Brotherhood of Maintenance of Way Employes Division
of the International Brotherhood of Teamsters

Freddie N. Simpson
President

Perry K. Geller, Sr.
Secretary-Treasurer

June 16, 2009

ALL BMWED MEMBERS AND YOUR FAMILIES

Dear Brothers and Sisters:

DO YOU WANT TO SUFFER A MASSIVE TAX INCREASE THAT COULD DESTROY YOUR HEALTHCARE BENEFIT?

I KNOW THAT YOU DON'T, AND SO WE MUST FIGHT TOGETHER TO STOP THIS DANGEROUS IDEA FROM BECOMING LAW.

> *"You see, Senator McCain would pay for his plan, in part, by taxing your health care benefits for the first time in history. And this tax would come out of your paycheck....*
>
> *Now, it's not that he doesn't care about what people are going through. I just think he doesn't know. That's the only reason I can think of that he'd propose a health care plan that is so radical, so out of touch with what you're facing, and so out of line with our basic values.*
>
> *That's why I believe that every single American has the right to affordable, accessible health care – a right that should never be subject to Washington politics or industry profiteering,* ***and that should never be purchased with tax increases on middle class families****, because that is the last thing we need in an economy like this."*
>
> President Barack Obama in prepared campaign remarks at Newport News, Virginia, October 4, 2008.

Well, that radical, out of touch idea has supporters in Congress who would like to treat your healthcare benefits as income and tax you on the value of those benefits. This proposal to tax the value of employer-provided healthcare benefits would result in the largest middle class tax increase in peacetime and would transfer your hard-earned dollars to enrich the private insurance companies and drug companies who would benefit from the proposed healthcare "reform" legislation.

20300 Civic Center Drive, Suite 320
Southfield, MI 48076
Telephone 248.948.1010 Facsimile 248.948.7150
www.bmwe.org

Presently, a number of healthcare reform bills are being drafted and under consideration by various committees in the House of Representatives and the Senate. The stumbling block to most of these reform bills is how to pay for the increased costs to the federal government because of mandating health insurance coverage for all Americans. The solution proposed by a few, Senator Max Baucus (D-Montana) and Senator Ron Wyden (D-Oregon) to name two who publicly advocate such a course, is to treat the value of some or all of the healthcare benefits provided to you by your collective bargaining agreement as taxable income to you. Additionally, the railroads, your employers, would not be permitted to deduct from their corporate tax returns the amounts they spend on healthcare premiums. To understand this problem, a little history is in order.

In 1948, President Harry Truman proposed federal legislation that would establish a type of single-payer national health plan like that which exists in Canada and other industrialized countries today. That proposal was torpedoed by a number of groups, chief among them being the American Medical Association, the trade group that represents doctors in this country.

The federal government's inability to provide a comprehensive solution to healthcare meant that solution had to come from the private sector. In 1954, the BMWED along with the other rail unions, negotiated the first "national" health insurance plan with the major railroads. That first plan covered only the employee (coverage for the spouse and dependents was extra and paid 100% by the employee) and involved a 50-50 split on the premiums between the employee and the railroad. As time passed, spouses and dependents were included in the employer-based plan and furloughed and sick and disabled employees received extended benefits to cover periods when they were not working. The original plan was an indemnity plan, which meant that the railroads paid a premium to the insurance company and the insurance company agreed to pay the benefits provided in the plan. Under such an arrangement, the insurance company is on the hook if premiums do not cover the cost of the plan; however if premiums exceed the cost of the plan, the insurance company gets to keep the excess.

However, by the early 1990's, the original national healthcare plan was in a dire economic condition. Costs were rapidly rising and the entire problem was placed before PEB 219 when labor and management could not resolve the dispute voluntarily. In 1991, PEB 219 replaced the old indemnity plan with a new "self-insured" plan, meaning that all benefits would be paid out of a fund created by the railroads. The railroads and the rail unions jointly run this health insurance plan. Under this plan, rail labor and rail management meet each year to set a new monthly premium for the following calendar year based upon a review of last year's actual benefit payments and the expected usage of the plan in the current year. If the estimate was too low, more money would have to go into the plan; however, if excess premiums were collected, that money is "rolled over" to help cover benefit costs in the next year. Under usual circumstances, the monthly premium is set at a rate that provides a modest "cushion" so that a small amount remains in the fund at the end of each calendar year. Under the current plan, an administrator, in this case United Healthcare, is paid a flat administrative fee for its services in processing claims and benefits and tracking expenditures and making forecasts for the following year.

Significantly, these changes preceded by two years, the proposed healthcare reform advanced by President Clinton in 1993. However, that proposal met the same fate as President Truman's some 45 years before. You may remember the "Harry and Louise" ads run by the private insurance companies fearful of any encroachment on their turf and profits from providing health insurance to those select few they considered "good risks" – meaning folks they could make money off of by selling them insurance. The sick, the old and the injured are not "good risks" for the insurance companies. That is one of the main reasons why almost 50 million people in this country do not have health insurance.

As a result of these changes, BMWED members accepted lump sum payments rather than percentage wage increases in the 1992 National Agreement to help stabilize the health insurance plan. In the 2001 National Agreement, BMWED members accepted a wage package that was guaranteed not to keep pace with inflation in order to cover the increasing cost of healthcare benefits for the membership and their dependents. The 2007 National Agreement resulted in direct employee contributions toward healthcare costs amounting to 15% of the monthly cost of premiums for medical, dental and vision care. In other words, BMWED members agreed to "tax" themselves in the manner of deferred or foregone wage increases to maintain health insurance benefits.

In 2008, the national employee healthcare insurance plan paid out almost $2 billion in benefits. Those benefits are paid exclusively through employer premiums and employee cost sharing contributions. This almost $2 billion insurance plan exists because the federal government was unable or unwilling to tackle healthcare as a national social insurance benefit. Instead, because the federal government defaulted on its responsibilities, private parties, such as the rail labor unions and railroads agreed privately to provide health insurance to railroad workers and their families. You can look at the railroad industry as a type of "state within a state" that provides its own social insurance benefit through "taxes" in the form of employee cost sharing and wage increases foregone to maintain the benefit for railroad employees and their dependents.

The annual cost of such coverage is $14,144.16 for each individual employee, of which $2,051.52 is employee cost-sharing contributions. Throughout this period, the value of the health insurance premiums contributed on your behalf by the railroad was excluded from your taxable income. Likewise, since January 2007, the cost-sharing contribution made by you has been excluded from your taxable income. Additionally, the railroad has been able to deduct the amount of its premium payments from corporate income for federal tax purposes.

All of that will change under proposals now under consideration in Congress. Your exclusion will be eliminated or reduced and the railroads' tax deduction will be eliminated or reduced. How will these changes affect you in dollars and cents terms?

In December 2008, the BMWED published a compensation table for the "average" BMWED member who earned $21.35 an hour and worked straight time on a year 'round basis. That "average" employee would have gross earnings of $44,408 over the course of the year. Assuming this average employee is married, files jointly (no minor dependents), and takes the standard deduction and personal exemptions, the employee's taxable federal income is $25,780. The employee's federal personal income tax on that amount is $3,032 or 11.76% of total taxable income. Now, if $12,092.64, the value of the employer payment of healthcare premiums after employee cost-sharing contributions is deducted, is added to the employee's original gross income, the taxable federal income rises to $37,872.64 and the employee's federal personal income tax on that amount is $4,835 or 12.8% of total taxable income. **That figure amounts to a tax increase of $1,803.00 per year or a 37% increase in federal income tax paid by the employee.**

The picture gets even bleaker when you add in additional tax payments to Tier I and Tier II of Railroad Retirement. Presently, the employee earning $44,408 per year would pay $5,129 per year in Tier I and Tier II taxes. Adding an additional $12,092 to the employee's earnings would add another $1,396.70 in Tier I and Tier II tax liability.

Put another way, the grand total in increased tax payments for the "average" BMWED employee would be **$3,199.77** under these proposals to tax the value of employer provided healthcare benefits. That figure does not include any state income tax liability owed by the employee. **The "average" member would have the "privilege" of paying over $3,000 in additional taxes and obtain not one improvement to the health insurance provided under the collective bargaining agreement. Put another way, the "employee cost-sharing contribution" for health insurance would go from slightly over $2,000 per year to over $5,000, a 150% increase, and provide no increase in benefits to the employee or his or her spouse and dependents.**

Unbelievably, things actually get worse from there. Remember, under current law the railroad can deduct the health insurance premiums payments it makes from its income. If that deduction is removed, then the railroad will still have the premium costs as mandated by the collective agreements, but will not be able to deduct an expense of over $1 billion collectively from their tax returns. That development will place tremendous pressure from the railroads at the bargaining table to reduce health insurance benefits (the only way to reduce premiums) or eliminate health insurance benefits altogether.

Brothers and Sisters, these proposals place a massive tax increase on all of us in the middle class. This tax increase is directed at those employees who have struggled to deal with healthcare issues the federal government was unable or unwilling to deal with since 1948. The problem runs even deeper as the Washington Post reported on June 13, 2009 that over 30 members of Congress, including Senate Majority Leader Harry Reid (D-Nev.) and Republican Senator Judd Gregg (R-N.H.), have investments totaling at least $11 million in the healthcare industry. Now, some of these members of Congress want to fix a problem that they have long ignored by requiring the "average" member to pay over $3,000 per year more for the same health insurance coverage he or she receives today. That result is unacceptable.

So, what is the Union doing? For starters, the BMWED "signed on" to the enclosed letter of June 9, 2009, presented on behalf of many of the major unions in the country opposing the idea of taxing employee healthcare benefits. Second, during the week of June 15th, various BMWED State Legislative Directors will be walking the halls of Congress speaking loudly in opposition to this misguided tax plan. Third, I have sent the attached letter to President Obama urging him to stand strong on this issue and make it clear that he will veto any legislation that includes a tax increase, thereby fulfilling his campaign promise that such a tax increase would not solve our healthcare problems. I should note that on June 14, 2009, the Associated Press reported that Vice President Joe Biden reiterated his view that taxing employer provided healthcare benefits was not a viable solution and Senator Chris Dodd (D-Conn.) said such a tax was a "bad idea" as well as unnecessary.

Finally, you can play a part in opposing the taxation of employee healthcare benefits by sending the enclosed draft letter to your respective Representative and Senator.

In solidarity,

Freddie N. Simpson

President

Enclosures

June 9, 2009

Dear Representative:

As you begin the important debate on reforming our nation's health care system, we wish to express our strong opposition to any proposal that would pay for this reform by altering the tax treatment of employer provided health care. We believe this would be a step in the wrong direction that could jeopardize the overall reform effort.

Over 160 million Americans receive their health coverage through the workplace either as an employee, dependant or retiree. Both Congress and the President have said health care reform will build on what works and have assured Americans they can keep the coverage they have if they like it. This makes good political and policy sense.

Eliminating or capping the tax exclusion for employer provided health care benefits -- based on income, the premium level or a combination of the two -- would threaten to undermine this primary source of health care coverage for most Americans. First, it would remove a key incentive that employers have in providing the benefit. This could lead employers either to change substantially or eliminate health care plans. Second, if workers have to pay what amounts to a tax increase at possibly both the federal and state level, that could lead younger, healthier workers to pass up employer sponsored coverage for less comprehensive plans. This would drive up the cost of coverage for older, less healthy workers, leading to the unraveling of employer sponsored coverage.

Contrary to the arguments put forward by proponents of proposals to eliminate or cap the tax exclusion for employer provided health care benefits, this would <u>not</u> be an effective means for containing health care utilization and costs and curbing so-called "Cadillac" health care plans. Instead, it would simply penalize persons who happen to be in plans that have higher costs because of factors beyond their control – that is, plans with more older workers, plans covering geographic areas with higher costs or plans sponsored by small businesses that have higher administrative costs.

Over the last several years, almost all of our members have sacrificed wages in bargaining in order to keep decent health care coverage. These hard working people are already in immense economic distress. Imposing what amounts to a tax increase upon them is unfair and very unpopular.

In 2009, a national survey done by Lake Research Partners shows that 80 percent of likely voters said they are opposed to taxing health benefits. The President campaigned against eliminating the tax exclusion of health care benefits and the public overwhelmingly agreed with his position. It's obvious the American people want health care costs lowered, not increased. They expect the Congress to make coverage more affordable, not less. Any result to the contrary may undermine their support for the program.

For all of the foregoing reasons, we urge you to oppose any proposals to alter the tax treatment of employer provided health care.

Air Line Pilots Association

Amalgamated Transit Union

American Federation of Government Employees

American Federation of Musicians of the United States and Canada

American Federation of Teachers

American Postal Workers Union

Association of Flight Attendants

Association of Professional Flight Attendants

Bakery, Confectionery, Tobacco Workers and Grain Millers International Union

Brotherhood of Maintenance of Way Employee Division of the International Brotherhood of Teamsters

Communications Workers of America

International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers

International Association of Fire Fighters

International Association of Machinists and Aerospace Workers

International Brotherhood of Electrical Workers

International Brotherhood of Teamsters

International Federation of Professional and Technical Engineers

International Longshore and Warehouse Union

International Longshoremen's Association

International Union of Police Associations

International Union, UAW

Metal Trades Department, AFL-CIO

National Air Traffic Controllers Association

National Association of Letter Carriers

Professional Aviation Safety Specialists

Seafarers International Union

Sheet Metal Workers International Association

Transport Workers Union of America

United Association of Plumbers and Pipefitters

United Mine Workers of America

United Steel Workers

United Transportation Union

Brotherhood of Maintenance of Way Employes Division

of the International Brotherhood of Teamsters

Freddie N. Simpson
President

Perry K. Geller, Sr.
Secretary-Treasurer

June 16, 2009
(via facsimile and U. S. Mail)

President Barack H. Obama
The White House
Washington, DC 20500

Dear Mr. President:

I write to you on behalf of all the members of the Brotherhood of Maintenance of Way Employes Division/International Brotherhood of Teamsters ("BMWED") on a matter of great concern to them; the proposed taxation of employer provided healthcare benefits made pursuant to collectively bargained agreements. Our calculations show that such a change in the tax laws would add over $3000 yearly to the personal income and payroll tax bill incurred by an average married member with no children. This increase in taxes would provide absolutely no increase in the quality of the healthcare benefits that member and his spouse receive today under their collectively bargained health insurance plan.

BMWED members build and maintain the nation's railroad tracks, railroad bridges and railroad structures. Since 1954, BMWED members, along with all other unionized employees in the railroad industry, have participated in a group plan providing health insurance for the employees, their spouses and their minor dependents. Today, that self-insured plan administered jointly by rail labor and rail management provides medical benefits to over 410,000 individuals throughout the United States. The Plan provides extended benefits when employees are laid off and it provides substantial extended coverage to employees unable to work because of sickness or disability. In our last negotiations, we extended managed care benefits to the one quarter of railroad employees and their families who previously could not receive them. We also made plan design changes that have stabilized costs without seriously undermining the quality of benefits provided to employees and their families. I am proud of this plan, which some may say is a "Cadillac Plan" with generous benefits. However, that plan is the result of hard bargaining and a willingness of the hard working men and women of the BMWED to take less in pay raises over the years in order to keep their health insurance plan and benefits a model for others. In other words, BMWED members already have "taxed" themselves to create and maintain a strong health insurance system, one that the federal government previously has been unable or unwilling to provide.

20300 Civic Center Drive, Suite 320
Southfield, MI 48076
Telephone 248.948.1010 Facsimile 248.948.7150
www.bmwe.org

Today, the annual premium cost of insuring each member and his or her family is over $14,000 per employee. Each employee contributes over $2000 annually in direct cost-sharing contributions towards that premium. The plan charges a single premium for each employee regardless of whether the employee is single, married or has multiple minor dependents. We in rail labor have maintained that structure to help educate the members that the essence of a group insurance plan is equality of treatment. You do not provide special favors or rates for "privileged" insurance risks like 30-year-old single employees in good health; just as you do not punish "poor" insurance risks like the 58-year-old employee with a lifetime of work on the railroad. The problem facing us is that if these benefits are taxed as income, the average member's tax bill goes up another $3000, which in essence is an additional $3000 health care cost sharing contribution for no change in that employee's level of benefits. Mr. President, my members cannot financially endure a 150% increase in their cost sharing contribution for health insurance. They have "taxed" themselves over the years to maintain that benefit, they cannot endure a double taxation to retain the exact benefit they have today.

I don't need to tell you what the effect of such a tax increase would have on our collectively-bargained plan because you already said it more eloquently than I ever could on October 4, 2008 in Newport News, Virginia. If I may, I would like to quote from your speech that day:

> *When he [Senator McCain] taxes people's benefits, many younger, healthier workers will decide that it's a better deal to opt out of the insurance they get at work – and instead, go out into the individual market, where they can buy a cheaper plan. Many employers will be left with an older, sicker pool of workers who they can't afford to cover. As a result, many employers will drop their health care plans altogether. . . .*
>
> *That's why I believe that every single American has the right to affordable, accessible health care – a right that should never be subject to Washington politics or industry profiteering, and that should never be purchased with tax increases on middle class families, because that is the last thing we need in an economy like this.*

Mr. President, I agree with you, healthcare reform cannot be purchased with a tax increase on hard working Americans who have worked hard and sacrificed to create health insurance plans that protect their families. I respectfully urge you to make it clear to Congress that you will veto any healthcare reform legislation that removes the exclusion of employer provided healthcare benefits from an individual's taxable income. Thank you for your time and consideration of this request brought on behalf of the members of the BMWED.

Sincerely,

Freddie N. Simpson

President

[Date]

Dear [Senator or Representative]

I understand that some members of Congress are considering taxation of the healthcare benefits my family and I receive under the terms of the collective bargaining agreement between my Union and my employer. I am writing to ask you to oppose any such proposal.

Presently, my health insurance premiums amount to over $14,000 a year and I contribute over $2000 of my wages towards those premiums. In other words, about $12,000 in healthcare premiums are paid by my employer under the terms of the collective bargaining agreement. Taxing those premiums as income to me would immediately raise by Tier I and Tier II Railroad Retirement Taxes by almost $1400.00 a year. Depending upon my federal income tax bracket, that $12,000.00 of income imputed to me could raise my income tax bill by 30 to 40 per cent. Frankly, in this time of declining overtime work and railroad cutbacks in production work, I cannot afford such a tax increase.

In addition, you should know that over the years I have given up wage increases to maintain my healthcare benefits. In 2001, I ratified an agreement that provided wage increases that would not keep pace with inflation to help protect and preserve my healthcare benefits. In the most recent agreement, I voted to pay 15% of the cost of the insurance premiums through a deduction from my paycheck. I have "taxed" myself enough to pay for this very important benefit. I cannot afford to pay another tax that will make no change to the healthcare benefits I receive under my collectively bargained plan.

Again, I urge you to oppose any taxation of the healthcare benefits my family and I receive. Thank you.

Very truly yours,