October 7, 2004

The Honorable John W. Snow
U.S. Department of Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Secretary Snow:

We are writing to urge the Treasury Department to use its authority to modify the "use it or lose it" rule that applies to health flexible spending arrangements (FSAs). As you know, the "use it or lose it" rule was created administratively through proposed regulations that were never finalized.   Consequently, the Internal Revenue Service (IRS) could propose and finalize a new rule that would permit a limited dollar carry forward for a limited time in a health FSA to be distributed for qualified health expenses only. This change would encourage more employees to use health FSAs and further advance the goal of providing employees with more choice and more responsibility in health care decisions. We believe this action would help employers and their employees respond to rapidly rising health care costs, particularly as it becomes necessary for employees to assume greater responsibility for their health care expenses.

Approximately 22.5 million workers have access to FSAs, but only 20 to 30 percent of those (approximately 4.5 to 6.8 million workers) participate. Many employees cite fear of losing their unspent FSA money at the end of the year as a major reason why they elect not to participate in an FSA. Modifying this rule would encourage millions of workers to participate in health FSAs and enable them to better afford their rising health care expenses.

Thank you for your consideration of this matter.

Sincerely,

American Benefits Council
Corporate Health Care Coalition
ERISA Industry Committee
HR Policy Association
National Association of Manufacturers
National Association of Wholesaler-Distributors
National Business Group on Health
National Federation of Independent Business
National Restaurant Association
National Retail Federation
National Rural Electric Cooperative Association
Society for Human Resource Management

U.S. Chamber of Commerce