



April 15, 2015

The Honorable Chuck Grassley
The Honorable Mike Enzi
The Honorable Debbie Stabenow
Finance Committee Working Group on Individual Income Tax

The Honorable John Thune
The Honorable Ben Cardin
Finance Committee Working Group on Business Income Tax

The Honorable Dean Heller
The Honorable Michael Bennet
Finance Committee Working Group on Community Development & Infrastructure

Submitted electronically at Individual@finance.senate.gov; Business@finance.senate.gov;
CommunityDevelopment@finance.senate.gov

Dear Senators,

VSP Vision Care (VSP) appreciates this opportunity to provide comments to the Senate Finance Committee regarding tax reform. Our comments relate specifically to two aspects of the current tax structure: the exclusion from employees' income and payroll taxes for employer provided health benefits (the "exclusion") and the health insurer's fee included in section 9010 of the Affordable Care Act (ACA). As these issues may fall within more than one of the working groups, we are providing comments to the working groups on Individual Income Tax, Business Income Tax, and Community Development and Infrastructure. We understand the Community Development and Infrastructure working group is reviewing excise taxes, and the ACA section 9010 tax is generally treated under the Internal Revenue Code as an excise tax by reason of ACA section 9010(f).

VSP and Stand-Alone Vision Plans

VSP is the nation's largest provider of eye care coverage with 60 years of experience in the eye care field. VSP covers 1 in 5 Americans and provides eye health benefits for more than 53,000 employer clients, covering more than 70 million insured lives, 19.5 million of whom are children. While VSP is known for covering 62% of Fortune 500 corporations, it is also true that 89% of VSP clients are employers with 500 or less employees. VSP clients include Federal, State and local government employers as well as private employers. VSP provides vision benefits through a national, electronically-linked network of independent private-practice eye doctors, and VSP's plans meet overall eye health and wellness needs as well as coverage for advanced vision correction procedures.

Summary of Comments

In the event that the working groups consider modifying the exclusion for employer-provided health benefits, VSP recommends that, consistent with the provisions of the current high-cost plan tax, the tax treatment of stand-alone vision plans should be preserved. Such plans, like other excepted benefit plans, do not present the same types of

issues as other types of plans. For this reason, such plans have also been excepted from market reforms since HIPAA.

The imposition of the insurer's fee under ACA section 9010 on companies such as VSP, who provide no health coverage other than stand-alone vision coverage, creates a significant inequity in our tax system. A key reason for the inequity is that, under the ACA, stand-alone vision plans are excluded from the Exchange marketplace that is available to other types of health insurers. Thus, although VSP is denied the benefits of the ACA market opportunities, it will pay the price. This inequity should be eliminated.

Exclusion for Employer-Provided Health Benefits

The exclusion for employer-provided health benefits is sometimes cited as one of the more significant "tax expenditures". As a tax expenditure, the exclusion may be viewed as successful. The purpose of the exclusion is to favor the provision of health coverage by employers. Leading up to the enactment of the ACA, the exclusion clearly accomplished its purpose; by far the vast majority of non-elderly Americans with health coverage received their coverage through employment. However, the exclusion has also been criticized by some as leading to an over-use of health coverage. The appropriateness of the exclusion was debated and analyzed as part of the consideration of the ACA, which left the exclusion intact. In lieu of modifying the exclusion, the ACA included a 40-percent nondeductible excise tax targeting major medical benefits that exceed certain values (the so called "high-cost" or "Cadillac" plans). Although this excise tax as currently structured is commonly referred to as affecting "Cadillac" (i.e., luxury) plans, a number of reports indicate that the tax will have a much broader impact.

A number of benefits are excluded from the high cost plan tax, including stand-alone vision coverage: Code § 4980I(d)(1)(B)(ii). VSP believes that there are positive policy reasons for continuing to support the current-employment based health care system through the tax laws, which has been successful for the majority of Americans in that system. If the working groups are re-examining the exclusion and the new ACA 40-percent excise tax, care should be taken to be sure that any changes do not have unintended consequences. In particular, the ACA excise tax is focused on major medical coverage, and does not include various types of ancillary coverage, referred to generally as "excepted benefit coverage", including stand-alone vision plans. In the event that Congress decides to restrict the exclusion, VSP recommends that stand-alone vision plans be excluded from any such changes, consistent with the high-cost plan tax. In enacting the high cost plan tax, Congress recognized that ancillary excepted benefits, such as stand-alone vision plans, do not present the same issues as other types of plans. Consistent with the reasons for excluding stand-alone vision plans from the high cost plan tax, the tax treatment of such plans should not be affected if any restrictions are made to the exclusion for employer-provided health benefits.

Health Insurer's Fee

Section 9010 of the ACA imposes an annual fee on health insurance issuers, starting in 2014, as part of the funding of the ACA (the "fee"). The fee is imposed on an aggregate basis, e.g., \$8 billion in 2014, and is divided among insurers based on market share. Market share is based on net premiums written with respect to United States health risks. As currently structured, the fee applies to stand-alone vision plans, and to insurers such as VSP that have no health insurance business other than stand-alone vision plans. Imposition of the fee on such plans creates a considerable inequity.

VSP recommends that, as part of tax reform, the health insurer's fee be modified so that it does not apply with respect to issuers of stand-alone vision plans, such as VSP. This change is consistent with the treatment of stand-alone vision plans generally under the ACA, in particular, the fact that such plans are specifically excluded from being sold on Exchanges under guidance issued by the Department of Health and Human Services. Thus, such plans do not have access to the marketplace made available for major medical plans (and stand-alone dental plans) under the ACA and should not be subject to the fees that apply to plans that may be sold on Exchanges.

Excluding stand-alone vision plans from the fee is also consistent with the treatment of such plans generally under the ACA, including both tax provisions and the market reform provisions. Thus, for example, since the enactment of HIPAA, stand-alone vision plans have been considered “excepted benefits” and exempt from reform provisions. The treatment of HIPAA “excepted benefits” is carried forward in the ACA, with the result that stand-alone vision plans are not subject to the ACA reforms. This treatment recognizes a clear distinction between major medical plans and limited benefit plans such as stand-alone vision plans.

VSP appreciates the opportunity to provide these comments and we would be happy to answer any questions. Please feel free to contact me if you would like to discuss these issues further.

Sincerely,



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