

April 12, 2016

The Honorable Kevin Brady
Chairman
Committee on Ways & Means
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Sander Levin
Ranking Member
Committee on Ways & Means
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Pat Tiberi
Chairman, Subcommittee on Health
Committee on Ways & Means
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Jim McDermott
Ranking Member, Subcommittee on Health
Committee on Ways & Means
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Charles Boustany, M.D.
Chairman, Subcommittee on Tax Policy
Committee on Ways & Means
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Richard Neal
Ranking Member, Subcommittee on Tax Policy
Committee on Ways & Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Committee Chairmen and Ranking Members:

The undersigned organizations encourage your prompt consideration of the Small Business Healthcare Relief Act (H.R. 2911) as leaders on the Committee on Ways and Means. This important legislation would protect small businesses from punitive fines for helping employees with health care costs and restore the ability to provide a flexible and valued benefit.

Soaring health insurance premiums have thwarted the ability of many small business owners to provide, and their employees to obtain, health coverage. From 2010 to 2015, premiums for small firms increased 25 percent, from an average monthly family premium of \$1,104 to \$1,385.¹ Similar, if not greater, premium increases are expected to continue in the years ahead.

To provide much-needed relief, we support allowing employers to provide employees with a defined financial contribution toward the cost of health care coverage. Under this approach, employers could provide employees with a set dollar amount to use on a tax-preferred basis when purchasing health care coverage.

Historically, many small business owners directly paid for or reimbursed employees for medical care and services through an employer payment plan, such as a Health Reimbursement Arrangement (HRA). However, the Affordable Care Act (ACA) requires that all group health plans meet certain benefit requirements, such as first dollar coverage of preventive services and no annual dollar limits on essential health benefits. Because HRAs are reimbursement

¹ “2015 Employer Health Benefits Survey.” Kaiser Family Foundation, Sep 2015. <http://kff.org/health-costs/report/2015-employer-health-benefits-survey/>

arrangements, they violate these rules according to the Internal Revenue Service (IRS) and are therefore unlawful on a stand-alone basis.

As a result, since July 1, 2015, small businesses who do not offer a group health plan with the HRA face \$100 per day, per employee fines. That totals \$36,500 annually per employee up to \$500,000 in total, or 18 times more than the \$2,000 employer mandate penalty for larger employers who do not provide any coverage. Affected small businesses are trying to help their workers, but the IRS says their effort violates ACA requirements.

Many small business owners and employees are not aware of the prohibition, meaning this upcoming tax season could trigger surprising audits and costly penalties. For example, a small business owner who has been offering an HRA to his or her four employees since July 1, 2015, will owe the IRS \$220,000 by the end of this year. Small employers, who want to help employees, simply cannot afford financial punishment of this magnitude. As a result, employees will lose their employer-provided health benefits and pay more for health care.

We strongly support the Small Business Healthcare Relief Act (H.R. 2911), which currently has 77 bipartisan cosponsors, including 28 House Ways & Means Committee members. This critical legislation would allow small businesses with fewer than 50 employees to offer employer payment plans and HRAs to employees for the payment of premiums or qualified medical expenses associated with insurance coverage without facing outrageous fines.

Thank you in advance for your consideration of our request for a prompt mark-up of this bipartisan, responsible small business health care bill. We look forward to working with you to address employer payment plans and account-based plans, such as HRAs, which provide small businesses with important and necessary relief from rising health costs.

Sincerely,

Air Conditioning Contractors of America
American Horticulture Industry Association – AmericanHort®
American Dental Association
American Farm Bureau Federation
American Independent Business Coalition
American Rental Association
American Subcontractors Association, Inc.
America's Business Benefit Association, Inc.
Associated Builders and Contractors, Inc.
Associated General Contractors
Auto Care Association
Communicating for America, Inc.
Council for Affordable Health Coverage
Door Security and Safety Professionals
Evolution1 Inc. – a WEX Company
Family Business Coalition
Global Cold Chain Alliance

Healthcare Leadership Council
Heating, Air-conditioning & Refrigeration Distributors International
Independent Community Bankers of America
International Association of Refrigerated Warehouses
International Franchise Association
Insurance Benefits & Advisors, LLC
Mid-America Lumbermens Association
Mountain States Lumber and Building Material Dealers Association
National Association of Electrical Distributors
National Association of Home Builders
National Association of Manufacturers
National Association for the Self-Employed
National Association of the Remodeling Industry
National Association of Towns and Townships
National Association of Wholesaler-Distributors
National Christmas Tree Association
National Club Association
National Federation of Independent Business
National Grange
National Lumber and Building Material Dealers Association
NPES, The Association for Suppliers of Printing, Publishing, and Converting Technology
National Restaurant Association
National Retail Federation
National Small Business Association
Northeastern Retail Lumber Association
Padgett Business Services
Pet Industry Distributors Association
Promotional Products Association International
Retail Industry Leaders Association
Saturation Mailers Coalition
Secondary Materials and Recycled Textiles Association
Service Station Dealers of America and Allied Trades
Small Business & Entrepreneurship Council
Small Business Council of America
Small Business Legislative Council
Small Business Majority
Society of American Florists
Southern Consumers Alliance
The Latino Coalition
Tire Industry Association
U.S. Chamber of Commerce
Western Equipment Dealers Association
Window and Door Manufacturers Association
Zane Benefits