TESTIMONY
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Thank you for affording the Pennsylvania Association of Health Underwriters (PAHU) the opportunity to testify today.

As you know, PAHU is an association comprised of insurance producers who specialize in business and individual health insurance and employee benefits. They are on the front lines and are very sensitive to the fact that health insurance premium increases impact the ability of consumers and businesses to have access to health benefits.

My purpose today is not to speak about property tax reform and the different ideas proposed. Rather, I want you to better understand what expanding the sales tax for whatever purpose does to clients served by insurance professionals as well as the insurance producers themselves.

First, how would the expanded reach of the sales tax work? The tax would be levied on a fee service and paid for by the end user, the person contracting for the professional service. The insurance agent or broker becomes the tax collector for the Commonwealth and he/she remits that amount for those fee-based services. That of course represents an increase in paperwork and reporting and an added pressure/responsibility for agency staff.

So, what services would be taxed?

On the **life insurance and financial planning** side of the insurance business, fees charged for providing investment advice would be taxable. But, there are questions: Would the tax be levied on retirement strategies? How about helping someone with a Health Savings Account?

On the **property casualty** side, a fee-based professional service (not something for which an agent receives a commission) might be advising a business on:

- compliance with a variety of Federal anti-discrimination statutes (preparation for a Directors & Officers liability policy or an Employer Practices liability insurance policy)
- advising on personnel practices regarding employee use of social media to both stay compliant with National Labor Relations Board decisions yet still reduce liability to the business in areas such as social media postings that could cause a lawsuit per an accusation of defamation of a competitor
- upgrading its Personnel Manual to show compliance with the Federal Trade Commission Red Flag Rule (positively identifying customer in a loan or providing access to credit situation)
- making sure that the business has adequate cyber security systems per underwriting terms of a cyber insurance policy
- workplace safety assessment as part of field underwriting for Workers' Compensation. Or it might be fees charged to businesses if the insurance agent helps navigate coverage and claims issues under the State Workers Insurance Fund (SWIF). SWIF, although an insurer, does not pay commissions so any income to the agent for SWIF-related assistance would be fee-based.

It is health insurance and employee benefits where the expansion of the sales tax would be felt most.

Insurance agents and brokers are shifting to a fee-based system of compensation because the carriers are cutting back on commissions. This is not a case of poor, poor, pitiful me. It is simply a fiscal reality. Consider this statement from Assurant Health in January 2015: *"Assurant Health has made the decision to reduce individual major medical commissions in Florida, Georgia, Indiana, Nevada, Pennsylvania, and Texas to zero percent for new business…to apply to all new business submitted on or after January 19, 2015 with an effective date of March 1, 2015."*

In June, Highmark announced that it was taking a *"temporary course of action to not pay commissions on NEW 2015 Special Enrollment Period business submitted with effective dates from August 1 through December 31."*

Why are the carriers doing this? The Affordable Care Act requires health insurance companies to pay a certain amount of premium income on claims, depending on the size of the group either 80% or 85%. The remainder goes for taxes, rent, utilities, consumer education, salaries, marketing, etc. The purpose behind this provision in the ACA called Medical Loss Ratio is to prevent insurers from making too much money and to guarantee that most of their income was spent on claims. I am not here to judge whether the Medical loss Ratio is good or not but the reality is that companies cut back on expenses where they have discretion such as agent compensations, in many cases 50-percent or more or, as the two examples just stated show, no commissions.

There is an obvious impact on jobs and a reduction in an agency's ability to provide consumer service support (normally 80%-plus of agency activity). The solution is to sell more insurance at reduced commissions or to adapt by transiting to a fee for professional services business model.

What does this have to do with expansion of the sales tax? Insurance agents and brokers are forced to charge fees for services formally provided at no cost because of the former level of commission income. Some of those services might include:

- Advising businesses on how to comply with the dozens of new rules of the Affordable Care Act
- COBRA and ERISA compliance which might have been formerly free value-added services
- Managing a growing segment of the market, self-insured plans.

A consequence of the sales tax expansion is to drive up the cost of these services to the client. Traditionally, insurance brokers have served as de facto human resource departments for small employers, providing advice and education. Now, more and more, they are charging fees for those services. Expanding the sales tax means an additional cost that has to be passed on. At what point does the small business say "On one hand, I've got double-digit premium increases. On the other, I pay fees which just got six-percent plus more expensive". At what point does he or she say 'I can't do this anymore and to the employees -- enjoy the exchange.'

The net result from this expansion will be negative for consumers and businesses forced to pay even more for health benefits or the necessary compliance advice that goes with it and of course to the brokers whom I represent who simply want to continue advising clients.

APPENDIX SENATE BILL 117, PN 936

Page 28: *(5) Investment advice services. Providing financial planning or investment advice, including, but not limited to, consulting, counseling or advisory services.* (Life insurance, retirement and financial planning)

Page 37: *(xix) Human resource consulting services, including, but not limited to:*

*(A) providing advice, assistance and consulting services to businesses and other organizations in human resource and personnel policies, practices and procedures; (*property casualty)

(B) employee benefits planning, communication and administration; (health and employee benefits)

Page 38: *(I) any other similar human resource consulting services.* (P/C and health/employee benefits)

Page 42: (xxxiv) all professional, scientific and technical services, other than the services defined in this paragraph including: ***

(7) Office administration services. Providing office administrative services, including financial planning, billing, recordkeeping, personnel, distribution or logistics for others on a contract or fee basis. (The question is what the Revenue Department thinks it means.)