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May 26, 2009

The Honorable Max Baucus  
Chairman  
U.S. Senate Committee on Finance  
Washington, D.C. 20510

The Honorable Charles Grassley  
Ranking Member  
U.S. Senate Committee on Finance  
Washington, D.C. 20510

Dear Chairman Baucus and Ranking Member Grassley:

On behalf of the Retail Industry Leaders Association (RILA), thank you for the release of the Senate Finance Committee's May 20 policy options paper on proposals to finance health care reform. We applaud your open, inclusive approach to crafting a health care reform bill and greatly appreciate the opportunity to respond to your proposed solutions.

The Retail Industry Leaders Association promotes consumer choice and economic freedom through public policy and industry operational excellence. Our members include the largest and fastest growing companies in the retail industry – retailers, product manufacturers, and service suppliers – which together account for more than \$1.5 trillion in annual sales. RILA members provide millions of jobs and operate more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

### **Consider Tax Cap Based on Actuarial Equivalent**

RILA member companies recognize that the key to enacting health reform is embracing the idea of shared responsibility among businesses, providers and individuals. We are therefore willing to consider the Committee's proposal to place a responsible limit on employer-provided health coverage that is excludable from gross income. However, we cannot support any proposal which either requires employers to pay a subsidy to individual employees who turn down employer-sponsored coverage so that they can participate in the connector or makes it financially impractical for individual employees to choose employer-sponsored plans because government subsidies will only pay for connector-based plans.

In the May 20 policy options paper, the Committee proposes several considerations for a cap on the currently limitless employer tax exclusion for offering health insurance. Our strong preference is for the Committee to create an independent advisory board which would define a minimum benefit for full-time employees and, through a process of actuarial equivalence, place an indexed limit on the employer exclusion based upon the total premium for health insurance coverage obtained through the employer for all taxpayers. Because many retailers offer the same benefit options to employees at all levels of the company, placing an indexed limit on the exclusion for all plans would be the most equitable way to define the cap.

Further, we believe that the billions in revenue which a cap on the employer tax exclusion will generate should go toward covering those who are currently uninsured. We stand opposed to additional revenue raisers which place additional financial obligations upon employers such as mandates to pay for the premiums of employees who opt out of employer-sponsored coverage and into an insurance connector or other third-party plan. Employers work hard to craft the best possible plan(s) for as many employees as possible and constantly search for ways to reduce systemic costs. Employer-sponsored options typically offer benefits at a level of coverage most appropriate for the employee at the most affordable price. Asking employers to pay into a third-party health insurance plan with no say in benefit levels or cost controls will only reduce the resources available to employees participating in the employer's plan(s).

### **Maintain HRAs, FSAs and the Qualified Medical Expenses**

Health Reimbursement Accounts (HRAs) and Flexible Spending Accounts (FSAs) are popular options for both employees and employers to curtail costs and empower individuals in their health care choices. Employers recognize that employees' health needs go beyond expenses incurred at a medical provider's office and want to assist employees with these additional costs. Employees appreciate the ability to use tax free dollars to pay for care as well as the additional monies that employers often contribute to their accounts. Further, many everyday ailments have both prescription and non-prescription remedies. The Committee's proposal to disallow HRAs and FSAs from being used for non-prescription drugs and other remedies will have an adverse affect on our overall health system. At a time in which companies are using HRAs and FSAs to encourage individuals to make cost-conscious decisions about everyday health needs, HRAs and FSAs should be encouraged, not scaled back.

Our member companies' experiences suggest that individuals will seek out the least expensive option for care, and if that means obtaining an expensive prescription over a readily available, over-the-counter alternative at the drug store, they will do it. HRAs and FSAs are a way to empower individuals to make responsible choices which place less of a burden on the health system and we urge the Committee not to reduce HRA or FSA benefits or disallow use of the benefit for non-prescription drugs.

Retailers are committed to providing millions of Americans with access to health insurance coverage, affordable prescription drugs, wellness programs, convenient care clinics and other options for increasing the overall wellbeing of our society. We look forward to working with you to provide any insight you may need to craft a responsible healthcare reform bill. Should you have additional questions or concerns, please do not hesitate to contact me at 703-600-2012 and or [john.emling@rila.org](mailto:john.emling@rila.org).

Sincerely,

A handwritten signature in black ink, appearing to read "John Emling". The signature is fluid and cursive, with a large initial "J" and "E".

John G. Emling  
Senior Vice President, Government Affairs