

Congress of the United States

Washington, DC 20515

July 21, 2005

The Honorable John W. Snow
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Secretary Snow:

Today, we introduced H.R. 3376 and S. 1447, the Tax Technical Corrections Act of 2005. We are aware that a number of technical corrections contained in the bill are necessary to carry out the intent of section 199 of the Internal Revenue Code, which provides a deduction relating to income attributable to certain domestic manufacturing activities. These technical corrections would, among other things, clarify that:

1. Gross receipts derived from certain contracts to manufacture or produce property for the Federal government are derived from the sale of such property and, therefore, are domestic production gross receipts,
2. For purposes of determining the domestic production gross receipts of a partnership and its partners, provided all of the interests in the capital and profits of the partnership are owned by members of a single expanded affiliated group at all times during the taxable year of the partnership, then the partnership and all members of that expanded affiliated group are treated as a single taxpayer during such period,
3. With respect to the domestic production activities of a trust or estate, the items to be taken into account in computing the domestic manufacturing deduction shall be apportioned between the beneficiaries and the fiduciary (and among the beneficiaries) under regulations prescribed by the Secretary of the Treasury,
4. A corporation eligible for the domestic manufacturing deduction with respect to income of a subsidiary must own more than 50 percent, rather than 50 percent or more, of the subsidiary's stock by vote and value,
5. The domestic manufacturing deduction for purposes of computing alternative minimum taxable income ("AMTI") is the same for purposes of computing the regular tax except that, in the case of a corporation, the taxable income limitation is the corporation's AMTI,
6. Unrelated business taxable income, rather than taxable income, applies for purposes of Code section 199(a)(1) in computing the unrelated business income tax,

The Honorable John W. Snow

July 21, 2005

Page 2 of 2

7. The domestic manufacturing deduction is not taken into account for purposes of computing taxable income under the rules relating to the carryover of net operating losses,
8. The Secretary of the Treasury has the authority to prescribe rules to prevent the domestic manufacturing deduction from being claimed by more than one taxpayer with respect to the same economic activity described in Code section 199(c)(4)(A)(i),
9. The coordination of the computation of (i) adjusted taxable income of a corporation for purposes of computing a corporation's limitation on the deduction for interest on certain indebtedness, and (ii) taxable income for purposes of computing a corporation's charitable contribution deduction and a taxpayer's deduction for percentage depletion with respect to oil and gas wells, with the domestic manufacturing deduction, and
10. In applying the effective date of the domestic manufacturing deduction, items arising from a taxable year of a partnership, S corporation, estate, or trust beginning before 2005 are not taken into account for purposes of the rules providing that the deduction is determined at the partner, shareholder or similar level and the application of the wage limitation with respect to such entities.

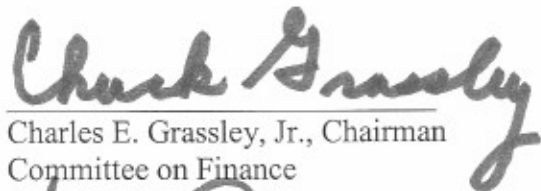
We trust that this letter provides sufficient clarification so that appropriate regulatory guidance may be issued reflecting our intention.

In addition, we would ask you to consider further the treatment of online access to computer software and, in particular, whether such treatment should be similar to the treatment of computer software distributed by other means, such as by physical delivery or delivery via internet download. Please include the results of your consideration of this issue in future published guidance. In considering this issue, please note that gross receipts from the provision of services are not treated as domestic production gross receipts, regardless of the fact that computer software may be used to facilitate such service transactions.

Sincerely,



William M. Thomas, Chairman
Committee on Ways & Means



Charles E. Grassley, Jr., Chairman
Committee on Finance



Max Baucus, Ranking Member
Committee on Finance

cc: Mr. Eric Solomon, Acting Deputy Assistant Secretary (Tax Policy)