



AMERICAN BENEFITS COUNCIL

January 29, 2013

The Honorable Dave Camp
Chairman,
Committee on Ways and Means
United States House of Representatives
Washington, DC 20515

The Honorable Sander M. Levin
Ranking Democratic Member,
Committee on Ways and Means
United States House of Representatives
Washington, DC 20515

The Honorable John Kline
Chairman,
Committee on Education and the
Workforce
United States House of Representatives
Washington, DC 20515

The Honorable George Miller
Ranking Democratic Member,
Committee on Education and the
Workforce
United States House of Representatives
Washington, DC 20515

Dear Chairman Camp, Ranking Member Levin, Chairman Kline and Ranking Member Miller,

The American Benefits Council (“the Council”) represents employer sponsors of benefit plans across the country that provide retirement security to millions of Americans. We recognize and support policymakers’ need to examine all options to address our nation’s long-term fiscal imbalances and to improve our tax system. However, if the revenue is derived from the private retirement system, there is a great risk that Congress would jeopardize the retirement system and that such changes would ultimately cost the government much more money than they produce.

Pensions and retirement savings plans improve workers’ standard of living during retirement so that they depend less on government programs. Before revenue-raising proposals are considered that could inadvertently harm these plans, we ask that you consider the following regarding the taxation of retirement contributions and benefits:

- **Current tax incentives for retirement are working well.** Current tax incentives for retirement have successfully helped millions of American families to accumulate savings and have improved their retirement security. The Bureau of Labor Statistics reported that 78 percent of full-time workers have access to a retirement plan, and of those, 83 percent participate in a plan.¹
- **A disciplined source of savings.** Section 401(k) and other defined contribution plans represent the most disciplined source of individual savings in the United States. While Americans are sometimes criticized for being spendthrifts, they have demonstrated, through payroll deduction contributions to retirement plans, disciplined savings habits that can be sustained for decades.
- **Retirement plans defer tax.** While scored as a “revenue loser,” savings in retirement plans are tax *deferred*, meaning that taxes are paid to the U.S. Treasury when the savings are distributed at retirement. Taxes are deferred only as long as the savings remain in the plan. By contrast, no tax is ever collected with regard to most other expenditures.

Moreover, because of the tax deferral, any policy that restricts contributions to retirement plans will not only result in lower savings, but also less tax revenue collected in the future. If the principal purpose of tax reform and deficit reduction is to put the nation on track to fiscal sustainability, it makes no sense to raise revenue in the short term, while making our economic future significantly less stable outside the ten-year budget window.

- **Taxes are paid at ordinary income rates.** When an individual takes a distribution from a retirement plan, the U.S. Treasury will be paid, at ordinary income tax rates, not capital gains rates.
- **Raising revenue requires changing the pension promise.** Most of the annual tax expenditure attributable to retirement plans relates to the deferred taxation of earnings on assets already in such plans, not the deferral on current-year contributions. This gives an artificial sense as to the revenue available from altering this tax expenditure. Since Congress surely would not tax earnings on amounts already contributed to retirement plans, the revenue that could be realized in this area is much less than presumed.
- **The benefits in 401(k) plans are very progressively distributed.** Thanks to stringent non-discrimination rules and safe harbors, which carefully balance the benefits between higher and lower paid workers, the tax incentives for

¹ Bureau of Labor Statistics, *Employee Benefits Survey: Retirement Benefits, March 2012: Retirement Benefits: access, participation and take-up rates: National Compensation Survey, March 2012.*

retirement flow overwhelmingly (89%) to taxpayers whose income is under \$200,000.²

- **Retirement plans and the corresponding tax incentives are very important to individuals.** A 2012 survey found that 85 percent of respondents said that saving enough for retirement was even more important than owning a home.³ In addition, another recent study found that 83 percent of households opposed any reduction in workers retirement account contribution limits.⁴
- **Limits on deductions and exclusions could cause some small and medium sized companies to discontinue plans.** Tax incentives for retirement are a principal reason why companies establish and keep 401(k) and similar plans.⁵ If a limitation on deductions and exclusions includes retirement savings, many companies will terminate existing plans and fail to establish new plans, since plans would be substantially less valuable to the small business owners or senior management of a company. Small business owners, for example, will generally not keep a plan that costs the business but does not grant a benefit to the owner. A recent survey from Mathew Greenwald & Associates on behalf of the American Benefits Institute found that eight in ten employers said that the exclusion of employee contributions (81%) and employer contributions (77%) from current taxation is important to their company's decision to sponsor a plan – and therefore provide retirement savings to their workforce.⁶
- **Limits on deductions and exclusions could result in some double taxation of retirement contributions.** By partially taxing the contributions of some individuals (those whose income is above any limits imposed on use of tax preferences) when they are contributed to the plan and then later fully taxing all distributions from the plan, retirement savings could be subject to double taxation. This could make retirement savings disadvantageous and lead to a

² *Estimated Benefits of Tax Expenditure Estimates for Defined Contribution Plan Participants and Retirees with Account Balances*, prepared for The American Society of Pension Professionals and Actuaries (ASPPA), 2011.

³ National Association of Home Builders, *NAHB National Survey*, Public Opinion Strategies, Lake Research Partners, January 2-5 2012.

⁴ *America's Commitment to Retirement Security*, Investment Company Institute report on survey results, January 2012.

⁵ *Attitudes of Employee Benefits Decision Makers Toward Retirement Plan Tax Proposals* (Survey prepared by Mathew Greenwald & Associates Inc. and designed in collaboration with the American Benefits Institute), December 2012.

⁶ *Ibid.*

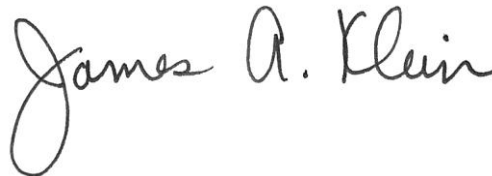
dramatic reduction in the formation of plans among small businesses and undermine large employers' commitment to their plans.⁷

- **The alternative to double taxation is unworkable.** The only alternative to double taxation would be to create an elaborate system for tracking the amounts already taxed and the degree of taxation. This elaborate system would have to be maintained exclusively by individuals, since plan sponsors do not know (and do not wish to know) their employees' families tax brackets or other deductions and exclusions. Such a system would be riddled with errors at best; at worst, it would simply be unworkable. Hence, double taxation seems inevitable.
- **Nearly 12 trillion dollars are currently deposited in pension plans, 401(k) plans and IRAs.**⁸ Nearly \$12 trillion collectively has been saved in defined benefit pension plans, 401(k) plans and IRAs, evidencing the great success of the current system. This \$12 trillion also represents a significant contribution to the capital markets. Retirement plan assets are essential for economic investment and growth.

Raising short-term revenue from the retirement system would have long-term adverse consequences. We urge you not proceed in this direction.

We would be happy to work with you on these critical issues and thank you for considering our concerns.

Sincerely,

A handwritten signature in black ink that reads "James A. Klein". The signature is written in a cursive, flowing style with a large initial "J".

James A. Klein
President

cc: All members, House Ways and Means Committee
All members, House Education and the Workforce Committee

⁷ *Attitudes of Employee Benefits Decision Makers Toward Retirement Plan Tax Proposals* (Survey prepared by Mathew Greenwald & Associates Inc. and designed in collaboration with the American Benefits Institute), December 2012.

⁸ *Flow of Funds Accounts of the United States, Flows and Outstandings, Third Quarter 2012*, Board of Governors of the Federal Reserve System, December 6, 2012.