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SENATE PASSES BAUCUS-GRASSLEY BILL TO DETER TAX SHELTERS, INCREASE FAIRNESS BY ELIMINATING PATENTS ON TAX STRATEGIES

Finance Leaders Say All Taxpayers Have a Right to Legal Methods to Reduce Tax Bills

Washington, DC – Senate Finance Committee Chairman Max Baucus (D-Mont.) and senior Committee member Chuck Grassley (R-Iowa) today applauded the Senate’s passage of their bill to protect taxpayers and fight tax evasion as part of a larger Senate patent reform bill. The bill prevents any individual or firm from patenting tax strategies, which could otherwise subject taxpayers to royalty fees for using the patented strategy when filing their taxes. The bill also stops tax patents from providing windfalls to lawyers and patent holders by preventing them from holding exclusive rights to use loopholes, which could provide some businesses with unfair advantages over their competitors.

“Taxes are a responsibility we share, and tax strategies should not be hijacked and monopolized for profit,” said Baucus. **“Every American has the same right to work within the tax code, and no one should be able to claim a strategy as his own. Our efforts to improve the tax code don’t stop here. We have already begun looking at reforming the tax code in a manner that will create jobs, draw investment into the U.S., simplify the system and increase fairness for all taxpayers.”**

“Tax strategy patents are on the rise. More and more legal tax strategies are unavailable or more expensive for more and more taxpayers,” Grassley said. **“It’s important to protect intellectual property rights for true tax preparation and financial management software. At the same time, we have to protect the right of taxpayers to have equal access to legal tax strategies. That’s necessary for fairness and tax compliance.”**

In order to obtain any type of patent, an inventor must show, among other things, that the claimed invention is novel and non-obvious and has a practical application. In 1998, the courts determined that a method of doing business may be patentable, and soon thereafter, the U.S. Patent and Trademark Office began granting patents for various tax-related inventions.

Tax practitioners have long decried the issuance of these tax-strategy patents because they are unlikely to be novel, given the public nature of the tax code, and undermine the fairness of the Federal tax system by removing from the public domain particular ways of satisfying a taxpayer’s legal obligations. The bill expressly provides that a strategy for reducing, avoiding or deferring tax liability cannot be considered a new or non-obvious idea, and therefore, a patent on a tax strategy cannot be obtained.

Baucus and Grassley have long been leaders in congressional efforts to protect taxpayers and prevent the patenting of tax strategies that result in extra costs for taxpayers. The legislative text is available on the Finance Committee website at <http://finance.senate.gov/legislation/>.

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