

September 29, 2010

E-mailed to: Notice.Comments@irs.counsel.treas.gov

Douglas H. Shulman
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Re: IRS Notice 2010-51: Expanded Information Reporting Requirement

Dear Commissioner Shulman:

On behalf of the Specialty Equipment Market Association (SEMA), we are submitting the following comments to the U.S. Treasury Department (Treasury) and the Internal Revenue Service (IRS) regarding Notice 2010-51, which would impose new reporting requirements on payments to vendors exceeding \$600 a year. SEMA strongly opposes the requirements and urges the Treasury and IRS to use its authority to help repeal the measure.

SEMA represents the \$32 billion specialty automotive industry, comprised of nearly 6,500 member-companies. The industry provides appearance, performance, comfort, convenience and technology products for passenger and recreational vehicles. Products range from custom wheels/tires to turbochargers, lighting equipment, racing equipment, exhaust systems, suspensions, truck caps, grille guards, leather seating, mobile electronics, and sunroofs. Most of our companies are small businesses for which the proposed reporting mandate represents an excessive burden.

Under the proposed rule, beginning in 2012, businesses would be required to file "Form 1099" information returns with the IRS and report all payments to corporations for goods or services in excess of \$600. The requirement was included in the Patient Protection and Affordable Care Act of 2010 (Pub.L.No. 111-148). It was intended as a revenue-raising initiative by collecting taxes on potential sources of unreported income. SEMA contends that it will fail in its mission to collect much under-reported income, but it will succeed in punishing small business taxpayers that already comply with U.S. tax law.

The proposed rule threatens to impose enormous burdens on small businesses, certified public accountants, and tax preparers as they attempt to track and report a wide range of payments to contractors, vendors and others. For example, companies would be required to report business-to-business payments for airline tickets, office supplies, phone and shipping services.

The IRS has proposed to exempt purchases made with credit or debit cards since they are now reported by banks and other payment processors. However, this concession does not represent

Specialty Equipment Market Association (SEMA)

Headquarters: 1575 S. Valley Vista Drive, Diamond Bar, CA 91765

Government Affairs Office: 1317 F Street, NW; Suite 500; Washington, DC 20004

Phone: 202/783-6007; Fax: 202/783-6024



a solution for businesses that pay by check or cash, or for vendors that do not accept credit/debit cards, in part, to avoid the 2 or 3 percent transaction fees. Additionally, if a vendor refuses to supply a tax identification number, then the payer could be required to withhold 28 percent of the vendor's payment and send that amount to the IRS. This unfairly results in small business owners acting as tax collectors and threatens their relationships with vendors.

Even with an IRS exemption for credit/debit card purchases, a company would need to establish a tracking system for yearly cash and check expenditures. The company's accountants would need to become experts on the law, understanding when to file a 1099, when a filing is not required, and how to obtain a vendor's tax ID number. The paperwork and regulatory burdens would be disruptive to the flow of commerce and counterproductive at a time when the nation is struggling to emerge from the deepest recession since the 1930s.

The reporting requirement would also be subject to errors in which records compiled by the IRS may not match vendor and taxpayer filings. There could be many legitimate reasons for the errors including duplicate reporting or offsets for refunds, credits, cash equivalents, discount amounts and fees. The IRS would be deluged by requests to investigate potential under-reporting, which could simply be the result of errors. All of the time and money spent by the taxpayer, the vendor and the IRS to comply with the system would far exceed the amount of revenues generated. It would make the United States less-competitive in the global market and ultimately cost American jobs.

SEMA recognizes that the 1099 provision was imposed upon the Treasury and IRS and that the agency is required to implement the law. SEMA is working on its own and with a number of other organizations in an effort to repeal the provision. We believe this is the only solution. We urge the Treasury and IRS to convey that same message to Congress.

Thank you for your consideration and please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen B. McDonald". The signature is fluid and cursive, with the first name "Stephen" being the most prominent.

Stephen B. McDonald
Vice President, Government Affairs
Specialty Equipment Market Association (SEMA)