollars;

-- They did not dispute our argument that LIFO is an appropriate means for evaluating inventory where price of product is subject to inflation or to fluctuations in price, but were not responsive to the argument that LIFO should not be repealed absent an objection to it on the merits;

-- They put a number of potential compromises on the table, none of them acceptable and all of them rejected by the business participants (i.e., repeal only for publicly-held companies, repeal only for large companies, repeal for specific industries, repeal on a going-forward basis);

-- They do not find anecdotal stories about the impact of repeal persuasive, nor are they satisfied with the case against repeal being made by association executives -- they very specifically said they need to be presented with quantitative information from affected businesses.

It was this last point that prompted our urgent appeal to you all. The members of both tax writing committees need to hear from businesses in their states and districts about the impact of LIFO repeal, and they need to have "real numbers" presented to them. We understand that they are asking for proprietary tax and financial information, but the more you are comfortable telling them about how LIFO repeal would impact your business, the better. We have told them -- repeatedly -- that we have members whose tax liability if LIFO were repealed would exceed their net worth, would consume 40-50% of their operating assets, could not be paid without the company borrowing money (which is anything but easy today), could even put them out of business. And we have told them that a significant number of businesses which could manage to pay the "carry-back" taxes would have to lay off workers, postpone investments, stop contributing to retirement plans or providing health care benefits. All these reports are true and are from our members, but they are also of course anonymous. And the Committee staff told us that this anonymous anecdotal evidence will not be persuasive.

***Action Needed:***

If you have operations in one or more states and/or districts represented by members of the Senate Finance and/or House Ways and Means Committee, we are asking you to write to those Committee members to make the case against repeal.

The most important content for your letters is how LIFO will affect your company, with as much specificity as possible; i.e., the percentage increase in your tax liability if LIFO were repealed, the relationship between your LIFO tax liability and net worth and/or working capital, etc. And where applicable please note the impact repeal would have on jobs (will you have to reduce your workforce or not hire new workers?), capital investments (will you delay or cancel planned investments?), employee benefits (would you have to reduce costs by changing health care benefits or payments to 401(k) plans, etc.?). And be sure to identify yourself as an employer in the Members' state or district so they know you are writing as a constituent business.

The more general LIFO talking points we've been stressing:

- LIFO is an accurate and appropriate means of evaluating inventory to calculate actual earnings for tax purposes;
- LIFO and FIFO achieve the same purpose, accurately reflecting taxable income depending on whether the price of product rises or falls;
- Repeal of LIFO with recapture of taxes on reserves is a highly unfair retroactive tax increase, punishing companies which have done absolutely nothing wrong and it would be like retroactively repealing accelerated depreciation;
- There is no LIFO "reserve" -- it's an accounting calculation, not a pot of money sitting in a bank, and requiring retroactive payment of income taxes on the reserves would be a tax with no income with which to pay it, so the money would have to come from reduced expenditures elsewhere or borrowing, and credit is very difficult to obtain today;
- Repeal of LIFO on a going-forward basis would force companies which sell a product which rises in price to pay income taxes on illusory inflation-generated income;
- Allowing FIFO while repealing LIFO would unfairly advantage industries which sell a product that falls in price over those whose product is subject to price inflation, and in general that disadvantages the established "brick and mortar" American businesses which do not outsource their jobs and on which good U.S. jobs depend.

The easiest way to send the letters would be to use the NAW website. Go to <http://www.naw.org/govrelations/grtools.php> and click on "Contact Your Senators" or "Contact Your Representative." Type in an office/store/location address and the site will take you to a page where you can write and email or fax a letter. You would need to identify yourself as an employer in their state or district in each letter separately, but beyond that distinction, you could copy and paste letters to each of them and send directly from the site.

We know this may be a time-consuming request, but we have been told repeatedly on the Hill that most Members of Congress don't really know much about LIFO, don't understand the impact of repeal, and think it will affect only a small number of publicly-traded companies and do little economic damage. They have repeatedly and explicitly asked for real data from companies on LIFO, and that's information NAW can't and won't provide.

Please let us know if you need any more information; we will gladly be of any help we can. And we'd very much appreciate your letting us know when you contact Representatives and any responses you receive.

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