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May 28, 2010

Mr. James Roosey
Director, Field Operations
Internal Revenue Service
LMSB - RFPH
1901 Butterfield Road, Suite 310
Downers Grove, IL 60515

Re: Vendor Allowance Industry Issue Resolution Project

Dear Mr. Roosey:

Following the orientation meeting for the vendor-allowance Industry Issue Resolution project on April 8, 2010, you asked for feedback from the industry representatives on the two issues summarized below. On behalf of the Retail Industry Leaders Association (RILA) and in conjunction with PricewaterhouseCoopers, our tax partner, I have inquired of RILA members about their experience with these two issues, and we respectfully submit the following information pursuant to your request.

Issue 1: Audit cases specifically relating to whether a sale-based vendor allowance is a purchase-price adjustment versus income.

Based on feedback from RILA member companies, we understand that this issue is not being raised in a consistent manner throughout the industry, which is meaningful given that vendor funding has long been prevalent throughout the retail industry. One large retailer reports that this issue has been a significant focus of their audit team for three separate examination cycles – all three of which remain open at various levels of controversy. Other RILA members report that this issue has been raised in now-closed examinations. Various RILA members, in addition to the large retailer mentioned above, report that they expect this issue to be raised during their upcoming audit cycles.

In stark contrast, other retailers report that this issue has not been raised in any of their audits.

Based on the reports of our members, it is clear that retailers in some areas of the country have been subject to much scrutiny over several cycles with regard to this issue; whereas retailers in other areas have experienced little or no activity.

Given the factually complex, but legally straightforward, nature of this issue and the widely varying audit and controversy experiences of similarly situated taxpayers, this issue appears ripe for resolution to save both the United States and the financially challenged retail industry significant cost in terms of both time and money.

Issue 2: Any differences in how companies are treating sales-based vendor allowances under the GAAP rules versus tax rules.

Based on responses from RILA members, for both book and tax purposes, the vast majority of retailers treat sales-based vendor allowances as reductions to the cost of inventory purchased. The Financial Accounting Standards Board's Emerging Issues Task Force (EITF) specifically stated in Issue No. 02-16 that vendor funding is presumed to be a reduction of cost of sales unless certain narrow conditions are present.

A small minority of RILA members, however, replied that they treated sales-based vendor allowances as income upon receipt for both book and tax purposes. An even smaller number of members mentioned some inconsistencies with respect to their book and tax treatment.

Please keep in mind that other types of vendor allowances are received in exchange for certain services. RILA members generally report that these allowances are included in income upon receipt for both book and tax purposes.

We appreciate the opportunity to participate in this Industry Issue Resolution project. If you have any questions regarding the forgoing information, please contact me at mark.warren@rila.org or (703) 600-2041.

Sincerely,



Mark E. Warren
Vice President, Tax & Finance