April 2, 2014

Hon. John A. Boehner  
Speaker of the House  
United States House of Representatives  
Washington, D.C. 20515

Hon. Nancy Pelosi  
House Minority Leader  
United States House of Representatives  
Washington, D.C. 20515

Hon. Harry Reid  
Senate Majority Leader  
United States Senate  
Washington, D.C. 20510

Hon. Mitch McConnell  
Senate Minority Leader  
United States Senate  
Washington, D.C. 20510

Hon. John Koskinen  
Commissioner  
Internal Revenue Service  
10th Street and Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

Re: Proposed Amendment to 26 U.S.C. §402 (I)

Dear Speaker Boehner, Leader Pelosi, Leader Reid, Leader McConnell and Commissioner Koskinen,

I write to you to bring to your attention a matter of growing concern to America’s retired law enforcement community, and to request your assistance in remedying the situation.

As you know, the Pension Protection Act of 2006 (Pub. L. 109–280; 120 Stat. 780) provides for an exclusion from federal gross income of up to $3000 per tax year of eligible retirement plan distributions on behalf of an eligible retired public safety officer when those distributions are used to pay for qualified health insurance premiums. This exclusion is codified at 26 U.S.C. §402 (I). Under current law, this exclusion only applies if “payment of the premiums is made directly to the provider of the [insurance] by deduction from a distribution from the eligible retirement plan.” (26 U.S.C. §402 (1)(C)(A))

It has recently come to our attention that many eligible retired public safety officers who would otherwise be able to utilize this exclusion are prevented from doing so because the eligible retirement plan from which they draw distributions is unwilling or unable to deduct and forward to the insurance provider the premium payments from the distribution being paid to the retired officer. In some cases, the reason for the inability or refusal is unknown. In some cases it may be something as simple as a computer program that stands in the way. In every case, however, the reason and its remedy lie outside the control of the retired officer.
We therefore respectfully request that §402(I)'s language be amended to include a provision that in such circumstances, where the retired officer has requested of the retirement plan that payment for qualified premiums be deducted from his or her distributions, and such request has been denied or ignored by the retirement plan, the officer will nonetheless be entitled to the exclusion from gross income (up to the statutory amount of $3000) of the portion of distributions he or she has received from a eligible retirement plan, and which he or she has actually and demonstrably used to pay for qualified health insurance premiums during the tax year.

Sincerely,

[Signature]

William J. Johnson
Executive Director
National Association of Police Organizations