

Advocacy Comments on Tax Technical Corrections Act of 2006 (HR 6264 and S 2026)

On October 31, 2006, the Office of Advocacy (Advocacy) sent a letter regarding H.R. 6264 and S. 2026 the *Tax Technical Corrections Act of 2006* (Act), to the U.S. Senate Committee on Finance and the U.S. House of Representatives Committee on Ways and Means. Small business advocacy organizations contacted Advocacy regarding Section 7 of the Act and its potential impact on small business exporters. The member organizations are concerned that the provision will deny small business exporters that are organized as Interest Charge Domestic International Sales Corporations (IC-DISC) the benefit of the 15 percent tax rate on dividends. Advocacy's letter offered to facilitate a dialogue between the Committees and the affected businesses.

IC-DISC organizations were created in the Internal Revenue Code in the 1980s. U.S. manufacturing exporters organize an IC-DISC to facilitate the exportation of its goods. An exporter that uses this structure pays the IC-DISC an annual commission equal to a percentage of its export income. The commission income is permitted to accumulate untaxed in the IC-DISC until it is repatriated in the form of a dividend to the IC-DISC shareholders. Shareholders of an IC-DISC pay the government interest on the income accumulating in the IC-DISC until the income is paid as a dividend.

The Jobs and Growth Tax Relief Reconciliation Act of 2003 lowered the tax rate on dividends to 15 percent. IC-DISC shareholders were entitled to this lower tax rate on the dividends they received. Section 7 of the Act excludes dividends from IC-DISC from the definition of qualified dividend income; thus IC-DISC dividends will be taxed at the ordinary income tax rate which can be as high as 35 percent. Tax technical correction bills are an opportunity for Congress to correct drafting errors that inadvertently occur in previously passed legislation. The Committees believe that Section 7 of the Act corrects a drafting error; in that Congress did not intend to tax the dividends generated by IC-DISC entities at the lower rate.

Under 15 USC section 634b(4) Advocacy is required to “determine the impact of the tax structure on small businesses and make legislative and other proposals for altering the tax structure to enable all small businesses to realize their potential for contributing to the improvement of the Nation's economic well-being.”

For more information, visit Advocacy's Web page at <http://www.sba.gov/advo> or contact Assistant Chief Counsel for Tax Candace B. Ewell at Candace.Ewell@sba.gov or (202) 401-9787.