

January 23, 2007

The Honorable Charles Rangel  
Chairman, Committee on Ways and Means  
1102 Longworth House Office Building  
Washington, DC 20515

Dear Chairman Rangel:

On January 17, the Senate Finance Committee adopted broad new proposals severely restricting the ability of employees to supplement their retirement savings through nonqualified deferred compensation arrangements. The undersigned organizations wish to register our strong opposition to these flawed proposals, which would have draconian consequences.

This legislation comes on the heels of sweeping 2004 tax-law changes to deferred compensation arrangements that the business community and the Treasury Department are still in the process of implementing. Regulations to implement the 2004 changes, which have not yet been finalized, will run to hundreds of pages. Those 2004 changes surely addressed any perceived abuses relating to nonqualified deferred compensation and should be allowed to take effect without adding new restrictions to deferred compensation rules.

The new Finance Committee proposal would limit annual deferrals under nonqualified deferred compensation plans to an employee's average taxable compensation from the employer during the preceding five years or, if less, \$1 million. Thus, while the rules might permit a few individuals to defer \$1 million, they would limit deferrals to far less than that amount for hundreds of thousands of mid-level employees who have taken active steps to save towards their retirement. In many cases, the rules would prohibit employees from deferring any amount.

Even more disturbing is that a violation of the new rules, including an unintentional violation, will trigger immediate taxation of all prior deferrals, as well as a 20-percent additional tax and retrospective interest. As noted in the Senate Finance Committee Report released yesterday, earnings on past deferrals would be treated as additional deferrals for purposes of the annual limitation; because of this, violations of the new rule could occur merely as the result of the passage of time and not as a result of any action by the employee or the company.

These proposed rules, unveiled only just before being approved by the Finance Committee, would have significant adverse consequences for businesses and employees if enacted. These new deferred compensation proposals must be rejected.

Sincerely,

American Benefits Council  
American Council of Life Insurers  
Association for Advanced Life Underwriting  
National Association of Manufacturers  
US Chamber of Commerce