



# Committee On Finance

Max Baucus, Ranking Member

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## Statement of U.S. Senator Max Baucus

### Finance Committee Hearing: Tax Shelters: Who's Buying, Who's Selling, and What's the Government Doing About It?"

The proliferation of abusive tax shelters has been referred to as our nation's most significant tax compliance problem. The development, selling, and buying of tax shelters has also been characterized as a "race to the bottom." As the New York State Bar Association has stated, "the constant promotion of these frequently artificial transactions breeds significant disrespect for the tax system, encouraging responsible corporate taxpayers to expect this type of activity to be the norm, and to follow the lead of other taxpayers who have engaged in tax advantaged transactions."

Simply put, this is unacceptable. And that is why the Finance Committee – under Senators Moynihan and Roth – as well as under Chairman Grassley and myself – have pushed for legislation to put the brakes on these tax-engineered schemes.

The purpose of today's hearing is to make it clear that the tax shelter problem is not just an Enron – Arthur Andersen problem. The tax shelter problem is widespread – developed and promoted by accounting firms, law firms, and investment banks, and purchased by many other corporations and individuals.

Now, as Judge Learned Hand once said, "There is nothing sinister in arranging one's affairs as to keep taxes as low as possible. Everybody does so, rich or poor; for nobody owes any public duty to pay more than the law demands; to demand more in the name of morals is mere cant."

But we are not talking about legitimate tax planning. Abusive tax shelters are illegitimate tax avoidance schemes that create a tax benefit without any corresponding economic benefit. There's no new product. No technological innovation, just a tax break. And those engaged in this tax shelter business are doing this at the expense of those taxpayers who are paying their fair share of taxes.

To give you an idea of the burden placed on honest taxpayers during the 1990s alone, actions taken to shut down tax shelters saved American taxpayers approximately \$80 billion. And a recent study commissioned by the IRS estimated the current cost to honest taxpayers ranged from \$14 billion to \$18 billion a year. That is up to \$180 billion over ten years.

Every spring, Americans sit down at the kitchen table, or at their home computer, and figure out their taxes. With quiet patriotism, these Americans step up and pay their fair share. They are counting on us to make sure that sophisticated corporations pay their fair share as well.

I am simply unwilling to tell the school teacher in Montana that he needs to pony up a little more because Congress is unwilling to shut down a loophole that is costing tens of billions every year. Mr. Chairman, today's hearing is critical in highlighting the magnitude of the problem.

Congress cannot ignore the problem any longer. It has been two years since the collapse of Enron. Yet not one piece of tax legislation to curb tax shelter abuses has been enacted.

I look forward to continuing to work with you, Mr. Chairman, to see the Tax Shelter Transparency Act through to enactment. I also urge all of my congressional colleagues – in the House and the Senate – to join forces to send tax shelter legislation to the President for his signature by the end of the year.

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