



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C.

SECRETARY OF THE TREASURY

October 4, 2004

The Honorable William M. Thomas  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Thomas:

As you work through the conference on legislation to meet our World Trade Organization (WTO) obligations and repeal the current foreign sales corporation/extraterritorial income (FSC/ETI) tax benefit, I write to offer the Administration's views on major issues raised by this important legislation.

First of all, I applaud your efforts to replace the current FSC/ETI benefit. This legislative process has been unique, in that the impetus for the legislation was a WTO ruling and subsequent EU sanctions. The Administration recognizes the challenges of moving a large tax bill under these circumstances and appreciates the efforts you have exerted to succeed.

In our Statements of Administration Policy (SAPs) to the House and Senate, the Administration emphasized its broad priorities for legislation to replace FSC/ETI. These include ending the European Union (EU) sanctions and promoting the competitiveness of American manufacturing and other job-creating sectors of the U.S. economy. As you know, the EU sanctions are escalating at a rate of 1 percentage point per month and will inflict an increasing burden on American exporters, American workers, and the overall economy. The Administration is committed to working with conferees to end these sanctions as quickly as possible.

The Administration believes that a conference report to replace FSC/ETI should be budget neutral. Both the House and Senate-passed bills include a myriad of special interest tax provisions that benefit few taxpayers and increase the complexity of the tax code. Legislation taking up more than 1000 pages of statutory language (or even 400 pages) goes far beyond the bill's core objective of replacing the FSC/ETI tax provisions with broad-based tax relief that is WTO-compliant. The Administration will work with the conferees to eliminate these narrowly crafted provisions.

The Administration will also work to make the tax relief in this bill as broad as possible to benefit all job creating sectors of the American economy.

The Administration has strong concerns regarding the so-called "haircut" provision in the Senate bill which would needlessly complicate the tax code and interfere with the ability of U.S. businesses and American workers to compete in the global marketplace. Worse, the provision would deter companies operating internationally from investing and creating jobs in the United States. More than 5 million Americans work for international companies at facilities here in the United States. The Senate haircut could endanger the growth of direct foreign investment into the U.S. and the jobs such investment creates in the U.S. The Administration urges the conferees to eliminate this provision from the conference report.

In addition to these provisions, the Administration also has concerns regarding the fairness of the repatriation provision included in both bills. This provision would offer international corporations a partial "tax holiday" for repatriating foreign income that is currently held overseas. U.S. companies that do not have foreign operations and have already paid their full and fair share of tax will not be able to benefit from this provision. Moreover, the Council of Economic Advisers' analysis indicates that the repatriation provision would not produce any substantial economic benefits. The Administration believes the \$3 billion revenue cost of this provision could be better used to reduce the tax burden of job creators in the United States.

The Administration commends the House and Senate bills for including many provisions that close corporate tax loopholes and tax avoidance schemes. The Administration supports elimination of the Sales-In/Lease-Out tax loophole, but has concerns regarding efforts to apply this proposal retroactively. The Administration opposes attempts to codify the Economic Substance Doctrine. The Administration supports complete elimination of the "SUV tax loophole," except for cases where there is a demonstrated legitimate business need for a large Sport Utility Vehicle.

The President's FY 2005 budget included energy tax incentives totaling \$7 billion over ten years. These incentives were dedicated to alternative and renewable fuels, conservation, energy efficiency and emissions-free energy. During the energy bill conference, the Administration expressed additional support for certain tax provisions supporting the Alaskan pipeline, and encouraging investment in electric transmission. Finally, as part of the highway bill discussions, the Administration has expressed support for shifting the ethanol tax credit (VEETC) from the Highway Trust Fund to the general treasury. The Administration is concerned that the energy tax title in the Senate bill goes far beyond these positions and includes provisions whose revenue loss greatly exceeds policies that the Administration has previously agreed to. Energy tax provisions in the final bill, if included at all, should be limited to only those provisions mentioned above that reflect the President's priorities of environmental protection and energy conservation and maintain needed fiscal discipline.

The Administration opposes the Senate amendments which effectively vitiate the Department of Labor's new rules to improve the nation's outdated overtime laws. The Department's revised rule strengthens overtime protections for 6.7 million low-wage workers by simplifying complex eligibility tests and by raising salary thresholds that have not been changed in almost 30 years. In contrast, the Harkin amendment would lock in the old overtime standards and part of the new overtime standards, requiring each job to be analyzed twice, once under the old rules, which are no longer in effect, and once under the new rules proposed by the

Department of Labor which would have been in effect for months. Consistent with past Administration positions, if the Harkin amendment or other limitations to the Department of Labor's rule making authority is included in the final version of the FSC/ETI legislation, the President's senior advisors would recommend that he veto the bill.

The Administration is open to a tobacco buyout as long as it meets certain conditions. We believe the buyout must end all aspects of the tobacco program and not replace them, should do so at a reasonable cost that is fully offset, and should be consistent with WTO rules. The Administration promises to work with interested parties to craft a tobacco buyout that ends federal subsidies of tobacco growers while meeting these criteria.

On behalf of the Administration, let me express our willingness to provide assistance during the deliberations of the conference committee. I look forward to working with you to enacting legislation that removes the threat of escalating EU sanctions and encourages economic growth and job creation here at home.

Sincerely,

A handwritten signature in black ink that reads "John W. Snow". The signature is written in a cursive, flowing style with a large initial "J" and "S".

John W. Snow