September 16, 2015

Dear Chairmen and Ranking Members,

On behalf of the 22,000 members of the Pennsylvania Institute of Certified Public Accountants (PICPA), and for the many smaller employers in Pennsylvania who chose provide group health insurance for their employees, I respectfully request your support of H.R. 2911, the Small Business Healthcare Relief Act of 2015. This legislation, introduced by Rep. Charles Boustany (R-LA), has received bi-partisan support and would provide businesses with fewer than 50 full-time employees relief from the harsh excise tax under Internal Revenue Code § 4980D.

Under IRS Notice 2013-54, if a small employer (50 or less full-time employees) chooses to reimburse employees for premiums that their employees pay for health insurance, those arrangements are described as employer payment plans. Such arrangements are considered to be group health plans which are subject to market reforms, including the prohibition on annual limits for essential health benefits and a requirement to provide certain preventative care without cost sharing.

The IRS further clarifies in Notice 2013-54 that such arrangements are not eligible to be integrated with individual policies to satisfy the market reforms. Because of this, many small employers are subject to a $100/day excise tax per applicable employee. This policy, which could cost $36,500 annually per employee, is punitive in nature and stands harm the fiscal welfare of small businesses that are simply seeking to help their employees afford costly healthcare.
In many cases, small employers are unaware of these requirements as they lack benefits specialists and/or human resources departments. H.R. 2911 would allow small businesses, with fewer than 50 full-time employees, to reimburse employees or directly pay for health insurance and qualified medical expenses that, while not required under the employer responsibility provisions of the Affordable Care Act, would extend broader insurance coverage, thereby achieving a central goal of the act.

The penalty outlined under § 4980D of the IRC was meant to deter employers from providing premium health insurance to key executive employees far exceeding those offered to rank and file employees. The issue arises when the policy behind Notice 2013-54 is applied, across the board, to all employers, discouraging employers from providing for their employees and leaving employees to possibly forgo costly healthcare in lieu of a less expensive fine.

The PICPA also believes that the legislation should be expanded to provide a permanent penalty exception where an S corporation reimburses employees or directly pays for individual health insurance coverage for greater than two percent of its shareholders.

Small businesses should be encouraged to provide healthcare for employees. Providing those businesses with a cost-effective policies will ensure that the goal of the Affordable Care Act is met while promoting a healthy and fair business environment. H.R. 2911 is an excellent starting point, allowing for an exception from IRC § 4980D.

Again, on behalf of the members of the PICPA, I respectfully request your support of H.R. 2199 and work toward its passage.

Please let me know if you have any questions or if we can be of any assistance.

Sincerely,

Michael D. Colgan, CAE
CEO & Executive Director
Pennsylvania Institute of CPAS

cc: Members. Pennsylvania Congressional Delegation