



New York State Bar Association

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January 18, 2008

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House Committee on Ways and Means
2354 Rayburn House Office Building
Washington, D.C. 20515-3215

The Honorable Max S. Baucus
Chairman

Senate Committee on Finance
511 Hart Senate Office Bldg
Washington, D.C. 20510

The Honorable James McCreery
Ranking Member

House Committee on Ways and Means
2354 Rayburn House Office Building
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The Honorable Charles E. Grassley
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Washington, DC 20510-1501

Re: Tax Equity for Domestic Partner and Health
Beneficiaries Act (S.1556); Tax Equity for Health
Plan Beneficiaries Act of 2007 (H.R. 1820)

Dear Sirs:

I am writing on behalf of the Tax Section of the New York State Bar Association (the "Tax Section")¹ to comment on and express our support for pending legislative amendments to the Internal Revenue Code of 1986 (the "Code") that would allow employers and businesses to provide health coverage to the domestic partners (and their dependent children) of employees and workers on a tax-efficient basis.

¹ This letter was drafted by Patrick Gallagher and Richard Upton, with helpful comments from Kim Blanchard, Andy Braiterman, David Hariton, Liz Kessenides, Stephen Land, Robert Levinsohn, Michael Schler, Kirk Wallace and other members of the Tax Section's Executive Committee.

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On March 29, 2007, Representative Jim McDermott (D-WA) introduced the Tax Equity for Health Plan Beneficiaries Act of 2007, H.R. 1820, into the House of Representatives (the “House bill”). On June 6, 2007, Senators Gordon Smith (R-OR), Maria Cantwell (D-WA) and Joseph Lieberman (ID-CT) introduced the Tax Equity for Domestic Partner and Health Plan Beneficiaries Act, S. 1556, into the Senate (the “Senate bill”).² The principal provisions of both bills are nearly identical. According to the sponsors, the proposals “will end the federal tax inequities for employer-sponsored health coverage provided for domestic partners and other non-spouse, non-dependent beneficiaries....”³

The Tax Section strongly supports the Senate and House bills’ proposed amendments to the Code to the extent they would allow employers and businesses to provide health coverage to the domestic partners (and their dependent children) of employees and workers on the same tax-favored basis that the law currently provides for spouses and children.⁴ More and more employers and businesses are offering health insurance benefits to domestic partners and their dependents. We believe the current tax law provisions dealing with health insurance do not adequately or appropriately address the issues raised by the provision of domestic partner health insurance. The proposed legislation furthers the laudable goal of having more people covered by health insurance, is an appropriate step towards providing tax equality for same-sex domestic partners, and provides a welcome degree of tax simplification and administrative relief to employers and businesses in an otherwise complicated and difficult to administer area of tax law.⁵

Background

In growing numbers, employers across the country have made the business decision to provide health benefits to domestic partners of their employees. As of January 2007,

² The House bill currently has fifteen co-sponsors and the Senate bill currently has eleven other co-sponsors.

³ June 6, 2007 Release from Senate Finance Committee Members Gordon H. Smith, Maria Cantwell and Joseph Lieberman (the “June 6, 2007 Release”). Tax Analysts Doc. 2007-13567.

⁴ [This statement of support and the other comments in this letter are made solely on behalf of the Tax Section and not on behalf of the New York State Bar Association as a whole (for which approval by its House of Delegates would be required).] The New York State Bar Association has expressed its support for legislation that would recognize some form of same-sex legal union under New York law. NYSBA, “Report and Recommendations of the Special Committee to Study Issues Affecting Same-Sex Couples,” October 2004. The Tax Section has reported on technical issues relevant to the objective of attaining legal equivalence in New York taxation of same-sex couples and married couples. “NYSBA Tax Section Report No. 1090 on New York State Tax Issues Relating to Same-Sex Couples,” June 23, 2005.

⁵ In expressing our support for the legislation’s proposed extension of coverage to domestic partners and their dependent children, as discussed below the Tax Section does not necessarily endorse each of the policy choices inherent in the bills as currently drafted, such as their expansive breadth. Further, the Tax Section has no view on the fiscal implications of this legislation or on the extent to which any tax offsets may be required or appropriate to pay the costs of the legislation.

53% of Fortune 500 companies (265) were providing such coverage.⁶ This is more than a twelve-fold increase from 1995 and underscores a clear trend in the American workplace.⁷

Currently, Code Section 105(b) excludes from employee income the value of employer-provided insurance premiums and benefits received by the employee for coverage of the employee's spouse and "dependents,"⁸ but does not extend this treatment to coverage of domestic partners or other persons who do not qualify as dependents. Accordingly, the value of non-spouse, non-dependent coverage is included in the employee's wages, thereby increasing not only the employee's income taxes, but also the employee's and employer's payroll tax obligations. The current tax regime also places significant administrative burdens on employers by requiring employers to calculate the portion of their health care contributions attributable to non-spouse, non-dependent beneficiaries and to create and maintain a separate system for the income tax withholding and payroll tax obligations for employees using such coverage.

Similar issues are raised for self-employed individuals who provide health insurance coverage to domestic partners and their dependents. Code Section 162(l)(1) permits a self-employed individual to take an "above-the-line" deduction for insurance costs of the taxpayer and the taxpayer's spouse and "dependents" (more narrowly defined than in the case of an employee),⁹ but not insurance costs of other persons.

In addition, under current law, employees are not allowed to be reimbursed for medical expenses for a non-dependent domestic partner by a health reimbursement arrangement ("HRA"), health flexible spending arrangement ("Health FSA") or health savings account ("HSA"), and voluntary employees' beneficiary associations ("VEBAs") are limited in their ability to provide benefits to a non-spouse, non-dependent beneficiary.

The Proposed Legislation

The proposed legislation would amend Code Sections 105 (amounts received by an employee under accident and health plans), 106 (employer contributions to accident and

⁶ June 6, 2007 Release.

⁷ *Id.*

⁸ In general, under Code Section 152(d), as modified by Code Section 105(b), a non-spouse, non-relative is an employee's "dependent" only if (1) that person has the same principal place of abode as the employee and is a member of the employee's household (the "same household requirement") and (2) the employee provides over 50% of that person's support (the "50% support requirement").

⁹ The modifications of Section 152 in Section 105(b) do not apply to self-employed individuals. Thus, the definition of dependent for deducting health insurance costs by a self-employed person is narrower than the definition of dependent for purposes of excluding such costs by an employee. Specifically, for a domestic partner to be treated as a dependent of a self-employed individual for purposes of deducting health insurance costs under Code Section 162(l), the domestic partner not only must satisfy the same household and 50% support requirements, but also must not have gross income for the calendar year that equals or exceeds the exemption amount (\$3,500 for taxable years beginning in 2008) (the "income cap requirement"). See Code Sections 152(d)(1)(B), 151(d).

health plans), 162(l) (self-employed health insurance), 223 (HSAs),¹⁰ 501(c)(9) (VEBAs), and 3121 (Social Security and Medicare definitions) and other payroll tax provisions. In addition, the legislation would require the Secretary of the Treasury to issue guidance allowing domestic partners and other non-dependents to be covered under Health FSAs and HRAs.

Specifically, the proposed legislation would expand the scope of individuals eligible for the benefits, deductions or exclusions provided by the foregoing sections beyond the employee (or self-employed individual) and that person's spouse and current-law dependents. In the case of an employee, the additional covered persons would consist of "an eligible beneficiary with respect to the taxpayer, and any qualifying child of an eligible beneficiary."¹¹ The sponsors of the legislation have deferred to employers and businesses to establish the criteria an employee must satisfy to have a potentially eligible individual covered as an "eligible beneficiary" under the company's health insurance program.¹² Thus, the term "eligible beneficiary" could include an individual who is not a domestic partner and who does not reside with the taxpayer.

In the case of a self-employed individual, the additional covered persons under Code Section 162(l)(1) would consist of (1) one designated individual who satisfies the same household requirement and is not a spouse, a qualifying child or (under the Senate bill) any other in-law or blood relative, and (2) any other individual who meets the qualifying child age cap and also satisfies the same household and 50% support requirements. Thus, in contrast to the treatment of employees, for a self-employed person the designated individual and any covered children must be in the same household.¹³ Coverage extends to children in the same household who are not children of either the taxpayer or the designated individual.

In their June 6, 2007 Release, Senators Smith, Cantwell and Lieberman indicated that the proposal would implement six legislative goals, summarized as follows.

- ***Exclusion for Employees.*** The value of employer-provided health insurance for a domestic partner or other non-dependent, non-spouse beneficiary would be excludible from the income of the employee if such person is an eligible beneficiary under the plan. Employers would retain the current flexibility to establish their own criteria for demonstrating domestic partner status.

¹⁰ In contrast to the Senate bill, the House bill does not contain a provision amending the Code Section 223 HSA provisions.

¹¹ Senate bill Section 2(b). House bill Section 2(b) is comparable. Under Code Section 152(c), a "qualifying child" must satisfy an age cap, have the same principal place of abode as the taxpayer, and not provide more than one-half of his or her own support.

¹² See June 6, 2007 Press Release.

¹³ As discussed below under the heading "Technical and Drafting Issues -- Self-employed individuals," both the House bill and the Senate bill have certain drafting issues concerning the deductibility by self-employed individuals of the costs of health coverage of domestic partners and their children.

- ***Deduction for Self-Employed Individuals.*** In a corresponding change, the cost of health coverage for domestic partners or other non-spouse, non-dependent beneficiaries of self-employed individuals would be deductible to the self-employed person.
- ***Pre-Tax Cafeteria Plan Elections.*** Employees paying for health coverage on a pre-tax basis through a cafeteria plan would be able to do so with respect to coverage for a domestic partner or other non-spouse, non-dependent beneficiary.
- ***Voluntary Employees' Beneficiary Associations (VEBAs).*** The legislation would permit a VEBA to provide full benefits to non-spouse, non-dependent beneficiaries without endangering its tax-exempt status.
- ***Health-Related Reimbursements and Savings Accounts.*** The legislation would permit employees to be reimbursed for medical expenses of a domestic partner or other non-spouse, non-dependent beneficiary from an HRA, Health FSA or HSA.¹⁴
- ***Conforming Payroll Tax Changes.*** The value of employer-provided health coverage for a domestic partner or other non-dependent, non-spouse beneficiary would be excluded from the employee's wages for purposes of determining the employee's and employer's FICA and FUTA payroll tax obligations.

The legislative proposals do not implicate the federal Defense of Marriage Act, because the legislation does not define or treat a domestic partner as a spouse.¹⁵ The ability to provide health insurance to an employee's or self-employed individual's domestic partner on a tax excludible or tax deductible basis already exists under current federal law if the domestic partner is the taxpayer's "dependent," which requires, (1) in the case of an employee, satisfying the same household and 50% support requirements, and (2) in the case of a self-employed individual, satisfying the same household, 50% support and income cap requirements. The proposed legislation, in effect, expands this concept by removing these conditions (except the same household requirement in the case of a self-employed individual).

Discussion

The Tax Section strongly supports the Senate and House bills' proposed expansion of the scope of the affected Code provisions to cover domestic partners and their dependent children.¹⁶

¹⁴ The House bill does not amend the HSA provisions.

¹⁵ DOMA, P.L. 104-199, 110 Stat. 2419 (codified at 1 U.S.C. section 7 (2002), 28 U.S.C. section 1738C (2002)).

¹⁶ However, we take no position on the policy issue of whether the full breadth of the legislation is appropriate -- for example, allowing an employee an exclusion for the value of health insurance covering both the employee's spouse and (to the extent permitted by the employer) an unrelated individual who is not a member of the
(Continued...)

As noted, more and more employers and businesses are providing domestic partner health insurance coverage to their employees and owners. Under current law, the tax treatment of such coverage is complicated and imposes burdensome obligations on employers, employees and self-employed persons. As described above, health insurance costs for an employee's spouse and dependents is excludible from the employee's wages, and health insurance costs for a self-employed individual's spouse and dependents (more narrowly defined) are deductible by the self-employed individual. Coverage costs for a non-dependent are taxable wage income to an employee and not deductible by a self-employed person. Further, an employee may not receive benefits through employee benefit programs such as HRAs, Health FSAs and HSAs for a non-dependent domestic partner.

The current law definitions in Code Section 152 (as modified by Code Section 105(b) for employees but not self-employed individuals) of who qualifies as a dependent (hereinafter, a "tax dependent") are ill suited to the policies and motivations of employers and businesses that have made the business decision to provide health benefits to the domestic partners (and the children of domestic partners) of their employees and workers. These employers and businesses recognize that providing domestic partner health coverage is an essential component of a comprehensive benefits package. This coverage helps companies attract and retain qualified workers and provide them with health security on an equitable basis.

Domestic partner health insurance coverage is provided based on criteria selected by the employer or business. In our experience, coverage typically is provided based on a certificate by the employee or self-employed person that the employee/self-employed person and his or her domestic partner are members of the same household, are financially interdependent and in a committed relationship. Availability of coverage is not based on the domestic partner's status as a tax dependent. Some companies limit availability to same-sex couples, while others do not.

Administrative Complexity of Applying Current Law

The decision by an employer or business to make health insurance coverage available to domestic partners without regard to their status as a tax dependent currently leads to various administrative complications and to disparate tax treatment to otherwise similarly situated taxpayers.

Complexity arises from the employer's need to determine whether the coverage is being provided to an employee's tax dependent. If yes, the value of the coverage is excludible from the employee's wages. The need to know whether the recipient is the employee's tax dependent requires the employer to create, and the employee to complete, complicated, intrusive questionnaires and certifications. The definition of tax dependent is not at all self-evident in the case of a domestic partner, and the domestic partner's status as a tax dependent could (because of

employee's household, or allowing a self-employed individual a deduction for both that person's spouse and an unrelated individual in the same household.

the 50% support requirement) change from time to time as that person's own employment status changes.

Complications arise in valuing the health insurance coverage from those employees whose domestic partners are not their tax dependents. For example, assume that single coverage costs \$4,000 per year and couple's coverage costs \$9,000 per year.¹⁷ What amount should be included in the employee's income: \$4,000, the cost to insure a single individual; \$4,500, half of the total cost; or \$5,000, the incremental cost to the employer?¹⁸ The valuation question becomes even more difficult where the employer incurs no incremental cost to add the domestic partner to an employee's coverage, such as situations where the employee is already enrolled, with his or her children, to receive family coverage. Clearly the value of the coverage is not zero, but there is no clear guidance for employers on how to determine the value.¹⁹

¹⁷ This pattern of couple's or family coverage costing more than twice the cost of covering a single person is common in health insurance pricing.

¹⁸ Generally, under Treas. Reg. Section 1.61-21(b)(1), an employee must include in gross income the amount by which the fair market value of a fringe benefit exceeds the sum of (i) the amount (if any) the employee actually paid for the benefit, and (ii) the amount (if any) specifically excluded from gross income by some other income tax provision of the Code (such as the health insurance attributable to the employee and his/her spouse and dependents). Pursuant to Treas. Reg. Section 1.106-1, the exclusion from income for the value of employer-provided coverage under a health or accident plan extends to coverage of the employee's spouse and the employee's dependents as defined in Section 152. It is well settled that the exclusion will apply to employer-provided coverage for a domestic partner who qualifies as the employee's dependent under Section 152. *See e.g.*, PLR 200108010 (Nov. 17, 2000). But where an employee's domestic partner and the partner's dependents do not qualify as a spouse or dependents of the employee under Section 152, the exclusion does not apply, and the *fair market value* of the employer-provided coverage is includible in the gross income of the employee as compensation for services. *See e.g.*, PLRs 200108010 (Nov. 17, 2000), 9603011 (Oct. 18, 1995), 9231062 (May 7, 1992), 9109060 (Dec. 6, 1990), 9034048 (May 29, 1990). Thus, the amount actually includible in the employee's gross income is the difference between the fair market value of the coverage and the amount paid by the employee for that coverage.

The Internal Revenue Service in PLR 9111018 (Dec. 14, 1990) stated that “[i]n computing the amount of compensation includible in the employee's gross income, the fair market value of such coverage will be determined, under the principles set forth in section 1.61-21(b)(2) of the regulations, on the basis of the amount that an individual would have to pay for the particular coverage in an arm's-length transaction. Where the particular coverage provided to the individual is group medical insurance coverage, the amount includible in the employee's gross income is the fair market value of the group medical coverage, notwithstanding that the fair market value of the group coverage may be substantially less (or more) than the fair market value of individual coverage or the subjective value of the coverage to the employee.” These statements in PLR 9111018 specifically revoked the Service's conclusions in PLR 9034048 which stated that the fair market of the coverage must be computed on the basis of individual policy rates. This approach was echoed in subsequent PLRs. *See, e.g.*, PLRs 200108010, 9603011, 9231062.

¹⁹ Further, the IRS will not give advance approval to an employer's method of determining the value of the domestic partner health coverage. PLR 200108010 (citing then applicable Rev. Proc. 2000-3 section 4.02(1)).

Further complications arise in requiring employers to create and maintain conforming income tax and payroll tax systems to track and implement the tax withholding and reporting obligations arising out of the disparate treatment of tax dependents and others.

The proposed legislation would eliminate most of the foregoing complications and complexities. It would result in real tax simplification for both employers, employees and self-employed individuals, a laudable goal in and of itself.

Tax Fairness

Persuasive arguments can be made that the current system is arbitrary and unfair. The current system bases excludability of the value of domestic partner health insurance coverage on the status of the domestic partner as a tax dependent. This results in two otherwise similarly situated employees – and their respective employers – being taxed differently. Thus, an employee with a spouse or a tax dependent domestic partner will pay less tax than an employee with a domestic partner who is not a tax dependent, even though both employees have identical salaries and benefits packages. Further, the cost to a business of employing the person with the domestic partner who is not a tax dependent is higher because of the employer's half of FICA taxes. This disparate treatment of similarly situated employees is unfair. The proposed legislation would eliminate this disparate treatment. Similar arguments and points may be made concerning self-employed individuals.

The legislation encourages employers to increase health insurance plan coverage by reducing the administrative burdens and costs associated with providing domestic partner coverage. This is consistent with the bipartisan policy goal of having more individuals covered by health insurance.

In addition, the legislative proposals generally speak of an “eligible beneficiary” and avoid the potentially demeaning term “dependent” in what the parties would normally view as a relationship of equals.²⁰

Eligible Beneficiaries

We understand that some employers and businesses limit domestic partner coverage to same-sex couples. More and more employers and businesses now allow any unmarried couple to obtain domestic partner coverage. The proposed legislation does not dictate to employers who they may choose to treat as an “eligible beneficiary” under their health plans (though under both bills the deduction for self-employed individuals applies only if the covered individual satisfies the same household requirement). In fact, the term “eligible beneficiary” is not defined at all in either bill. The legislation's sponsors emphasize that employers would retain

²⁰ In this connection, the House bill uses different language than the Senate bill in the provisions allowing a self-employed individual to deduct domestic partner health insurance costs, creating a special definition of “dependent” in contrast to the more neutral Senate bill language.

the flexibility to define who is eligible to participate. Domestic partner coverage is in no way mandated by the proposals.

As noted earlier, under both bills the eligible beneficiary concept, and the corresponding designated individual concept in the self-employment context, are quite expansive and (because these covered persons can be in addition to a spouse) are not necessarily limited to domestic partners or (in the eligible beneficiary case) to someone in the same household as the employee. While the broad scope of the legislation is a policy question on which we do not express a view,²¹ an expansive statutory definition for covered persons enables employers and businesses to choose how narrowly or expansively they want to define eligibility to participate in their health insurance programs.²² Presumably employers will want to contain costs, and therefore they have an incentive to impose reasonable limits on who may qualify as an “eligible beneficiary.”

Some have suggested that the tax benefits of excludability for employees (or deductibility for self-employed persons) for domestic partner coverage should be limited to those states that have statutes or otherwise affirmatively give state law approval to domestic partner status. We do not think such a narrow approach to the federal tax benefits of these proposals is appropriate. Companies offering domestic partner health insurance coverage do not limit eligible employees to those living in states with domestic partnership laws. The interests of uniformity of federal tax laws outweighs any perceived benefits of limiting the coverage to states that have endorsed domestic partner relationships.

Technical and Drafting Issues

The House and Senate bills have slight scope and drafting differences.

HSAs. In contrast to the Senate bill, the House bill does not contain a provision amending Section 223 of the Code, concerning HSAs. It is unclear as policy matter why the proposal should not extend to HSAs, and we recommend the broader Senate bill approach.

Eligible beneficiary. Neither bill defines at all the key term “eligible beneficiary.” The sponsors’ statements seem to indicate that establishing criteria for eligible beneficiary status is to be left entirely to the discretion of individual employers. We suggest that this be made clearer in the statutory language. In addition, presumably only one eligible beneficiary may be

²¹ See footnotes 5 and 16.

²² In this regard, the Catholic Church withdrew its opposition to a domestic partner health insurance proposal in San Francisco when the proposal was expanded to allow coverage of any individual who is a member of the employee’s household, not just a registered domestic partner. See, “Interview with Archbishop William Levader,” *San Francisco Chronicle*, February 23, 1997.

designated with respect to each employee, though the proposed statutory language is somewhat ambiguous and we suggest that this be clarified as well.²³

Same household requirement. As drafted, both bills eliminate the same household requirement for the employee-based rules but retain it for the self-employment-based rules. It is unclear why this distinction is drawn, though perhaps it is because, in the employee case, identifying “eligible beneficiaries” is subject to constraints imposed by the employer (which has an economic incentive to impose some limiting guidelines), whereas in the self-employment case (at least under the Senate bill) the self-employed individual is free to designate his or her own covered person and therefore some statutory constraint in the latter case may be appropriate. Nevertheless, consideration should be given to whether this distinction is warranted, as it creates additional complexity.²⁴ As a related point, the Senate bill amendment to Code Section 223 uses the narrower definition applicable to self-employed individuals for determining who can be reimbursed for medical expenses for HSAs, which seems inconsistent with the framework of the bills to the extent the HSA is the account of an employee rather than a self-employed individual.

Self-employed individuals. The provisions concerning the deduction for self-employed individuals in the House bill and Senate bill differ in scope and drafting approach. In general, we prefer the drafting approach of the Senate bill. One technical point in the Senate bill is that, as drafted, proposed Code Section 162(l)(1)(D) allows the self-employed person to take a deduction for the health insurance costs of “an individual” who satisfies certain age requirements, etc. The last sentence of proposed Code Section 162(l)(1) suggests that multiple persons may be covered by this clause, though if this is intended it might be clarified by referring in the clause to “any individual” (not just “an individual”) who satisfies the enumerated requirements, consistent with the House bill.

Proposed Code Section 162(l)(6)(A) in the House bill refers to Code Section 152(d)(2)(H), “determined without regard to subsections (d)(1)(B) and (d)(1)(D) thereof.” This suggests that Code Section 152(d)(1)(C) is intended to apply, though technically the reference to Code Section 152(d)(2)(H) does not incorporate any of the requirements of Code Section 152(d)(1). If Code Section 152(d)(1)(C) is intended to apply here, we suggest following the Senate bill language which is clear on this point. There is a similar issue with proposed Code Section 162(l)(6)(B) in the House bill and the apparent intention to incorporate the requirement of Code Section 152(d)(1)(D).

²³ Compare Section 2(b) of each bill (expanding Code Section 105(b) to cover an employee’s “eligible beneficiary” and that person’s qualifying children) with Section 3(a) of each bill (stipulating that, for Code Section 162(l) purposes, only one additional adult in the same household may be designated).

²⁴ In this regard, the allowance of an “above the line” deduction for a self-employed individual’s health insurance costs is a relatively recent addition to the Code. We understand that concerns about potential abuses involving self-employed individuals may warrant a narrower approach in this area than for employees.

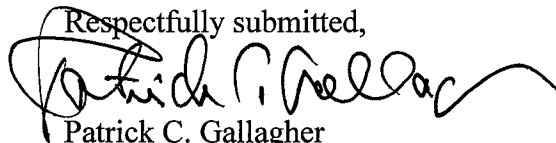
The Senate bill amendment to Code Section 162(l) specifies that the self-employed taxpayer may designate one person in the same household, but the House bill is silent on who makes the designation and we suggest that this be clarified.

Other Approaches

We note that proposals have been made to overhaul the tax treatment of employer provided health insurance. The President's Fiscal 2008 budget proposal would replace the existing income exclusion for employer-provided health insurance with a tax deduction to individuals with qualifying health insurance. In this regard, the Healthy Americans Act (S.334) introduced by Senators Ron Wyden (D-OR) and Robert Bennett (R-UT) would create a centrally financed system of private health insurance for most taxpayers (the "Wyden-Bennett bill"). The Wyden-Bennett bill would create a standard deduction that workers could use to choose their own health care plan in lieu of the current system of excluding employer provided health insurance. We take no position on the overall merits of such legislation or its underlying policy goals. Further, such a dramatic overhaul of the system for taxing health insurance may engender extensive debate and evolve over time. However, we note that although the Wyden-Bennett bill provides the same deduction for married couples or domestic partners, who qualifies as a domestic partner is "as determined by a State." For the reasons noted above, we discourage a state-by-state determination of who should be eligible for this federal tax benefit.

* * * * *

We appreciate your consideration of our comments. Please let us know if you would like to discuss the proposed legislation or our comments or if we can assist you in any other way.

Respectfully submitted,

 Patrick C. Gallagher
 Chair

cc:

The Honorable Gordon Smith
 United States Senate

The Honorable Maria Cantwell
 United States Senate

The Honorable Joseph Lieberman
 United States Senate

The Honorable Hillary Rodham Clinton
 United States Senate

The Honorable Charles E. Schumer
United States Senate

The Honorable Jim McDermott
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The Honorable Gary Ackerman
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The Honorable Michael A. Arcuri
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The Honorable Tim Bishop
United States House of Representatives

The Honorable Yvette D. Clarke
United States House of Representatives

The Honorable Joseph Crowley
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The Honorable Eliot Engel
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United States House of Representatives

The Honorable Nydia M. Velazquez
United States House of Representatives

The Honorable James T. Walsh
United States House of Representatives

Russ Sullivan
Democratic Staff Director
Senate Committee on Finance

Patrick G. Heck
Democratic Chief Tax Counsel
Senate Committee on Finance

Kolan Davis
Republican Staff Director & Chief Counsel
Senate Committee on Finance

Mark Prater
Republican Chief Tax Counsel
Senate Committee on Finance

John Buckley
Democratic Chief Tax Counsel
House Committee on Ways and Means

Jon Traub
Republican Chief Tax Counsel
House Committee on Ways and Means

Edward D. Kleinbard
Chief of Staff
Joint Committee on Taxation

The Honorable Eric Solomon
Assistant Secretary (Tax Policy)
Department of the Treasury

Michael J. Desmond
Tax Legislative Counsel
Department of the Treasury

The Honorable Linda E. Stiff
Acting Commissioner
Internal Revenue Service

Donald L. Korb
Chief Counsel
Internal Revenue Service