WageWorks
everyone benefits®

January 18, 2018

The Honorable Paul D. Ryan
Speaker of the House
United States House of Representatives
Washington, D.C. 20515

The Honorable Mitch McConnell
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Charles Schumer
Minority Leader
United States Senate
Washington, D.C. 20510

The Honorable Nancy Pelosi
Minority Leader
United States House of Representatives
Washington, D.C. 20515

Dear Speaker Paul Ryan, Majority Leader Mitch McConnell, Minority Leader Charles Schumer and Minority Leader Nancy Pelosi:

WageWorks is the leading on-demand provider of consumer-directed spending solutions and services in the United States, serving more than 100,000 employers. WageWorks represents more than 6.5 million participants in consumer-directed accounts, including Flexible Spending Accounts (FSAs), Health Savings Accounts (HSAs) and Health Reimbursement Arrangements (HRAs) nationwide, and many of our plan-sponsor clients offer insured High Deductible Health Plans (HDHPs) to their employees.

We commend you for working towards a bipartisan agreement on a short-term government spending package that includes critical relief from the Cadillac Tax. The Continuing Resolution (CR) released by the House Appropriations Committee likely constitutes one of the last remaining opportunities to provide relief from Affordable Care Act (ACA) tax provisions in 2018. Accordingly, WageWorks applauds the CR's inclusion of a two-year delay of the onerous Cadillac Tax, which poses an imminent threat to the millions of Americans covered by an employer-sponsored health plan.

Although it does not go into effect until 2020, the Cadillac Tax is already having a negative effect on employer-sponsored coverage and consumer-directed health benefits due to uncertainty, as health benefit offerings are typically planned several years in advance. Moreover, the recently passed Tax Cuts and Jobs

Act will result in more employers being subjected to the tax sooner than previously predicted due to changes to how the taxable threshold is calculated.

The Cadillac Tax disproportionately impacts consumer-directed health benefit accounts by treating employee contributions to their own HSAs and FSAs as employer-provided coverage. As a result of this legal fiction, employees' own contributions will trigger Cadillac Tax liability for employers as they overvalue employer health plans and push more and more plans over the dollar thresholds set forth in the ACA. As a result, employers will have no choice but to limit or eliminate HSAs and FSAs to stay under the threshold defining overly-generous employer provided coverage. Thus, the current environment is even less favorable to consumer-directed health care than it was at even the start of the 115th Congress and necessitates this action.

While full repeal of the Cadillac Tax remains our ultimate goal, we believe Congress must take immediate steps to confront the impending threat the tax poses to our employer-based health coverage system. Specifically, we support Congressional efforts to delay the effective date of the tax for at least several years, and further call on Congress to fully repeal the Cadillac Tax or at the very least exclude employee contributions to HSAs and FSAs from the calculation of the Cadillac Tax. We note that proposals to repeal the Cadillac Tax enjoy strong bipartisan support in both the House and Senate and a multiple year delay of the tax also garnered support from members on both sides of the aisle. Thus, we urge you to pass the CR to address this issue now.

On behalf of our company, our clients and their employees, we thank you for your longstanding support of consumer-directed health care. We applaud you for your continued leadership and commitment to the millions of working families across the nation.

Sincerely,

Jody Dietel, ACFCI, CAS
Chief Compliance Officer, WageWorks, Inc.

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