The Honorable Max Baucus
Chairman
Senate Finance Committee
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Charles Grassley
Ranking Member
Senate Finance Committee
219 Dirksen Senate Office Building
Washington, D.C. 20510

February 11, 2009

Dear Chairman Baucus and Ranking Member Grassley:

We're writing to express our opinion about proposals under consideration that would impose additional taxes on some types of premium payments from U.S. insurers to their own international reinsurance parental affiliates. We have three serious concerns about these proposed taxes and we address them in this letter. In particular, we believe that such taxes would decrease the availability of insurance in areas where it is already in short supply, interfere with free trade, and reduce—if not eliminate—competitive pressures on reinsurance regulation. Thus, we ask you to oppose them.

The Proposed Taxes Would Decrease the Availability of Insurance in Areas Where it is Already in Short Supply

When it transfers risk away from primary insurers, reinsurance makes it possible for these insurers to underwrite risks they would not be able to underwrite otherwise. Imposing additional taxes on international reinsurance transactions will necessarily make those transactions more costly and thus limit their financial utility to primary insurers. This, in turn, will lead to higher premiums, at best, and , at worst, total elimination of some types of reinsurance.

Since the proposals would impose taxes on a wide variety of transactions, it is likely that they will have similar impacts on all market participants that purchase international affiliated reinsurance. Since there will be no competitive advantage in absorbing the costs, most insurers, if not all, will pass higher reinsurance costs onto their consumers through higher premiums. If political regulation makes higher premiums impossible, it follows that some insurers will withdraw from certain markets since they will be unable to get reinsurance.

Purchasing reinsurance through affiliates provides certainty in availability of reinsurance protection. Without this option—which the proposed tax changes would likely eliminate-- reinsurance markets will likely become more volatile. This is certain to make primary insurance markets more volatile as well.

Although nobody can know the exact consequences of the taxes before they are imposed, these taxes will likely hit certain vulnerable segments of the American population first. Among other things, it might well become increasingly difficult for coastal homeowners to secure property insurance and for certain medical specialists to find malpractice coverage.

The Proposed Taxes Will Interfere with Free Trade

By imposing extra taxes on foreign companies, the tax, for all intents and purposes, takes the form of a tariff. It may well violate WTO and other obligations. Even if it does not, it could potentially spark retaliatory action from major U.S. trading partners and cases before the WTO. It seems that imposing such a tax at this time would impose a significant risk for our trading relations as well as individuals and insurance companies.

The Proposed Taxes will Reduce--if not Eliminate—Competitive Pressures on Reinsurance Regulation

International reinsurance markets serve America well, in large part because of the regulatory flexibility available from multiple jurisdictions and from neutral treatment implicit in the current tax treatment of reinsurance. All around the world, reinsurers tend to operate in jurisdictions that provide a mix of taxation, regulation and oversight optimal to their business models. The wide variety of reinsurance business models that results, vastly improves the risk management potential of the reinsurance market overall.

Higher taxes on international reinsurance transactions would reduce, if not eliminate, the ability of jurisdictions to compete for the right to regulate reinsurance. Tax policy should not overrule the decisions made by insurance regulators in the US and around the world. Even if the quantity of reinsurance did not decline—and it almost certainly would—the simple loss of regulatory diversity would impair the reinsurance markets' ability to fill every competitive niche. The nation, the world, would be worse off.

Concluding Thoughts

Additional taxes on reinsurance transactions would wreak havoc with a smoothly functioning private market. The US benefits more from global reinsurance markets than anyone else. Reinsurance has proven successful largely because governments have allowed the free market to work. Any additional taxes on international reinsurance should be approached with great skepticism.

Yours truly,

Eli Lehrer
Senior Fellow
The Competitive Enterprise Institute

Grover Norquist
President
Americans for Tax Reform

Andrew F. Quinlan
President
Center for Freedom and Prosperity

Andrew P. Morriss
Professor of Law and Business
The Institute for Government and Public Affairs at the University of Illinois

Wayne T. Brough
Vice President of Research and Chief Economist
FreedomWorks

Thomas A. Schatz
President
Council for Citizens Against Government Waste