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August 7, 2008

The Honorable Henry Paulson
Secretary
Department of Treasury
1500 Pennsylvania Avenue NW
Room 3030
Washington, DC 20220

The Honorable Douglas Shulman
Commissioner
Internal Revenue Service (IRS)
1111 Constitution Avenue NW
Washington, DC 20224

Dear Secretary Paulson and Commissioner Shulman:

I am writing to call your attention to the attached August 4, 2008 *Wall Street Journal* article entitled, "Companies Tap Pension Plans To Fund Executive Benefits."

The article details how some employers are abusing the special tax treatment of qualified plans by using those plans to provide tax-benefited supplemental executive compensation to a select group of highly compensated executives. In addition, the article raises the possibility that this practice could lead to the destabilization of pension funds, if companies that increase pension obligations by adding qualified compensation for their executives do not also increase pension assets.

At a time when workers' retirement benefits are increasingly in jeopardy and executive compensation continues to rise – too often without relation to company performance – these revelations are particularly disturbing. In short, overly generous corporate executive compensation should not be paid for at the expense of the American taxpayer or employee pension security.

I respectfully request that you respond to the following related questions:

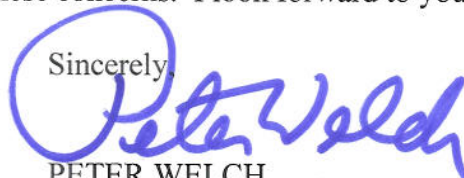
- Are companies in fact permitted, under current law and rules, to take advantage of tax benefits intended to support employee pension plans in order to fund any component of executive compensation?

- According to the article, the IRS does not currently track this practice. Is this accurate, and, if so, does the IRS have plans to institute closer oversight of companies' efforts to use qualified plans to provide supplemental executive compensation? Please provide me with any such plans.
- To the extent that you do track this practice, does the IRS or Department of Treasury have any data or other information on how many businesses have engaged in the practices described in the article, and do they have any estimate on the annual cost to American taxpayers?
- According to the article, employers often proactively seek approval letters for moving supplemental executive benefits into pension plans. How many such approval letters have been issued by the IRS in each of the last five years? What are the criteria used by the IRS to grant such pre-approvals?
- According to the article, the IRS does not have adequate resources to scrutinize companies' assertions that they are in compliance with pension nondiscrimination rules. Is this accurate? What percentage of plans does the IRS audit annually? What percentage of these audits is triggered randomly, and what percentage is triggered by information the IRS receives from the public? Has the number of such audits increased, decreased, or remained static over the past five years? Is your resource commitment, including staffing, to this issue increasing, decreasing, or remaining static?
- What effect could the practice of moving executive compensation into pension plans have on the solvency of the pension plans upon which companies' lower-paid workers depend for secure retirements?
- Finally, what recommendations do you have for legislation to address this questionable use of the tax code outlined in the article?

Please provide me with the answers to these questions no later than Friday, August 22, 2008, so that I will have the information necessary to prepare a legislative response to this issue.

Thank you for your prompt attention to these concerns. I look forward to your responses.

Sincerely,



PETER WELCH
Member of Congress