

August 13, 2002

CC:ITA:RU (REG-103829-99)
Room 5226
Internal Revenue Service
POB 7604
Ben Franklin Station
Washington, DC 20044

Re: Request for a 90-day extension to the time to file comments on the Notice of Proposed Rule making: *Excise Taxes; Definition of Highway Vehicle* (67 Fed. Reg. 38,913; June 6, 2002)

Dear Sir/Madam:

The Office of Advocacy of the U.S. Small Business Administration (Advocacy) was established by Congress pursuant to Public Law 94-305 to represent the views of small business before Federal agencies and Congress. Pursuant to our statutory authority, the Office of Advocacy monitors Federal agency compliance with the Regulatory Flexibility Act (RFA).¹ The Office of Advocacy works with the agencies to ensure that agency rulemakings affecting small business are supported by sound economic analyses. This office is also authorized to comment on the impact that any regulation proposed by the Internal Revenue Service (IRS) might have on small business.²

On June 6, 2002 the IRS published the above-referenced notice of proposed rulemaking (NPRM). I am writing to request a 90-day extension of the comment period, currently scheduled to close on September 4, 2002. Based on our office's preliminary outreach to small business owners and their representatives in Washington, D.C., the changes proposed by the IRS will affect a significant number of small businesses that own vehicles which are currently exempt from the excise taxes under existing regulations, court precedents and letter rulings. Under the IRS proposal, a significant number of small businesses will lose the current benefit of these tax exemptions, and others will lose the presumption that equipment purchased in the future will be exempt from the excise taxes.

¹ 5 U.S.C §§601 et.seq

² 26 U.S.C. §§7805f

The IRS proposal potentially impacts a widely dispersed and disparate variety of businesses all across the United States that could be required to pay any of four different taxes on their vehicles, fuels and tires. Effective outreach to encourage input that the IRS needs prior to making a final decision is a complex and time consuming process. A 90-day extension would help ensure that the affected small businesses have the opportunity to learn of the proposed rule, consider its impact on their businesses, and submit useful comments to assist the IRS's rulemaking process.

A second issue that merits the immediate attention of the IRS is the overall cost of the proposed rule. The Office of Advocacy believes that this is a significant regulatory action within the meaning of Executive Order 12866. In meetings and conversations we have had with small businesses and their industry representatives, initial cost estimates forecast a tax impact in excess of \$100 million dollars for three industry sectors alone (drilling, utilities and cranes). If these estimates are correct, the IRS is required to perform an economic analysis under Executive Order 12866 or provide a full explanation of why the Executive Order does not apply.

I appreciate the IRS's careful consideration of this request and hope that an extension will be granted shortly in order to provide small businesses with a meaningful opportunity to provide comments. Please feel free to contact us at 202-205-6533 if you have any questions or need additional information.

Sincerely,

Thomas M. Sullivan
Chief Counsel for Advocacy

Russell Orban
Assistant Chief Counsel for Advocacy

cc: Charles Rossotti, Commissioner, Internal Revenue Service

Pamela Olsen, Acting Assistant Secretary for Tax Policy,
U.S. Department of the Treasury

Dr. John Graham, Administrator, Office of Information and Regulatory Affairs