CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

NEIL L. BRADLEY
EXECUTIVE VICE PRESIDENT &
CHIEF POLICY OFFICER

1615 H STREET, NW
WASHINGTON, DC 20062
(202) 463-5310

June 14, 2019

The Honorable Patrick Toomey
United States Senate
Washington, DC 20510

The Honorable Robert Casey, Jr.
United States Senate
Washington, DC 20510

The Honorable Michael Enzi
United States Senate
Washington, DC 20510

The Honorable Mark Warner
United States Senate
Washington, DC 20510

Dear Senators Toomey, Casey, Enzi, and Warner:

The U.S. Chamber of Commerce appreciates the bipartisan work of the Senate Finance Committee and the committee's health tax task force to address temporary health care tax policies instituted by the Affordable Care Act (ACA). The Medical Device Tax, the Health Insurance Tax, as well as the "Cadillac Tax," have a harmful effect on jobs, health insurance premiums and employer sponsored health care coverage. The Chamber strongly supports proposals to fully repeal these taxes, and supports further suspending them in the meantime.

The employer-sponsored health care system provides invaluable benefits to employees and employers alike. More than 180 million Americans currently rely on the health coverage and benefits offered by employers. The employer-sponsored system must be permitted to allow employers to customize the benefits offered to best serve the needs of their workforce and appropriately manage cost growth in health care.

Medical Device Tax (MDT)

The 2.3% tax on the sale of virtually all medical devices leads to increased health care costs, undercutting one of the primary goals of ongoing health care reform efforts. From routine preventative services, to advanced diagnostic technology, to emergency medical equipment essential for first-responders, medical devices are a ubiquitous component of the care continuum. Structured to act as an ad valorem tax, the MDT jeopardizes the progress Americans have made to achieve outcomes-based care delivery by discouraging greater use of precision medicine.

Furthermore, by driving up the cost of medical technology, this tax undermines America's global leadership position in product innovation, clinical research, and patient care. According to a 2017 report published by the Medicare Payment Advisory Commission, most companies within the industry are small businesses, as "approximately 73% of all medical device firms have fewer than 20 employees and 88% have fewer than 100 employees."

The Medical Device Manufacturers Association found in an industry survey that 72% of their members "slowed or halted job creation" to pay for the tax, and if the tax were eliminated, "80% would increase R&D investments in the cures and therapies." Full repeal of the device tax would provide critical long-term relief to the medical technology industry and would spur the innovation necessary to find next generation treatments that Americans deserve.

Health Insurance Tax (HIT)

Permanently repealing the HIT would provide critical and timely relief from the ACA's perverse and harmful tax on health insurance premiums, which would provide immediate assistance to millions of Americans struggling to afford coverage in the individual and small group health insurance markets. According to one recent study by Oliver Wyman, imposing the tax in 2020 would hit families in the small group market, which serves small business across the country, with an increase in premiums of $479.00 and seniors enrolled in Medicare Advantage would face a 55.7% increase in costs from $393.05 in 2018 to $612.09 in 2019.

Further, due the implementation of this provision, the HIT will levy an estimated $16.0 billion fee on insurers. The regulations subject all premiums collected by the health insurers to federal income tax, including the amount that is collected to be passed onto the IRS to pay the tax. Therefore, in order to pay the IRS the statutorily dictated amount, even more must be collected in premiums before the insurers pay income tax on that amount. As a result, the impact of the tax is significant and extends well beyond those in the individual market, increasing premiums for scores of small business owners, employees, and senior citizens covered by Medicare Advantage as well as Medicare Part D prescription drug coverage.

Cadillac Tax

Though scheduled to be imposed in 2022, this tax is already affecting employers' health benefit offerings now. Its imposition looms over employers' negotiations with unions on multi-year labor contracts as well as employers' health benefit offerings just around the corner.

Equal to 40% of the value of group health plans that exceed a projected amount of $11,100 for individual coverage and $29,750 for family plans in 2020, the Cadillac Tax is applicable to employer and employee premium contributions for fully insured or self-funded businesses that offer robust, flexible health coverage to their employees. In addition, the tax is also applicable to contributions made towards health savings accounts, health reimbursement arrangements, and flexible spending accounts. This undermines health reform efforts by discouraging flexible employer plan offerings and indirectly drives up out of pocket costs for employees in the form of higher payroll taxes, deductibles and co-pays.

Moreover, because of the way the Cadillac Tax provision was drafted, it will eventually affect all plans and essentially fine employers for offering health coverage to their employees. As annual increases are tied to general inflation using the consumer price index, the tax neglects to account for the pace of rising medical costs, effectively penalizing employers and their employees for economic forces beyond their control.

Compounding the issue of affordability even further, the tax is likely to have an adverse effect on working Americans who live in high-cost areas of the country. Employers are unlikely to increase wages as a result of this tax or to off-set benefit reductions. Instead, in order to avoid the tax, employers may either cut benefits or shift more of the costs onto the worker in the form of higher deductibles, or co-pays.

According to the Kaiser Family Foundation Health Tracking Poll released June 11, 2019, "at least one-fourth of insured adults reporting it is difficult to afford to pay their deductible (34 percent), the cost of health insurance each month (28 percent), or their co-pays for doctor visits and prescription drugs (24 percent). These trends correspond with the ongoing trend of rising premiums, deductibles, and other types of cost sharing in the employer-sponsored insurance market."

Conclusion

The Chamber firmly believes that greater innovations in employer-sponsored coverage will continue to provide the reduced costs, expanded access, and improved quality that hardworking Americans deserve, and we look forward to working with you to support health care reform efforts that achieve these goals, as well as protecting American jobs. We urge you to preserve the longstanding tax treatment of employer-sponsored coverage for employers and employees alike by supporting permanent repeal of these harmful taxes.

Sincerely,

Neil L. Bradley