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# United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

CHRIS CAMPBELL, STAFF DIRECTOR  
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February 25, 2015

The Honorable Jacob J. Lew  
Secretary  
Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

Dear Secretary Lew:

The Treasury Department and Internal Revenue Service recently released the Administration's initial guidance on the "Cadillac plan tax," a forty percent non-deductible excise tax on certain health care plans created by the President's health care law. The non-deductible excise tax, codified in Section 4980I of the Internal Revenue Code, applies to the cost of "applicable employer-sponsored coverage" above an annually-adjusted threshold. The threshold operates in much the same way as the Alternative Minimum Tax, and over time will affect more and more middle class workers. The guidance, Notice 2015-16, seeks comment regarding a special allowance for certain occupations categories, most of which are affiliated with organized labor and supported the President's health care overhaul efforts.

The non-deductible excise tax was long opposed by organized labor, with AFL-CIO President Richard Trumka calling it a "stupid mistake[]," and officials from the American Federation of State, County and Municipal Employees calling it an "ill-advised tax" and a "bad idea." While we agree that the tax was, in Mr. Trumka's words, a "stupid mistake," the cure for this mistake is not a carve out for the President's political supporters but a repeal that benefits all Americans, including the countless teachers, nurses, and other professionals that will be subject to this tax over time. The structure of this tax creates a draconian policy that will penalize countless Americans with a 40 percent excise tax, whether they are a shop foreman, a factory manager, or an office secretary.

Now is not the time to divide workers against one another, creating different rules to protect favored constituencies from a poorly designed, drafted, and implemented law. Instead, we urge you to work with Congress to relieve all Americans from the burdens of the health care law. In the meantime, we ask that you respond to the following questions regarding the Administration's initial guidance. In complying with this request, please respond by repeating the enumerated request, followed by the accompanying response.

1. How many of the employee categories referenced in the Notice are commonly performed by unionized workers?

2. Has the Department considered expansion of the organized labor protection to all Americans, regardless of occupational category? If so, describe those considerations.
3. In the years since enactment of the health care law, the Administration has delayed or unilaterally modified several statutory requirements. Has the Administration considered, or is it currently considering, a delay or modification of Section 4980I of the Internal Revenue Code? If so, describe those considerations and when the Administration plans to make public its decision regarding modification or delay.

We ask that you respond to this letter by no later than March 11, 2015. Thank you for your cooperation in this request, should you have any questions do not hesitate to contact Chris Armstrong of the Finance Committee staff at (202) 224-4515 and Tegan Millspaw of the Judiciary Committee staff at (202) 224-5225.

Sincerely,



Orrin G. Hatch  
Chairman, Senate Committee on Finance



Chuck Grassley  
Chairman, Senate Judiciary Committee

CC: Commissioner John Koskinen, Internal Revenue Service