



Utah Developmental Disabilities Council

155 South 300 West Suite 100
Salt Lake City, UT 84101
Phone: (801) 533-3965
Fax: (801) 533-3968
www.utahddcouncil.org

Chair

Deborah Bowman

Vice Chair

Eric Stoker

Treasurer

Clarissa Crisp

Leadership Chair

James O'Neill

Employment/Education Chair

Jennifer Kuhn

Community Supports Chair

James McFadden

CITIZEN MEMBERS

Clarissa Crisp
Deborah Bowman
Donald Holt
Eder Soriano
Elsie Dee
Eric Stoker
James McFadden
James O'Neill
Jane F. Tuttle
Jennifer Kuhn
Kayci Lynam
Kelie Babcock
Kristen Hone
Lenny Jones
Nevah Stevenson
Reed Hahne
Tom Brownlee
Tracy Johnson
Virginia Rouse

LEGISLATIVE MEMBER

Rep. Paul Ray
Sen. Pat Jones

AGENCY MEMBERS

Adina Zahradnikova
Bryce Fifield, Ph.D.
Don Uchida
Glenna Gallo
Richard Harward
Nels Holmgren
Paul Smith
Tonya Hales, RN

LIAISONS

CTA Community Services
RISE, Inc.
TURN Community Services
Utah Parent Center
West Jordan Care Center

STAFF

Executive Director
Claire Mantonya, M.A.
Fiscal/Contract Analyst
Frank Long
Public Policy
Troy Justesen, Ed.D.
Administrative Assistant
Libby Oseguera

May 31, 2013

Dear Senator Max Baucus (D-MT), Chairman of the Senate Finance Committee,

and

Representative Dave Camp (R-Mich.), Chairman of the House Ways and Means Committee:

RE: Comprehensive Tax Reform, Building a Tax Code for the 21st Century

The Utah Developmental Disabilities Council (UDDC) submits the following tax policy changes for your consideration. The UDDC is part of the Councils on Developmental Disabilities that were created through the Developmental Disabilities Assistance and Bill of Rights Act in 1970 (PL 106-402). Our combined mission is to engage in advocacy, capacity building, and systemic change activities that enable individuals with developmental and intellectual disabilities to exercise self-determination, be independent, be productive, and be integrated in all facets of community life. There are 55 State Councils on Developmental Disabilities, one in each state, the District of Columbia, Puerto Rico, Guam, the Northern Marianas, and American Samoa.

UDDC recognizes that the Office of Management and Budget, and the Congressional Budget Office separate scoring processes will assess the impact of the following suggestions for tax policies to improve the lives of millions of Americans with developmental and intellectual disabilities. UDDC provides these recommendations for improving tax policies based on more than four decades of advocating for community service delivery to thousands of people with disabilities and their families throughout Utah. We know the real-world implications of existing tax policies and we know the changes presented here will enhance not only the lives of people with disabilities and their families, but improve the economic foundation for the entire nation.

We urge consideration of not only the positive economic impact, but recognition of the important social implications (*See*, OMB Circulars) that will result when these recommendations are implemented (i.e., increased integration of people with disabilities into their communities).

● **Tax policy should include a definition for people with developmental and intellectual disabilities.** This is necessary to determine application of tax benefits for this population. Existing federal law provides a time-tested and useful definition. *See*, the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 2008. We recommend using the following definition as used in the Act, section 102(8).

"The term 'developmental disability' means a severe, chronic disability of an individual 5 years of age or older that:

1. Is attributable to a mental or physical impairment or combination of mental and physical impairments;
2. Is manifested before the individual attains age 22;
3. Is likely to continue indefinitely;
5. Results in substantial functional limitations in three or more of the following areas of major life activity;
 - (i) Self-care;
 - (ii) Receptive and expressive language;
 - (iii) Learning;
 - (iv) Mobility;
 - (v) Self-direction;
 - (vi) Capacity for independent living; and
 - (vii) Economic self-sufficiency."

- **Change the marriage penalty.** Federal tax policy should include provisions supporting family development. Currently, public policy (Medicaid was created by the Social Security Amendments of 1965 that added Title XIX to the Social Security Act) penalizes couples wanting to marry and who are each people with developmental or intellectual disabilities and each receiving Social Security benefits prior to marriage. For illustration, if a couple who each receive Supplemental Security Income (SSI) benefits of \$700 monthly choose to marry, the Social Security Administration will automatically reduce each of their independent benefits by \$100 simply because of the act of marriage. Therefore, instead of having a combined income of \$1400 monthly, a married couple receives only \$1200 monthly. The result is that many couples cannot marry because they are forced to begin life together living at or near poverty levels.

Congress has the power to include tax policies that will force existing federal practices to change. Including a simple tax provision allowing people with developmental or intellectual disabilities to maintain the level of pre-marriage benefits once they marry will remove a significant barrier to family development and stability. Moreover, the change will result in substantial economic benefits to the economy.

- **Treat all types of disability equally.** Existing tax policy provides that people who are legally blind may be entitled to a higher standard deduction on their tax return. We urge tax policies that will extend this higher standard deduction for people with developmental and intellectual disabilities. The congressional lobby for people who are legally blind is an effective body. The lobby representing people who are blind is maintained by national organizations with resources to effectively influence congressional power to effect favorable tax policy. People with developmental and intellectual disabilities do not have equal resources to advocate for tax policy. The lack of resources to lobby Congress should not bar the possibility of a higher standard deduction for people with developmental and intellectual disabilities.

- **Incentivize employment.** Reduce the taxable income rate for eligible people with developmental and intellectual disabilities receiving Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) benefits by five percent for thirty-six months for individuals entering or returning to the workforce. This reduction will put more money in the hands of people with disabilities during a critical transition period—relying on benefits while making the move to employment. Additionally, the long-term revenue to the Department of the Treasury following employment will be considerable and ultimately reduce the length of time a person will be dependent on Social Security benefits.
- **Treat all federal employees who receive disability retirement equally.** Certain military (and also service-connected disability) and government disability pensions are not taxable currently. Eligible individuals may be able to exclude from income amounts received as a pension, annuity, or similar allowance for personal injury or sickness resulting from active service in select government services (specifically, the armed forces of any country, the National Oceanic and Atmospheric Administration, the Public Health Service, and the Foreign Service). This existing exclusion should be extended to all individuals receiving government disability pensions as a result of federal service. Public service (e.g., federal service), regardless of the agency served, should receive equal status under tax policy. Moreover, “*the armed forces of any country*” language for this tax exclusion extends to citizens who are former nationals of foreign nations. For example, a person born as a Canadian citizen and who becomes disabled while a member of that nation’s armed forces and then becomes a citizen of the United States is entitled to the benefit of the income exclusion policy. Why should federal tax policy recognize the service of, for example, someone retiring from the Public Health Service, but not that of someone retiring from the Departments of State, Agriculture, Education, Treasury, or any other federal agency?
- **Exclude the requirement to pay employment tax for personal care services.** If a person hires someone to work in their home, he or she may be a household employer who has to pay employment taxes. *See*, IRS Publication 926. This is a reasonable tax policy. However, we propose that this “household employer” provision not apply to hires made by people with developmental and intellectual disabilities to assist with personal care needs (i.e., assistance dressing, bathing, etc.). Many people with developmental and intellectual disabilities must hire and control personnel to provide personal care services. The burden of paying employment taxes for these services is too great for many disabled people. As a result, they must stop working, their health declines, and they become increasingly dependent upon public benefits because they do not have these supports. Providing a tax policy that excludes the requirement to pay employment taxes for personal care services will lead to more people with disabilities being able to secure personal care services that will enable them to be healthy, contribute to their communities, and return to work.
- **Promote home ownership and aging-in-place.** Current tax policies allow an individual with a disability living in an apartment to deduct as a medical expense the extra utilities and rent paid because the person has to move to a larger apartment to provide space for an attendant who provides personal care services. The provision should be amended to

allow an individual with a disability who owns his or her own home to deduct as a medical expense the extra utilities paid because the person has to have an attendant who provides personal care services. Tax policy should promote home ownership for people with disabilities. Average American families with the primary wage earner becoming disabled and living in their own home currently do not have this tax deduction. This causes families increased financial failure risk. People with disabilities should be provided the deduction regardless of whether they live in an apartment or in their own home. The burden of this expense does not discriminate based on whether the person rents or owns the space used by a personal care provider.

As a specific example, UDDC is aware of two home owners in which each owner sustained an injury resulting in a significant disability. Each owner now needs full-time personal attendant support in their homes. Each home is small and each family needs to construct an additional bedroom to accommodate a live-in attendant. These families cannot deduct the increased utility expenses. However, if the family sells their home and rents an apartment that is larger, the additional utility expenses are deductible. The utility expenses are not a real property gain.

- **Reform individual retirement account barriers.** Tax policy allows a person who is employed to independently contribute to their own retirement accounts, with certain limitations. A person who is not employed cannot make these self-contributions. Tax policy should be amended to allow people with developmental and intellectual disabilities and who are not employed but did work previously and now receive SSDI or private disability benefits to make such contributions. This improved tax policy will allow people to prepare for their futures, possibly become less dependent on public benefits and services, contribute more effectively to their communities, and the nation will be encouraging economic growth and stability among one of the country's most disenfranchised groups.

In other words, if a person becomes suddenly disabled because of a severe injury and must end work and receive SSDI, that person has no incentive to continue an individual retirement account contribution because current policy bars that person from self-contributions. This harms young families who experience injury from planning for future financial security and forces complete reliance on entitlement programs—forced poverty. This is a barrier many of Utah's coal miners experience. There are disabled individuals with families receiving SSDI and private disability insurance payments that want to continue retirement contributions, but such contributions are not allowed. The incentive is not to plan for the future and support their long-term care needs in later years.

The most significant barriers faced by many people with disabilities are current tax policies. Federal tax policies must catch-up with existing federal civil rights law (*See*, the Americans with Disabilities Act (PL 101-336), as amended, and the Rehabilitation Act of 1973, as amended (PL 93-112) in acknowledging the contributions individuals with disabilities are able to make to the economic success of our nation by implementing supportive tax policy. The long-term economic and social benefits of these tax policies will significantly outweigh any negative

short-term scoring assessments. The essential need for individuals with disabilities to obtain, maintain, and advance in competitive employment in integrated work settings cannot occur without such tax policies.

We will courtesy copy Utah's Senators Hatch and Lee; and Congressmen Matheson, Bishop, Chaffetz, and Stewart. Thank you for this important opportunity to comment. If the UDDC may be more helpful, please contact Troy Justesen at our office at 801-533-3965.

Sincerely,



Claire Mantonya
Executive Director