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October 31, 2006

House Ways and Means Committee
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

By email: hearingclerks.waysandmeans@mail.house.gov

Electronically: http://waysandmeans.house.gov/submissions.aspx

Re: Tax Technical Corrections Act of 2006 HR6264 – Section 7, Amendment Related to the Jobs and Growth Tax Relief Reconciliation Act of 2003 (Repeal of 15% IC-DISC)

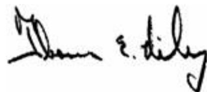
Ladies and Gentlemen:

The New York State Society of Certified Public Accountants, representing 30,000 CPAs in public practice, industry, government and education, submits the following comments to you regarding the technical corrections bill captioned above.

The NYSSCPA thanks Ways and Means for the opportunity to comment on this proposed legislation.

The NYSSCPA International Taxation Committee deliberated the bill and prepared the attached comments. If you would like to discuss the comments further with the Committee, please contact Cristina N. Wolff, CPA, Chair, International Taxation Division Committee at 212-682-1600 or Ernest J. Markezin, CPA or William Lalli, CPA, NYSSCPA staff, at 212-719-8300.

Sincerely,



Thomas E. Riley, CPA
President

Attachment

NEW YORK STATE SOCIETY OF

CERTIFIED PUBLIC ACCOUNTANTS

TAX TECHNICAL CORRECTIONS ACT OF 2006 HR6264 – SECTION 7, AMENDMENT RELATED TO THE JOBS AND GROWTH TAX RELIEF RECONCILIATION ACT OF 2003 (REPEAL OF 15% IC-DISC)

October 31, 2006

<u>Principal Drafter</u>

Mitchell Sorkin, CPA

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William Lalli

New York State Society of Certified Public Accountants

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General Comments

The International Taxation Committee (the Committee) of the New York State Society of Certified Public Accountants has reviewed the above-referenced technical corrections bill and has the following comments:

If this legislation is passed, it may force taxpayers who have established Interest Charge-Domestic International Sales Corporations (IC-DISCs) to open up facilities abroad to avoid increased taxes which will ultimately cost the United States in jobs and growth.

As part of the Jobs and Growth Tax Relief Reconciliation Act of 2003, Congress introduced the 15% long-term capital gains tax along with the 15% rate on qualified dividends. The purpose of this change was to reduce income tax on investment income and provide an incentive for investing in corporate America.

The proposed section of the bill to exclude application of the lower 15% dividend rate to IC-DISC distributions appears not to be a technical correction, but rather a significant shift in policy with repercussions throughout the small and mid-sized business community, especially having a negative impact on the small domestic manufacturer who exports.

Many domestic manufacturers who export their goods have a difficult time competing in world markets where wages and related production costs are less expensive than they are in the U.S. Congress tried to redress this business segment by passing the Extraterritorial Income Exclusion Act in 2000. As a result of pressure from the European Union, Congress was forced to repeal this law with a phase out, but retained some grandfathering provisions that have now also been repealed. Congress then decided to pass the Domestic Production Activity Deduction that would help U.S. manufacturers and qualified industries. However, this law falls short compared to the earlier Extraterritorial Income Exclusion.

Many smaller companies have found some refuge in utilizing an IC-DISC to reduce their costs and stay competitive by taking advantage of distributions received from IC-DISCs that are taxed at the 15% rate.

Although the use of IC-DISCs was no longer beneficial to large American corporations due to the inability to defer the tax on the income attributed to sales in excess of the $10 million threshold (the gross income limitation) and the interest charge relating to the deferral below this threshold, many smaller manufacturers saw opportunities to reduce their operating costs and compete more effectively abroad when the 15% rate for dividends came into effect.

Arguably, individuals, not necessarily businesses, were meant to be the primary beneficiaries of the 15% dividend rate. Nevertheless, a 15% rate for IC-DISC dividends is in correlation to that principle since IC-DISCs are utilized by small businesses that are owned by individuals or by pass through entities in which individuals are the stakeholders, as opposed to publicly traded companies.

Under the present law, smaller exporting companies are able to receive distributions from their IC-DISCs, pay their applicable taxes and reinvest the after-tax proceeds into the economy. This translates into more jobs, more production, and ultimately more revenue for the Government.

In summary, the Committee considers that this proposed section of the bill seems less a technical correction and more a policy shift, which might have an adverse impact on taxes, U.S. competitiveness, U.S. jobs and the U.S. economy, and, therefore, should not be included in the bill.