

**Membership
Legislative/Regulatory
Update**

March 7, 2012



AMERICAN BENEFITS


COUNCIL

Agenda

(times are approximate)

- 3:00 p.m. Opening remarks
- 3:10 p.m. Retirement Policy update
- 3:45 p.m. Health Policy update
- 4:20 p.m. General questions
- 4:30 p.m. New Council website tour
- 4:45 p.m. Call concludes

NOTE: These slides are also available on the Council's Webinar Archive page: <http://www.americanbenefitscouncil.org/webinar>


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Membership Growth

- 12/31/08: **274** member organizations
- 3/7/12: **356** member organizations


- 12/31/08: **3,042** professionals on distribution list
- 3/7/12: **5,361** professionals on distribution list

- Send additional contacts from your organization to Sondra West, swest@abcstaff.org

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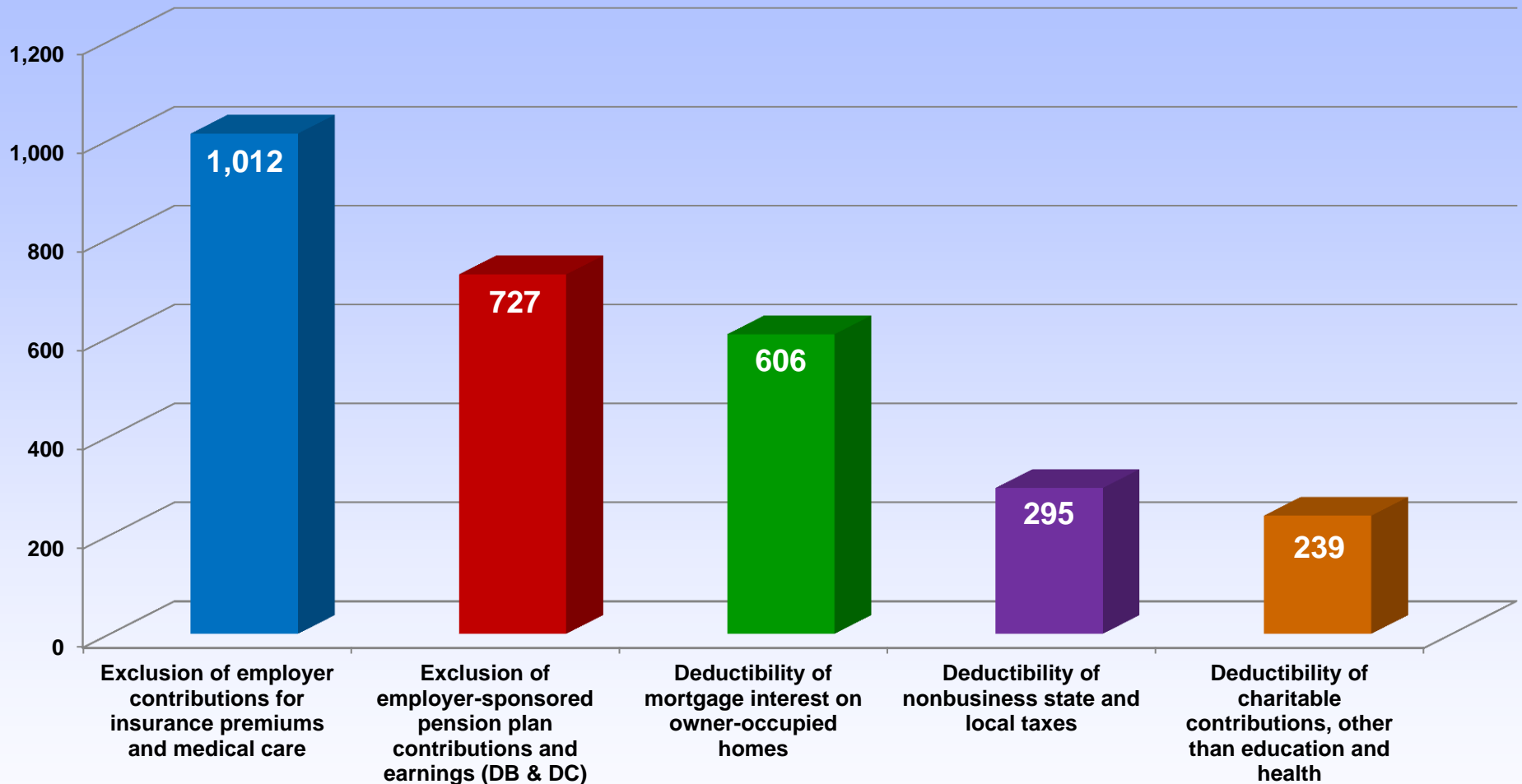
Current Policy Activities

- **Retirement:** Primarily legislative and regulatory
- **Health:** Primarily regulatory and judicial
- Executive compensation/Non-qualified deferred compensation
- International benefits


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Tax Expenditures, Fiscal Years 2013-2017

Projected dollars in billions




Source: U.S. Office of Management and Budget (OMB), *Analytical Perspectives, Budget of the United States Government, Fiscal Year 2013*

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Retirement Policy Update

Lynn Dudley, Diann Howland & Jan Jacobson

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Current Regulatory Issues

- Dodd – Frank Act
 - Executive Compensation
 - SEC Schedule
 - Pay Ratio
 - Plan Investment Issues
 - Swaps - the margin issue
 - Stable Value Study

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Current Regulatory Issues

- Hybrid Plans
- PBGC Partial Termination Rules
- Fee disclosure
- Lifetime income
- Electronic disclosure

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Current Retirement Legislative Issues

- Pension Funding Stabilization
 - Senate Highway bill, S. 1813
 - Bankruptcy Proposal
- PBGC Premiums
 - Administration proposal
- Rep. Neal *Auto-IRA and Retirement Plan Simplification and Enhancement Act*
- Reps. Gerlach and Neal Sense of the Congress Resolution, H. Con. Res. 101
- Credit Insurance for 401(k) loans

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Summing Up

- Targeted legislative focus in 2012
- Many issues could resurface in new Congress
- Regulatory action will shape retirement plan environment and continues to steer legislative activity

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Health Policy Update

Paul Dennett and Kathryn Wilber

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Overview

- Legislative Outlook
- Regulatory Activity
- Supreme Court Action

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Legislative Outlook

- Significant legislative changes to PPACA unlikely in 2012; regulatory agenda going full steam ahead
- Prospects for other health legislative changes tied to tax reform or deficit reduction
- **Watch List:** Employee tax treatment for health coverage, Medicare eligibility age, HSA/FSA changes
- **Wild Card:** Supreme Court decision on PPACA in June

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Latest PPACA Guidance

- **Summary of Benefits and Coverage ("SBCs")**
 - Council request for 12 month delay and/or transition rule
- **Treasury FAQs on Employer Responsibilities**
 - Includes delay in auto-enrollment requirement
- **State "Innovation" Waivers**
- **Essential Health Benefits**
- **Determination of Actuarial Value (including for HSAs)**

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Supreme Court Action

Three Days of Oral Arguments: Four Questions


#1 Anti-Injunction Act: Is it too soon to decide the case?

- Tax/penalty is not owed until 2015

#2 Commerce Clause: Is the individual mandate unconstitutional?


#3 Severability: If the mandate is unconstitutional, what other parts of the law must be invalidated?

#4 Spending Clause: Is the Medicaid expansion unconstitutional because it is coercive on the states?

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“Severability” Positions Before the Court

- **NFIB and 26 States:** Individual mandate unconstitutional and entire Act must fall.
- **11th Circuit Court of Appeals:** Individual mandate unconstitutional, but rest of the Act may remain in place.
- **Insurers and Obama Administration:** If individual mandate is found unconstitutional, then certain insurance reforms must also be invalidated.
- **American Benefits Council:** If individual mandate is found unconstitutional, then certain insurance reforms and the employer mandate must also be invalidated

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Summing Up

- Health policy agenda continues to be dominated by agency action on implementation of PPACA
- Legislative action tied to future action on tax reform or deficit reduction
- Supreme Court decision in June likely to thrust health reform back in the spotlight

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Participants Q&A

Speaking:

Panelists: 1

American Benefits Council (Host)

Attendees:

Jason Hammersla (me)

Q&A


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Council Website Tour

Jason Hammersla

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