NADA | National Automobile Dealers Association

Congress Should Pass the Bipartisan, Non-Controversial "Supply Chain Disruptions Relief Act"
A Technical Solution to Address Pandemic-Related Disruption of Auto Production
Under Existing Law (H.R. 700/S. 443)

ISSUE

Under existing law, the Treasury Department has authority to allow businesses that utilize the last-in first out (LIFO) accounting method extended time to replace inventory if a "major foreign trade interruption" makes inventory replacement difficult or impossible. Pandemic-related global disruptions and reduced auto production made it impossible for dealers to replenish new vehicle supply. Despite broad bipartisan support for Treasury's use of its existing authority regarding vehicle inventory, Treasury declined as it believes additional legislative authority is needed. Under the "Supply Chain Disruptions Relief Act" (H.R. 700/S. 443), Congress would determine that the conditions necessary to grant additional time to replace vehicle inventories under existing law due to pandemic-related foreign trade interruptions have been met. **Members of Congress should cosponsor the "Supply Chain Disruptions Relief Act" and urge House and Senate leadership to pass this technical and non-controversial legislation at the earliest opportunity.**

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 2021and extend the period to replenish inventory and compute LIFO reserve/recapture to the end of 2025 to allow vehicle production to normalize.

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 and interest in 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

Reps. Jodey Arrington (R-Texas) and Dan Kildee (D-Mich.) reintroduced the "Supply Chain Disruptions Relief Act" (H.R. 700), and Sens. Sherrod Brown (D-Ohio) and Tim Scott (R-S.C.) reintroduced the Senate version (S. 443) along with 48 Senators as original cosponsors (the bill has since cleared 60 cosponsors). **Members are urged to cosponsor and ask congressional leaders to consider passing H.R. 700/S. 443, a technical solution and relief from the unprecedented pandemic-related supply chain shortages, as a stand-alone measure.**

August 29, 2023