

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

REGULATIONS ESTABLISHING SYSTEM)
OF RATEMAKING)

Docket No. RM2007-1

ASSOCIATION OF PRIORITY MAIL USERS, INC.
COMMENTS ON REGULATIONS ESTABLISHING A SYSTEM OF RATEMAKING
IN RESPONSE TO COMMISSION ORDER NO. 15
(June 18, 2007)

On May 17, 2007, the Postal Regulatory Commission issued Order No. 15, Second Advance Notice of Proposed Rulemaking on Regulations Establishing a System of Ratemaking (“Second ANPRM”). The Association of Priority Mail Users, Inc. (“APMU”) submits these comments in response to this request for comments on ratemaking for competitive products.

Item 7 in Order No. 15 reads as follows:

Section 3634 provides for an annual, assumed Federal income tax on the competitive products income. The amount of the assumed tax is to be transferred from the Competitive Products Fund to the Postal Service Fund.

Regarding section 3634 —

- a. Is the assumed Federal income tax amount appropriately classified as an attributable cost?
- b. On what basis should the assumed Federal income tax amount be reasonably assigned among competitive products? [P. 8 (footnote omitted).]

The relevant provision in the Postal Accountability and Enhancement Act (“PAEA”) states:

(a) Definitions. — For purposes of this section —

(1) the term “assumed Federal income tax on competitive products income” means the net income tax that would be imposed by chapter 1 of the Internal Revenue Code of 1986 on the Postal Service’s assumed taxable income from competitive products for the year; and

(2) the term “assumed taxable income from competitive products”, with respect to a year, refers to the amount representing what would be the taxable income of a corporation under the Internal Revenue Code of 1986 for the year, if —

(A) the only activities of such corporation were the activities of the Postal Service allocable under section 2011(h) to competitive products; and

(B) the only assets held by such corporation were the assets of the Postal Service allocable under section 2011(h) to such activities. [39 U.S.C. § 3634(a).]

COMMENTS

a. Is the Assumed Federal Income Tax Amount Appropriately Classified as an Attributable Cost?

It is the position of APMU that it would be inappropriate to classify an income tax as an attributable cost and to attribute any part of any such tax to an individual competitive product. Under PAEA, the Postal Service will be accounting for its competitive products as though they constituted, collectively, a quasi-separate, “virtual” company. In the private sector, which the Competitive Products Fund more or less mimics, multi-product companies generally do not attribute corporate income tax to individual products. Even when the production of various products are organized as separate corporate entities, companies report, compute and pay income taxes on a consolidated basis, without “charging back,” or attributing the tax to individual products.¹ The same approach should be followed for those Postal Service products that fall within the ambit of the Competitive Products Fund.

¹ Distributing income taxes to individual products, or to individual subsidiaries is not required by the generally accepted accounting principles (“GAAP”). Since PAEA requires that the Postal Service be held to Securities and Exchange Commission (“SEC”) reporting requirements, and such attribution is not required by the SEC, this is another reason for not attempting to attribute income taxes to individual products.

An income tax is the end result of a series of corporate marketing decisions (including pricing decisions), sales and costs. It is not like a volume variable cost that increases with each unit produced, and should not be treated as such.

b. On What Basis Should the Assumed Federal Income Tax Amount Be Reasonably Assigned among Competitive Products?

Any Federal income tax paid on competitive products should not be assigned to individual products. Just as there is no need to attribute any income tax to individual products, so also there is no need to assign any such tax to individual products. Although many arbitrary bases could be used to assign income taxes to individual products, in the final analysis each one is just that — arbitrary.

Respectfully submitted,

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