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25 November 2008

Honorable Lawrence H. Summers  
Nominated Director, National Economic Council  
The White House  
1600 Pennsylvania Ave., NW  
Washington, DC 20500

Dear Mr. Summers:

I suggest the following matters for your consideration for your new administration:

**Medical care:** Of the 30 OECD countries, the USA spends the highest % of its GDP (15.3%) for medical care and also has the highest per capita expenditure at \$6,102. Yet we don't do very well in coverage, and also don't do well in some of the performance comparisons with OECD countries, such as number of practicing physicians (22 OECD countries best the USA), number of acute care beds (24 OECD countries best the USA), low infant mortality (27 OECD countries best the USA), and life expectancy (22 OECD countries best the USA). Source: OECD Health Data 2006. **Why not adopt a medical system similar to that of one of the most successful OECD countries?** (May I suggest that Switzerland be considered?) Who can argue with success?

**The price of gasoline (petroleum):** Our consumption of gasoline contributes to many problems, including sovereign funds, funding of terrorism, balance of payments, low incentive to develop alternative sources of energy and more efficient automobiles, etc. **Raise the gasoline tax in stages while lowering the 12.4% social security tax in stages. Do not increase the total taxes collected.** Who can argue if overall taxes are not increased and if a somewhat discretionary tax (gasoline) partially replaces a non-discretionary tax (social security)? The idea is not to collect additional revenue, but to discourage the use of gasoline.

**The recessed economy; infrastructure needs.** Three big needs—the economy needs stimulating now; roads and bridges need repairs and improvements now; gasoline taxes need to increase now (whether or not social security taxes are lowered). **Why not stimulate the economy and make infrastructure improvements financed with increased gasoline taxes?**

**Taxation of international business.** The USA taxes its USA corporations on their worldwide income under a separate accounting system, but taxes foreign corporations only on their US source income. Consolidated returns with related foreign corporations are neither required nor permitted. Our present system has these disadvantages:

1. Other countries generally use territorial systems, giving foreign MNCs a competitive advantage over USA MNCs.
2. The USA system is unduly complicated, with rules for source of income and deductions, foreign tax credits, controlled foreign corporations, etc.

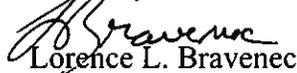


3. All countries (including the USA) permit the shifting of profits to low tax jurisdictions by locating risk of loss from intra-group transactions and intangible assets in such jurisdictions, resulting in the deferral and/or avoidance of USA taxes.
4. MNCs (both foreign and USA) have a tax cost advantage over USA small business because only MNCs are able to lower their tax cost by shifting part of profits to low tax foreign jurisdictions.
5. When a USA corporation is targeted for purchase, other USA corporations find themselves in a competitive bidding disadvantage with foreign MNCs because the target is more valuable to foreign MNCs than to USA corporations. (A foreign MNC is able to operate the target at lower tax cost than the USA corporation.)
6. The present separate accounting system of countries encourages a “race to the bottom” among the countries through competitive tax rates.

**Adopt a territorial system which taxes international business only on USA source income and which does not discriminate in favor of foreign multi-national corporations (“MNCs”).** Two kinds of territorial systems are possible—“separate accounting” and “worldwide formula apportionment.” (Worldwide formula apportionment combines the worldwide income of each MNC group and apportions it to each country based on factors chosen by each country or agreed upon by treaties.) **The territorial system of worldwide formula apportionment of consolidated income of each MNC group is the best system, because it solves or mitigates each of the above 6 problems.<sup>1</sup>** In contrast, the “separate accounting” territorial system mitigates or solves only the first problem above.

Thanks for your consideration of the above matters.

Sincerely,



Laurence L. Bravenec  
(Member, Texas Bar; Prof. at Texas A&M Univ.)

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<sup>1</sup> Worldwide formula apportionment is criticized for potentially being too complicated when financial accounting standards vary. However, 1/3 of MNCs operating in California elect to use worldwide apportionment over water's edge apportionment in filing their California corporate franchise (income) tax returns. (The attitude seems to be: it's too complicated unless it reduces taxes.) Moreover, financial accounting systems are converging worldwide under IFAS. Note also that worldwide formula apportionment will eliminate many complexities inherent in any separate accounting system.

Worldwide formula apportionment is also criticized because the apportionment factors could differ among the countries, possibly resulting in more income being taxed than is actually earned. This one-dimensional analysis is incorrect. Corporations are interested in income taxes as a cost, and many factors contribute to this cost, such as income and deduction items (inclusion, timing, and sourcing), rates, credits, and timing of payments. Sourcing (that is, separate accounting or apportionment) thus is only a part of the large picture. The criteria should be whether the tax to be remitted is a fair burden for the governmental services received and also produces both horizontal and vertical equity between competitors. Worldwide formula apportionment undoubtedly meets both criteria better than separate accounting.

Note that the European Union is converging on a system of “water's edge apportionment” for the European area. If the USA were to act now, it could work with Europe in developing common approaches to formula apportionment.