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Comments Relating to
A Framework for Evaluating Certain Expiring Tax Provisions
House Committee on Ways and Means
Subcommittee on Select Revenue Measures
June 8, 2012 Hearing

Submitted for the Record
By
The American Cleaning Institute

The American Cleaning Institute (ACI) is a national trade association representing the interests of cleaning product formulators, the suppliers of ingredients and packaging to those formulators as well as the domestic oleochemical industry. ACI submits these comments on behalf of its oleochemical members. The goal of establishing criteria for the continuance of tax extenders is laudable as well as essential. The Subcommittee is to be congratulated for taking up this critical issue.

Equity, that is, the inherent fairness, of a tax extender is a critical criterion that must be incorporated in any evaluation process. In their broadest characterization, tax extenders are credits that are generally granted in order to support a technology or industry that is deemed worthy for a fiscal or public policy purpose. While in most instances the consequences of such credits may be wholly benevolent, this is not always the case. In these latter cases, the credits at issue should be considered ripe for elimination or amendment.

In the regulatory arena, agencies are required to assess designated factors, e.g., paperwork and the environment, when determining regulatory impacts. In the tax extenders' context, it seems reasonable that an analysis of potential competitive impacts on collateral or legacy industries sharing, for example, markets or raw material pools should be undertaken. In this manner, at minimum, the "equity" of a credit could be analyzed and made part of the policy debate.

Examples of competitive impacts for evaluation could include government funding of facilities/products in direct competition with existing private sector capabilities as well as market distortions such as raw material supplies and costs. Analyzing the competitive impacts of a tax extender would allow policy makers to better target tax credits for maximum benefit and minimal harm to existing industries.

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The disadvantages created by tax credits can create extremely stressful conditions for an established industry with the potential to foster significant, though avoidable, dislocations. The domestic oleochemical industry's entanglement with federal biofuels subsidies is a case in point.

Oleochemicals are the original "green" chemistry. They may be produced from "animal fats" or seed oils. The domestic oleochemical industry has historically been based on "animal fats." Prior to passage of the American Jobs Creation Act of 2004" (AJCA) "animal fats" were purchased in an unsubsidized, free, competitive market. Implementation of the VEETC provisions of AJCA changed all that by creating a $1/gal tax credit for the production of biodiesel, including that produced from "animal fats." This was followed by similar subsidies created for other categories of biofuels also using "animal fats" as a raw material.

With their tax credit subsidy, enhanced by the volume mandates of the Revised Renewable Fuel Standard (RFS2), biofuel producers have been given extraordinary market leverage in the purchase of "animal fats." Oleochemical producers receive no subsidies or market guarantees yet compete for the same raw material.

Complicating the situation even more, the "animal fats" supply is inelastic. Cows are raised for meat, not their fats. Consequently, "animal fats" demand has increased while supply has remained relatively static. As a result, the economic outcome has been a sustained price increase over eight years. Currently tallow trades for about $0.45/lb. Prior to implementation of the AJCA, historical levels were approximately $0.13 – 0.16/lb. At these price levels, substitutes, principally foreign palm oil, are becoming increasingly competitive in the United States as oleochemical raw materials.

While there is no doubt that "animal fats" prices would have increased with the development of biofuels, the allocation of this raw material would have best been left to a free, competitive and equitable marketplace. Oleochemical producers are now effectively competing against their own government's policies.

It is essential that the equity of collateral impacts related to tax extenders become a bedrock criterion in assessing the future of not only tax extenders but of tax policy relating to credits generally.

Submitted on behalf of the American Cleaning Institute,

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