



November 20, 2020

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

Hon. Michael J. Desmond  
Chief Counsel  
Internal Revenue Service  
1111 Constitution Ave., NW, Room 5408  
Washington, DC 20224

Re: Request for Expedited Section 473 Relief for Certain Franchised Automobile and Truck Dealers

Dear Assistant Secretary Kautter and Chief Counsel Desmond:

On behalf of the National Automobile Dealers Association (“NADA”),<sup>1</sup> we are writing to request expedited relief under section 473 of the Internal Revenue Code for franchised new automobile and truck<sup>2</sup> dealers who (i) inventory their new vehicles under the last-in, first-out (“LIFO”) accounting method, and (ii) experienced a decrease in their new vehicle closing inventories in 2020 because major foreign trade interruptions resulting from government actions to contain the spread of the novel coronavirus made replacement of new vehicle inventories difficult or impossible. Section 473 authorizes the Secretary of Treasury in such circumstances to permit taxpayers to reduce the unanticipated income from such interruptions by replacing the inventory over a three-year period. Absent such relief, many franchised new automobile and truck dealers will realize significant, unexpected tax liabilities for 2020.

### **Government Actions to Contain the Novel Coronavirus**

Beginning in January 2020, the Chinese government began to take measures to contain the spread of the novel coronavirus within China. The government “locked down” its economy, prohibiting travel within China and closing many of its factories. By February 1, 2020, 24 provinces, municipalities, and regions within China were locked down. The affected area accounted for approximately 90% of exports

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<sup>1</sup> NADA represents over 16,000 franchised dealers in all 50 states who sell, finance, and lease new and used motor vehicles and engage in service, repair, and part sales. This includes approximately 1,800 commercial truck dealers. NADA’s members, most of whom are small businesses as defined by the Small Business Administration, collectively employ 1.2 million people nationwide.

<sup>2</sup> “Truck” refers to light, medium, and heavy-duty trucks, as well as highway tractors.

from China in 2019.<sup>3</sup> Because virtually all automotive manufacturers use parts made in China, automobile manufacturers were forced to reduce or cease production. For example, Hyundai was forced to close three of its factories in South Korea because a wiring harness manufactured in China that it used in the production of its vehicles was no longer available due to the Chinese government closure of factories there.<sup>4</sup> Similarly, automotive research firm IHS Markit forecasted that “we might expect the potential of a China-wide supply chain disruption caused by parts shortages from Hubei, a major component hub—and adjacent province closures[.]”<sup>5</sup>

As the coronavirus spread throughout Asia, Europe, and the Americas, governments in those areas similarly closed factories and implemented measures that reduced production at factories that remained open or later reopened. For example, on March 21, 2020, the Italian Prime Minister ordered the closure of all non-essential factories across Italy. But other government action caused supply chain disruption even earlier. For example, an Italian supplier of fuse boxes to Fiat Chrysler was forced to close its factory in early March 2020 to comply with Italian health regulations.<sup>6</sup> As of June 1, 2020, production of automobiles in Europe declined by 2,446,344 vehicles as a result of factory shutdowns caused by the supply chain disruption from the Chinese government-ordered shutdowns.<sup>7</sup>

As a result of the cascading and widening supply chain disruption caused by government actions to contain the spread of the novel coronavirus, international trade from affected areas was significantly interrupted, including the importation into the United States of new vehicles and of parts for domestic new vehicle production.

### **The Urgent Need for Relief**

The government actions in 2020 to contain the spread of the novel coronavirus have had a substantial impact on virtually all automobile and truck manufacturers and parts suppliers and, consequently, on the franchised dealers who sell their products. Current NADA data shows that, as of September 30, 2020, franchised dealers’ new vehicle inventory units fell by approximately 35% from December 31, 2019 levels.

These dramatic inventory reductions are expected to result in significant, uncontrollable tax costs to franchised automobile and truck dealers for the very reason section 473 was enacted, as a result of artificial and permanent increases in income through unexpected LIFO recapture. Many automobile and truck dealers use LIFO inventories. The decline in inventory from their LIFO layers effectively results in vehicles sold in 2020 being treated as purchased at LIFO costs from prior years, resulting in artificially high income. When supply is once again available, those vehicles will be replaced with vehicles at current costs, so the LIFO recapture will be permanent.

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<sup>3</sup> <https://www.cnbc.com/2020/02/01/coronavirus-more-of-china-extend-shutdown-accounting-for-80percent-of-gdp.html> (last visited Nov. 8, 2020).

<sup>4</sup> <https://www.caranddriver.com/news/a30767235/coronavirus-hyundai-china-korea-factory-shutdowns/> (last visited Nov. 8, 2020).

<sup>5</sup> <https://www.cnbc.com/2020/02/04/coronavirus-damages-chinas-auto-industry-as-outbreak-worsens.html> (last visited Nov. 8, 2020).

<sup>6</sup> <https://www.automotivemanufacturingsolutions.com/europe/italys-oems-and-suppliers-stay-resolute-through-national-coronavirus-measures/40338.article> (last visited Nov. 8, 2020).

<sup>7</sup> <https://www.acea.be/news/article/interactive-map-production-impact-of-covid-19-on-the-european-auto-industry> (last visited Nov. 8, 2020).

Although not all franchised dealers who experience a decline in inventories will have LIFO recapture, and the full impact cannot be known until year end, current data we have received indicates that collectively, franchised new automobile dealers could have additional non-economic gross income of approximately 1.9 billion dollars as a result of decrements in their LIFO inventories, resulting in unexpected taxes in excess of \$500 million.<sup>8</sup> Absent section 473 relief, the impact to the LIFO calculations will not reverse itself in the following years.

### **Requested Relief**

Against this backdrop, NADA requests relief under section 473 for the affected franchised dealers. Section 473 authorizes the Secretary of the Treasury to issue in the *Federal Register* a notice of determination that a “qualified inventory interruption” of LIFO inventories has occurred, which will permit affected taxpayers who elect the relief provided by section 473 to replace their depleted inventories over a period up to three years. We ask the Secretary of Treasury to issue such a notice for new automobile and truck dealers unable to replace their vehicle inventories as a direct result of the foreign trade interruptions resulting from government actions to contain the spread of the novel coronavirus.

As discussed below, a “qualified inventory interruption” occurs when the Secretary, after consultation with the appropriate Federal officers, determines (as relevant here) that (i) any embargo, international boycott, or other major foreign trade interruption has made difficult or impossible the replacement during the liquidation year of any class of goods for any class of taxpayers, and (ii) the application of this section to that class of goods and taxpayers is necessary to carry out the purpose of this section.

A taxpayer may elect relief under section 473 if the taxpayer has a decrease in its closing inventory of the year as compared to the opening inventory of the year and establishes to the satisfaction of the Secretary that such decrease is directly and primarily attributable to a qualified inventory interruption.

The government actions in 2020 to contain the spread of the novel coronavirus caused a major foreign trade interruption that has made it difficult or impossible for many franchised automobile and truck dealers to replace their new vehicle inventories. Therefore, this situation fits squarely within those that section 473 was designed to address. For the affected franchised dealers, the decrease in their inventories is directly and primarily attributable to the foreign trade disruption. The Secretary’s exercise of authority under section 473 to provide an extended period for affected franchised dealers to replace their inventories of new vehicles would fulfill the purpose of section 473 and allow these businesses to forego substantial and unexpected financial burdens resulting from the impact of trade interruptions on LIFO inventories.

The income tax return filing deadline for many franchised dealers is March 15, 2021,<sup>9</sup> and affected franchised dealers would need to make the section 473(a) election with their tax return. In order to enable these businesses to engage in accurate business and tax planning, to accurately pay their estimated taxes, and to reduce their and the Internal Revenue Service’s burdens associated with

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<sup>8</sup> This figure does not include the additional non-economic gross income of the significant number of our commercial truck dealer members who also use the LIFO accounting method for their new vehicle inventories.

<sup>9</sup> Most franchised dealers are pass-through entities who use the calendar year as their tax year. The filing deadline for partnerships and S corporation returns for the 2020 taxable year is March 15, 2021, and the filing deadline for C corporation returns is April 15, 2021.

franchised dealers having to file an extension to their original tax return or an amended tax return to make the section 473(a) election, we request that forthcoming section 473 relief be provided at least 30 days in advance of the March 15, 2021 filing deadline.

### **The Secretary's Authority to Provide Relief under Section 473**

Section 473(c)(2)(A) provides that the "term 'qualified inventory interruption' means a regulation, request, or interruption described in subparagraph (B) but only to the extent provided in the notice published pursuant to subparagraph (B)."

Subparagraph (B) provides in full as follows:

Whenever the Secretary, after consultation with the appropriate Federal officers, determines—

(i) that—

(I) any Department of Energy regulation or request with respect to energy supplies, or

(II) any embargo, international boycott, or other major foreign trade interruption,

has made difficult or impossible the replacement during the liquidation year of any class of goods for any class of taxpayers, and

(ii) that the application of this section to that class of goods and taxpayers is necessary to carry out the purposes of this section,

he shall publish a notice of such determinations in the Federal Register, together with the period to be affected by such notice.

### **Relief Is Available for Any Major Foreign Trade Interruption**

Section 473 was enacted as part of the Crude Oil Windfall Profit Tax Act of 1980, and focused in some respects on energy disruptions, such as the Iran oil embargo.<sup>10</sup> Section 473 has, however, always included not only interruptions related to energy supplies, but also, as its provisions expressly state, any major foreign trade interruption.

As a matter of statutory interpretation, "any embargo, international boycott, or other major foreign trade interruption" is not limited with respect to energy supplies. The qualifying phrase "with respect to energy supplies" modifies the words immediately preceding that phrase, in the same subclause, and not the following language "any embargo, international boycott, or other major foreign trade interruption," in the next subclause.<sup>11</sup> Had Congress intended both subclauses to be limited with respect to energy

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<sup>10</sup> Pub. L. No. 96-223, § 403(a)(1), 94 Stat. 229 (Apr. 2, 1980).

<sup>11</sup> This principle, known as the "rule of the last antecedent," is often applied without separation of the sentence into numbered subclauses, and is absolutely clear when subclauses exist. *Lockhart v. United States*, 136 S. Ct. 958,

supplies, Congress could have either included the limiting phrase in both subclauses or placed the limiting phrase in the main clause itself, rather than placing it in just one subclause.

The Senate Report, Conference Report, and Joint Committee on Taxation's explanation of the legislation all further support this conclusion.<sup>12</sup> The Conference Report is clear that a qualified inventory interruption included interruptions of energy supplies or "any foreign trade interruption."<sup>13</sup> It went further, and stated that a qualified inventory interruption included "any department of energy regulation or request made with respect to energy supplies or any embargo, international boycott, or other major foreign trade interruption, with respect to **either of which** the Secretary publishes a notice in the Federal Register," and to "any class of goods for any class of taxpayers" for which inventory replacement was difficult or impossible.<sup>14</sup> The JCT explained that, while Congress intended to provide relief to taxpayers that had a temporary liquidation of their LIFO inventory of energy supplies, "[s]imilarly, Congress felt that taxpayers who experience a temporary liquidation of their LIFO inventories of **other property** due to a major foreign trade interruption should also be given relief from taxes attributable to LIFO inventory profits."<sup>15</sup>

Accordingly, the Secretary has authority to provide relief to taxpayers that are affected by any embargo, international boycott, or other major foreign trade interruption with respect to any class of inventory property, including taxpayers that sell new vehicle inventory, such as franchised automobile and truck dealers.

#### **Relief Is Needed as a Result of Government Action to Contain the Spread of the Novel Coronavirus**

The government actions in 2020 to contain the spread of the novel coronavirus, which led to the closure of manufacturing plants in Asia, Europe, and the Americas, are within the phrase "any embargo, international boycott, or other major foreign trade interruption."

The Conference Report states that section 473 applies because "the taxpayer will recognize this gain or loss even if the liquidation of the inventory is due to circumstances beyond his control, e.g., reduced supply due to government regulation or the interruption of foreign supply[.]"<sup>16</sup> That is, the inability of U.S. taxpayers to purchase affected goods is not voluntary but rather the result of the action of a government, law, regulatory agency, or common carrier that prohibits or restricts trade.

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962 (2016) ("a limiting clause or phrase ... should ordinarily be read as modifying only the noun or phrase that it immediately follows") (quoting *Barnhart v. Thomas*, 540 U.S. 20, 26 (2003)). See also *Black's Law Dictionary* 1532-1533 (10th Ed. 2014). A related canon of statutory construction, "the nearest-reasonable-referent canon" would lead to the same result in this situation. That canon provides that, "[w]hen the syntax involves something other than a parallel series of nouns or verbs, a prepositive or postpositive modifier normally applies only to the nearest reasonable referent." Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts*, note 532, at 152 (2012). See, e.g., *Ray v. McCullough Payne & Haan, LLC*, 838 F.3d 1107, 1111 (11th Cir. 2016). In this case, "any Department of Energy regulation or request" is the nearest reasonable referent because it immediately precedes and is in the same subclause as the modifier "with respect to energy supplies."

<sup>12</sup> The House bill did not contain section 473.

<sup>13</sup> H.R. CONF. REP. 96-817, at 159 (1980), as reprinted in 1980 U.S.C.C.A.N. 642, 710.

<sup>14</sup> H.R. CONF. REP. 96-817, at 160, 1980 U.S.C.C.A.N. 642, 711 (emphasis added).

<sup>15</sup> Joint Committee on Taxation, *General Explanation of the Crude Oil Windfall Profit Tax of 1980*, JCS-1-81, at 125 (1981) (emphasis added).

<sup>16</sup> H.R. CONF. REP. 96-817, at 158, 1980 U.S.C.C.A.N. 642, 709.

Under principles of statutory construction, the phrase “other major foreign trade interruption” should be interpreted as being of the same general kind or class as “embargo” and “international boycott,” but it also must be given an interpretation that does not duplicate those two items but instead gives it consequence—that is, “other foreign trade interruption” must add to and not duplicate “embargo” and “international boycott.”<sup>17</sup>

Both an embargo and an international boycott involve situations that prevent U.S. taxpayers from purchasing goods from foreign countries because of circumstances beyond their control and not of their own making, as indicated in the Senate Report. An embargo, as defined by Meriam-Webster, is (1) “an order of a government prohibiting the departure of commercial ships from its ports”, (2) “a legal prohibition on commerce”, (3) “stoppage, impediment”, and (4) “an order by a common carrier or public regulatory agency prohibiting or restricting freight transportation.”<sup>18</sup> An international boycott generally involves governmental restrictions on companies’ interactions with certain other countries, including trade restrictions.<sup>19</sup>

To interpret “other major foreign trade interruption,” as being of the same general kind or class—but not duplicative of—“embargo” and “international boycott” and give it consequence, a major foreign trade interruption can be considered to include a significant trade disruption that directly or indirectly results from an action—other than an embargo or international boycott—by a government, regulatory agency, or common carrier. Accordingly, “other major foreign trade interruption” must be interpreted to include situations where a government’s actions, while not directly prohibiting or restricting trade, directly or indirectly cause a significant trade disruption.

In the present situation, government actions in 2020 to contain the spread of the novel coronavirus directly and indirectly caused the closure of manufacturing plants, which had the effect of a significant and substantial trade disruption. That is, automobile and truck manufacturers and franchised automobile and truck dealers, because of circumstances beyond their control and not of their own making, could not purchase adequate supplies of foreign-made new vehicles or parts. This also had a cascading impact on domestically manufactured vehicles, virtually all of which use foreign parts. Although the government actions did not directly prohibit or restrict trade, the government actions had a direct and substantial impact on trade, causing a significant trade disruption.

## Summary

As described above, the government actions in 2020 to contain the spread of the novel coronavirus caused the supply of vehicles and parts from Asia, Europe, and the Americas to the United States to be significantly and substantially disrupted. These government actions, accordingly, caused a “major foreign trade interruption.” That major foreign trade interruption has made difficult or impossible the replacement during 2020 of new vehicle inventories for franchised automobile and truck dealers. Consequently, the application of section 473 to new vehicle inventories and franchised dealers is

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<sup>17</sup> The principle “*eiusdem generis*” canon provides that, where general words follow an enumeration of two or more things, they apply only to persons or things of the same general kind or class specifically mentioned. *Gooch v. United States*, 297 U.S. 124, 128 (1936). *Accord Hall St. Assocs., LLC v. Mattel, Inc.*, 552 U.S. 576, 586 (2008). The “rule against surplusage” provides that, if possible, every word and every provision of a statute should be given effect. *Duncan v. Walker*, 533 U.S. 167, 174 (2001).

<sup>18</sup> <https://www.merriam-webster.com/dictionary/embargo> (last visited Nov. 8, 2020).

<sup>19</sup> See section 999(b)(3) of the Internal Revenue Code.

necessary to carry out the purposes of section 473, which is to provide relief to taxpayers who experience a temporary liquidation of their LIFO inventories due to a major foreign trade interruption.

**Draft Notice**

To facilitate your consideration of our request, we have attached a draft *Federal Register* notice that would provide the requested relief and in a manner that would closely tailor the relief to the taxpayers for whom it is intended. Section 5 of the draft Notice delineates the procedures the taxpayers must follow to make the required section 473(a) election. It includes, in part, (i) a taxpayer certification that the decrease in closing inventory from opening inventory is directly and primarily attributable to the difficulty or impossibility of purchasing new vehicle inventory as a result of a major foreign trade interruption caused by government actions to contain the novel coronavirus, and (ii) in the case of franchised dealers,<sup>20</sup> a safe harbor that the dealer has satisfied the requirements for making the section 473(a) election if the manufacturer or distributor of the vehicles for which the dealer makes the election certifies to the Internal Revenue Service under penalties of perjury that it suffered a major foreign trade interruption as a result of the government actions to contain the novel coronavirus. Finally, the Notice contains a safe-harbor for the section 473(b) adjustment that will allow the adjustment to be made in the replacement year rather than the liquidation year, avoiding the need for amended returns.

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We appreciate the opportunity to submit this request and would like to meet with your staff at the earliest opportunity to discuss these issues in greater detail.

Thank you for your forthcoming consideration.

Sincerely,

/s/

Paul D. Metrey  
Vice President, Regulatory Affairs  
Chief Regulatory Counsel,  
Financial Services, Privacy, and Tax

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<sup>20</sup> Although this request seeks section 473 relief for franchised automobile and truck dealers, the scope of the relief in the draft Notice extends to manufacturers and distributors who inventory their new vehicles under the LIFO method and who similarly have been affected by the foreign trade disruption.

# Notice 2020-\_\_, 2020-\_\_ I.R.B. \_\_

[Code Section 473]

## 1. PURPOSE

The Secretary, after consultation with appropriate Federal officers, has determined that a major foreign trade interruption has made difficult or impossible the replacement by new automobile and new truck dealers, manufacturers, and distributors new automobiles and new trucks, and that application of section 473 of the Internal Revenue Code to that class of goods and that class of taxpayers is necessary to carry out the purpose of section 473. The period affected by this Notice is the taxable years 2020 through 2024.

## 2. BACKGROUND

.01 Section 473(a) provides that, if for any liquidation year there is a qualified liquidation of goods which the taxpayer inventories under the LIFO method, and the taxpayer elects to have provisions of section 473(a) apply with respect to such liquidation, then the gross income of the taxpayer for such taxable year shall be adjusted as provided in section 473(b).

.02 Section 473(b) provides that, if the liquidated goods are replaced (in whole or in part) during any replacement year and such replacement is reflected in the closing inventory for such year, then the gross income for the liquidation year shall be:

(1) decreased by an amount equal to the excess of the aggregate replacement cost of the liquidated goods so replaced during such year, over the aggregate cost of such goods reflected in the opening inventory of the liquidation year, or

(2) increased by an amount equal to the excess of the aggregate cost reflected in such opening inventory of the liquidated goods so replaced during such year, over such aggregate replacement cost.

.03 Section 473(c)(1) provides that the term “qualified liquidation” means a decrease in the closing inventory of the liquidation year from the opening inventory of such year, but only if the taxpayer establishes to the satisfaction of the Secretary that such decrease is directly and primarily attributable to a qualified inventory interruption.

.04 Section 473(c)(2)(A) provides that the term “qualified inventory interruption” means a regulation, request, or interruption described in section 473(c)(2)(B), but only to the extent provided in the notice published pursuant to that section.

.05 Section 473(c)(2)(B) provides that, whenever the Secretary, after consultation with the appropriate Federal officers, determines that any Department of Energy regulation or request with respect to energy supplies, or any embargo, international boycott, or other major foreign trade interruption, has made difficult or impossible the replacement during the liquidation year of any class of goods for any class of taxpayers, and that the application of section 473 to that class of goods and taxpayers is necessary to carry out the purposes of section 473, he shall publish a

notice of such determinations in the Federal Register, together with the period affected by such notice.

.06 Section 473(d)(1) provides that the term “liquidation year” means the taxable year in which occurs the qualified liquidation to which section 473 applies.

.07 Section 473(d)(2) provides that the term “replacement year” means any taxable year in the replacement period.; except that such term shall not include any taxable year after the taxable year in which replacement of the liquidated goods is completed.

.08 Section 473(d)(3) provides that the term “replacement period” means the shorter of the period of the three taxable years following the liquidation year, or the period specified by the Secretary in a notice published in the Federal Register with respect to that qualified inventory interruption. Any period specified by the Secretary may be modified by the Secretary in a subsequent notice published in the Federal Register.

.09 Section 473(d)(4) provides that the term “LIFO method” means the method of inventorying goods described in section 472.

.10 Section 473(d)(5) provides that an election under section 473(a) shall be made subject to such conditions, and in such manner and form and at such time, as the Secretary may prescribe by regulation. An election under section 473(a) shall be irrevocable and shall be binding for the liquidation year and for all determinations for prior and subsequent taxable years insofar as such determinations are affected by the adjustments under this section.

.11 Government actions in 2020 in Asia, Europe, and the Americas to contain the spread of the novel coronavirus, including closing factories and implementing other measures, forced automobile and truck manufacturers to reduce or cease production of new vehicles and parts.

.12 As a result of the automobile and truck supply chain disruption caused by government actions in 2020 to contain the spread of the novel coronavirus, international trade from affected areas was significantly and substantially interrupted, including the importation into the United States of new vehicles and of parts for domestic new vehicle production.

### **3. SCOPE**

This Notice applies to new automobile and truck dealers, manufacturers, and distributors that use the last-in, first-out (“LIFO”) inventory method under section 472 that have a decrease in the closing inventory over the opening inventory in the first and/or second taxable year(s) ending after January 1, 2020 (the “liquidation year(s)”) that is directly and primarily attributable to the difficulty or impossibility of purchasing new automobiles, new trucks, or their parts because of the major foreign trade interruption caused by government actions to contain the spread of the novel coronavirus.

### **4. REPLACEMENT PERIOD**

The “replacement period” within the meaning of section 473(d)(3) is the period of three taxable years following the latest liquidation year specified in section 3 of this Notice.

## 5. PROCEDURES FOR MAKING ELECTION

.01 Taxpayers within the scope of this Notice may make the election(s) under section 473(a) for their first and/or second taxable year(s) ending after January 1, 2020 by attaching a statement to their timely-filed (including extensions) original federal income tax return, or an amended federal income tax return filed within 90 days of publication of this Notice, for the liquidation year(s). The statement must:

- (1) Provide that the taxpayer is making an election under section 473(a);
- (2) Identify the LIFO pool or pools to which the election applies; and
- (3) Provide that the decrease in the closing inventory from the opening inventory of the identified pool(s) for the liquidation year(s) is directly and primarily attributable to the difficulty or impossibility of purchasing new automobiles, new trucks, and/or their parts because of the major foreign trade interruption caused by government actions in 2020 to contain the spread of the novel coronavirus.

.02 Safe-Harbor. An automobile dealer or truck dealer within the scope of this Notice that makes the election(s) in conformance with section 5.01 of this Notice will be deemed to have satisfied the requirements of section 473(a) if the manufacturer or the distributor of the new automobiles and/or new trucks in the LIFO pool(s) for which the dealer made the election(s) certifies to the Internal Revenue Service as provided in section 5.03 of this Notice that it suffered a major foreign trade interruption as a result of government actions in 2020 to contain the spread of the novel coronavirus.

.03 An automobile or truck manufacturer or distributor makes the certification described in section 5.02 of this Notice by providing the following statement to [\_\_Name\_\_], Internal Revenue Service, [\_\_Title\_\_], at [\_\_Address\_\_]:

[Manufacturer/Distributor's Name] Statement Regarding Inventory Production and Distribution

Because of government actions in 2020 to contain the spread of the novel coronavirus, there [is] [was] a significant and substantial disruption in the production and distribution of [manufacturer/distributor's name] [vehicles] [and] [vehicle parts]. This disruption of production resulted in [manufacturer/distributor's name] distribution of a substantially lower than normal volume of [vehicles] [and] [vehicle parts] to our [subsidiary manufacturers] [distributors] [and] [franchised retail automobile/truck dealers].

Under penalties of perjury, I declare that, to the best of my knowledge and belief, this statement is true, correct, and complete.

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Name

.04 The election(s) made under section 5.01 of this Notice is irrevocable and is binding for the liquidation year(s) and for all determinations for prior and subsequent taxable years insofar as such determinations are affected by the adjustments under section 473.

## **6. Section 473(b) Adjustment Guidance**

The Treasury Department and the Internal Revenue Service will issue forthcoming guidance on the adjustment required under section 473(b). The guidance will include an elective safe harbor under which, for the liquidation year, taxpayers may defer gross income equal to an estimated adjustment for liquidated goods. Any difference between the amount deferred and the actual adjustment for liquidated goods replaced must be taken into account in the replacement year.

## **7. DRAFTING INFORMATION**

The principle of this Notice is \_\_\_\_\_ of the Office of Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the Treasury Department and the IRS participated in the development of this guidance. For further information regarding this Notice, contact \_\_\_\_\_ at (202) 317-xxxx (not a toll-free call).