



1901 N. FORT MYER DRIVE • SUITE 500 • ARLINGTON, VA 22209-1604 • 703-351-8000 • FAX 703-351-9160

April 15, 2015

The Honorable Orrin Hatch  
Chairman  
U.S. Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Ron Wyden  
Ranking Member  
U.S. Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, DC 20510

**Re: Business Income Tax**

Chairman Hatch and Ranking Member Wyden:

As you move forward with consideration of a fundamental tax overhaul or with piecemeal efforts to make some tax changes, PMAA members urge you to keep our policy positions that are outlined below in mind ---- particularly as these policies directly impact the price of motor fuels and home heating oil.

PMAA is a leading national trade association in the petroleum industry representing 8,000 independent petroleum marketing companies. Organized as a national federation of 47 state and regional trade associations that represent wholesalers and retailers of gasoline, diesel, heating oil, lubricants and renewable fuels, PMAA companies own 60,000 retail fuel outlets such as gas stations, convenience stores and truck stops. Additionally, these companies supply motor fuels to 40,000 independently owned retail outlets and heating oil to over eight million homes and businesses. Over the last decade, major oil companies have exited the retail motor fuels marketplace. The vast majority of PMAA companies qualify as small businesses under U.S. Small Business Administration size categories. Approximately 96 percent of U.S. gas stations are owned by independent retailers.

**Support the Biodiesel Blender's Tax Credit**

PMAA member companies blend biodiesel into on-road diesel and home heating oil to help facilitate the renewable fuel blending requirements established under the Renewable Fuels Standard (RFS). PMAA applauds Congress for passing legislation to renew the biodiesel **blender's** tax credit for calendar year 2014. Extension of the tax credit is also vital for the U.S. heating oil industry to expand **Bioheat®** as well as transition towards ultra-low sulfur heating oil (ULSHO) component in our nation's heating oil supply which will strengthen our domestic energy and environmental security.

Last year, legislation was introduced to replace the \$1-per-gallon biodiesel **blender's** tax credit with a new biodiesel production tax credit. The Senate bill would have extended the credit through 2017 and would apply retroactively to January 1, 2014. PMAA opposed moving the **blender's** credit to the production level because it would have effectively killed any below the rack biodiesel blending and subsequent savings to consumers. PMAA member companies have made significant investments to blend biodiesel which has encouraged growth in biodiesel production and denying the credit to **blenders** cannot be justified. Leaving the biodiesel tax credit at the blender level will ensure that the fuel remains competitive in the marketplace.

Furthermore, the policy of limiting the credit to producers is contrary to the original intent of offering a biodiesel tax credit to make the fuel competitive with conventional diesel, and thus, encourage domestic consumption of biodiesel by U.S. consumers. Petroleum marketers have legitimate concerns that much of the tax credit will be pocketed by producers and not passed on to petroleum marketers and consumers. In the current environment where biodiesel is not competitive with conventional diesel without the tax credit, it is essential that the \$1-per-gallon tax credit be passed on to the consumer.

Therefore, PMAA urges Congress to pass a simple two-year extension of the \$1-per-gallon biodiesel **blender's** tax credit in order to ensure the future of the biodiesel industry and the future of a renewable fuel for home heating. PMAA also urges Congress to oppose efforts to move the **blender's** credit to the production level which would negatively impact small business petroleum marketers and consumers.

#### *Leaking Underground Storage Tank Tax (Trust Fund)*

Leaks (releases) from underground storage tanks (UST) pose a serious threat to the environment and to public health. In the 1980s, Congress and the Environmental Protection Agency (EPA) began to address the problem of UST releases by creating the Leaking Underground Storage Tank (LUST) Trust Fund financed by a federal one-tenth cents (\$0.001) per gallon tax on motor fuels. In succeeding years, thousands of underground tank releases have been cleaned up. As of September 2014, 521,271 releases from federally-regulated leaking underground storage tanks had occurred nationwide. States and EPA have made tremendous progress by cleaning 85.8 percent of the releases. However, EPA estimates there is still a backlog of 73,948 waiting to be completed. Petroleum marketers have supported the LUST fund and have paid \$3.8 billion in LUST taxes since its inception.

Despite new spending authorizations, Congress and the President have woefully under-funded the program, appropriating around \$92 million each year. To make matters much worse, Congress has partially funded the Highway Trust Fund (HTF) with transfers from the LUST Trust Fund leaving \$447 million in the coffers now. PMAA is concerned that Congress may raid the fund again to pay for a short-term extension in the upcoming HTF extension negotiations.

Therefore, PMAA opposes a LUST fund transfer to fund the HTF. *However, PMAA is open to including language which would require that future revenue collected for the LUST fund is used for its intended purpose. PMAA urges Congress to revisit this legislative fix when it drafts highway bill reauthorization language later this year.*

#### *Last-In, First-Out (LIFO)*

Repealing LIFO tax accounting method would force PMAA member companies currently using it to report their LIFO reserves as income, resulting in a massive tax increase for small business petroleum marketers across the country. Additionally, repealing LIFO would mean potentially higher future tax bills and would make it harder for PMAA member companies to manage inflation.

PMAA urges Congress to keep LIFO repeal language out of any tax overhaul proposal.

#### *Section 179 & Bonus Depreciation*

Earlier this year, PMAA signed a letter in support of the "America's Small Business Tax Relief Act of 2015" (H.R. 636) which passed the House and is now awaiting Senate consideration. The legislation would restore Section 179 expensing of up to \$500,000 which allows small businesses to immediately deduct the cost of a qualified investment. PMAA also supports making permanent the 50 percent bonus depreciation.

Since 2003, there have been 11 temporary increases or extensions to the Section 179 limits. In 2014, the "Tax Increase Prevention Act of 2014" (aka Tax Extenders Act) temporarily extended the Section 179 deduction limit to \$500,000 as well as reinstated 50 percent Bonus Depreciation for calendar year 2014. On January 1, 2015, these limits reverted back to the pre-2003 levels which, without inflation indexing, are a deduction limit of \$25,000 and an asset purchase cap of \$200,000.

If Congress allows the Section 179 limits to stay at the pre-2003 levels, it will strike a significant blow to the majority of PMAA member companies who are small to medium size businesses which rely on Section 179 deduction and bonus depreciation in order to grow their companies. Every day that the Section 179 limit is not resolved means another day of uncertainty for small business owners who are being forced to plan for their business' future without being able to assess what their annual tax liability will be.

Therefore, we urge Congress to restore Section 179 to the 2014 levels of \$500,000 with an investment limitation of \$2,000,000. Additionally, we urge Congress to make permanent the 50 percent bonus depreciation.

### Estate Tax

PMAA joined the NFIB Family Business Estate Tax Coalition in support of language by Senator Thune (R-SD) to permanently repeal the estate tax last Congress. PMAA has supported efforts to permanently extend the \$5 million estate tax exemption, indexed for inflation, preserving a lower applicable rate, as well as permanently providing for spousal transfer and stepped-up basis. We were relieved that these provisions were included in the American Taxpayer Relief Act of 2012. However, PMAA and the FBETC continue to believe that repeal is the best solution to protect all family-owned businesses from the estate tax.

Furthermore, President Obama has proposed the elimination of the "step-up in basis" at death. This would be detrimental as any attempt to eliminate or modify current provisions on the "step up in basis" would negatively impact small business petroleum marketers and further curtail economic growth.

### 1031 Exchanges

PMAA opposes efforts to either repeal or restrict tax deferral of gain from Section 1031 exchanges of like-kind property. Without the tax-deferral benefit that 1031 exchanges provide, small and medium sized businesses would not be as equipped to reinvest in their businesses and real estate values would decline. Repeal of Section 1031 would cause a decline in real estate values as investors will be motivated to hold on to properties and to invest in more liquid, non-real estate investments with faster returns. The proposals effectively impose punitive and targeted tax increases on economically sound commercial real estate investment, which could lead to a recession, similar to the impact of 1986 tax reform modifications.

Thank you for considering the needs of petroleum marketers. Feel free to reach out to me (703) 351-8000 if you have any questions.

Sincerely,



Sherri Stone  
PMAA Vice President