KELLY SERVICES

April 14, 2015

The Honorable Orin Hatch
Chairman
Finance Committee
U.S. Senate
Washington, DC

The Honorable Ron Wyden
Ranking Member
Finance Committee
U.S. Senate
Washington, DC

Delivered by Email to: Business@finance.senate.gov

Dear Chairman Hatch and Ranking Member Wyden:

We appreciate this opportunity to comment on the topic of comprehensive tax reform and the Committee's efforts in this critical area. Kelly Services, Inc. ("Kelly") is a global staffing services and workforce solutions company headquartered in Troy, Michigan. Kelly operates in all 50 U.S. states and employed 330,000 U.S. workers in 2014. We provide detail below on three tax reform issues that we believe have particular relevance for the U.S. workplace and its workers.

WORK OPPORTUNITY TAX CREDIT

The Work Opportunity Tax Credit (WOTC) is a cost effective way to encourage employers to hire certain disadvantaged workers with low work skills and other barriers to employment. Key eligible groups include recipients of public benefits (e.g., Supplemental Nutrition Assistance Program or Temporary Assistance to Needy Families), qualified veterans, and the disabled. The credit, which is generally capped at $2,400 per qualifying hire, provides a powerful incentive to employers to seek out and consider members of these "hard to hire" groups. This helps expand the number of people in the workforce since many non-WOTC eligible job applicants are already employed. It also benefits Government finances from increased taxes, and decreased social program spending as these individuals obtain employment.

Any comprehensive tax reform package should make WOTC permanent. The credit is among the most successful federal employment programs, and is also among the most cost effective. Making the credit permanent will increase participation by employers, especially smaller employers, who have been discouraged from participating by the "on again-off again" history of the program. Evidence from evaluation of the WOTC program is clear: WOTC cost-effectively improves employment.

> "The evidence suggests that even with conservative estimates the program is very cost-effective. The benefits to the taxpayers appear to exceed the costs of the program. This is the case without counting many positive aspects of the program that are difficult to quantify, such

as reductions in crime, healthcare costs, and other social programs, and positive macro-economic effects."[1]

"This analysis indicates that employer tax credits can be an effective means of enhancing employment even among groups, such as the disabled, who have traditionally experienced low rates of labor force participation." [2]

Further, since employee eligibility for the credit must be certified, the credit has a record of strong program integrity which has been confirmed multiple times by GAO studies.

Kelly responds to the incentives provided by the credit as intended by the statute. We have invested in systems and established procedures to screen all applicants for WOTC eligibility. Those deemed eligible and otherwise meeting client qualifications move to the front of the line for placement. Of the 1.6 million workers certified as eligible for WOTC in fiscal 2013,[3] over 1% were hired by Kelly.

From administrative perspective, other credits for hiring members of targeted groups, such as the Indian employment credit and the Empowerment Zone credit, should be combined with the WOTC. Also, an election to reduce the amount of these credits in lieu of disallowance of wage deductions, similar to the IRC Section 280C(c)(3) election for research credits, should be provided. Such modifications would have no cost to the Government, and would increase taxpayer and IRS efficiency.

WOTC is the most efficient, adaptable and cost effective of all federal jobs programs. Making it permanent and easier to administer will increase employer participation and increase employment among eligible workers.

WORKER CLASSIFICATION

There is ample scholarship that demonstrates the complexities and costs associated with the problem of accurate classification of workers as either employees or independent contractors. Any comprehensive tax reform effort should take the opportunity to address this long standing issue. Technology, globalization and the Great Recession have combined to cause fundamental changes in work and the workplace. These changes make the need for addressing worker classification more easily apparent and more compelling.

Work itself is becoming more project oriented and collaborative as global teams come together via technology to address business needs. The efforts may be short or long term, but increasingly, they are finite in time. Companies seek the best available talent for any given task, and workers seek the most rewarding assignments, and then move on to others when complete. Increasing numbers of workers are independent contractors, many by choice, and others out of necessity. All workforce participants would benefit from increased clarity in this important area, which could come with the creation of simple safe harbors.

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[1] Capelli, Peter. "Assessing the Effect of the Work Opportunity Tax Credit", The Wharton School, University of Pennsylvania. Accessed at: http://www.adp.com/~/media/Reference%20PDFs/Cappelli_Study_2011.ashx

[2] Heaton, Paul. "The Effects of Hiring Tax Credits on Employment of Disabled Veterans", RAND National Defense Research Institute, Occasional Paper, 2012.

[3] Congressional Research Service Report for Congress – The Work Opportunity Tax Credit, January 9, 2015, R43729

RETIREMENT SAVINGS/NON-DISCRIMINATION RULES

Tax law encourages employers to provide retirement savings programs to employees, while insuring that the programs do not solely benefit the owners and highly paid executives of the business. The rules which prevent discrimination in retirement savings programs present unique challenges for staffing firms which have two distinct workforces. The first is temporary employees, which are assigned to clients to do the work of the clients' business, and are paid directly from client billings. The second is internal employees, which operate the branch and headquarters functions of the staffing company.

Temporary employment provides many benefits to workers, including employment between full time jobs, training, flexibility, and a bridge to permanent employment. However, benefits typically associated with full time employment are normally not sought by temporary employees. This is clear in the areas of health care and retirement savings benefits, where temporary employees enroll at far lower rates than internal employees.

Temporary employees normally do not require, and staffing firm clients normally will not pay for, retirement savings programs. This is not the case for internal employees who expect retirement savings benefits and are not directly tied to clients. The need for staffing firms to treat these two workforces differently is not envisioned by the non-discrimination rules, and severely limits a staffing firm's ability to offer retirement savings programs to employees. As such, staffing firms are often only able to offer qualified retirement savings plans to employees earning up to the "highly compensated employee" threshold of $120,000 per year. The many temporary and internal employees earning over this amount, who are not owners or highly paid executives, are forced to participate in non-qualified savings plans. These plans are unattractive to employers and employees since they do not provide the flexibility and security of qualified retirement plans. They also cost the Government revenue in many cases since employees frequently defer taxation on higher amounts of wages then they could under a qualified plan.

Retirement savings is admittedly a complex and multi-faceted issue. Possible solutions to this problem include increasing the highly compensated wage threshold to a level that more accurately reflects today's labor market, or allowing staffing firms to exclude temporary employees from discrimination testing. Any appropriate change would increase retirement savings options for workers, and could certainly be designed to protect workers from any abuses the non-discrimination rules are intended to prohibit.

If you would like to discuss these matters further, I can be reached at (248)244-4381, or orsinmf@kellyservices.com.

Sincerely,

Michael F. Orsini

Michael F. Orsini
Vice President, Tax and Treasurer