AMERICAN BENEFITS COUNCIL

September 12, 2018

The Honorable Paul Ryan
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Nancy Pelosi
Democratic Leader
U.S. House of Representatives
Washington, DC 20515

Dear Speaker Ryan and Leader Pelosi,

On behalf of the American Benefits Council (the Council), I am writing today to express support for the Save American Workers Act (H.R. 3798). We urge the U.S. House of Representatives to approve this measure as an important step toward strengthening the employer-provided health coverage system, upon which 178 million Americans rely today.

The Council is a public policy organization representing principally Fortune 500 companies and other organizations that assist employers of all sizes in providing benefits to employees. Collectively, the Council's members either sponsor directly or provide services to retirement and health plans that cover more than 100 million Americans.

Included in H.R. 3798 are two key provisions that, if enacted, would demonstrate Congress' strong commitment to employer-sponsored health plans: an additional one-year delay of the 40 percent "Cadillac Tax" on employer-provided coverage and a four-year moratorium of the Affordable Care Act's (ACA) employer "shared responsibility" mandate penalties.

ADDRESSING THE 40 PERCENT "CADILLAC TAX"

Starting in 2022, the ACA imposes a 40 percent tax on employer-sponsored coverage that exceeds certain thresholds, projected to be $10,800 for employee-only coverage and $29,100 for family coverage. H.R. 3798 would delay the imposition of this tax for one additional year, until 2023.

For many Americans who depend on health insurance coverage through an employer, the forthcoming implementation of this tax has already resulted in reduced coverage and increased out-of-pocket costs. Indeed, deductibles have already risen 176 percent since 2006.

More and more Americans will be affected by the tax every year. A conservative estimate from Mercer indicates that over half of all companies will be subject to the tax by 2027. The Cadillac Tax is most likely to penalize older workers and those with family coverage, women, part-time workers and those suffering chronic conditions or catastrophic health event, or who live in communities with especially high costs. According to Mercer estimates, employers expected to hit the tax have employees that are two years older and 5-percent more female on average, and have a 3-percent higher rate of dependent coverage while being 12-percent more likely to offer part-time coverage.

The Council strongly believes that the "Cadillac Tax" must be fully repealed and we support bipartisan legislation that would do so in both chambers: the Middle Class Health Benefits Tax Repeal Act (H.R. 173/S. 58). Because employers typically plan for benefits several years in advance, the looming threat of this tax is sufficient to compel employers to take action well before the expected effective date. Full repeal is the only real solution to this problem.

However, an additional delay constitutes a vital step toward our ultimate goal of total repeal.

RELIEF FROM THE ACA EMPLOYER MANDATE PENALTY

Under the ACA the employer penalties are referred to as Employer *Shared Responsibility* Payments (emphasis added). These penalties are triggered when an employer has not offered a certain level of health coverage and just one full-time employee receives a subsidy to purchase coverage in the insurance exchange. The employer mandate was intended to enable individuals to meet their legal obligation to have an established level of coverage. However, now that the individual mandate penalties have been repealed, the justification for the "shared" responsibility requirement imposed on employers no longer exists and, accordingly, should be repealed.

As we noted in our brief to the U.S. Supreme Court when the constitutionality of the individual mandate was being debated, in the absence of an individual mandate, it is essential that Congress repeal the employer mandate as well. The individual and employer requirements are directly linked to one another and the statutory structure of the employer mandate makes clear that it was not simply a free-standing add-on to a list of ACA provisions but, rather, inextricably entwined with the individual mandate.

If Congress cannot fully repeal the ACA's employer mandate (and its burdensome reporting requirements), employers will need relief from the associated penalties. We therefore appreciate the provision of H.R. 3768 that would provide critical relief from these penalties for tax years 2015 through 2018.

Employers are very supportive of policies that will lead to a more competitive environment in the United States, spurring economic growth and job creation. As Congress advances down this path, we urge you to ensure that the millions of American families with employer-provided health coverage, and the companies that sponsor it, are protected from burdensome taxes and administrative requirements. Passage of H.R. 3768 is an important step in that effort and we urge your support.

Sincerely,

James A. Klein

President
American Benefits Council

cc: All members, U.S. House of Representatives