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Contact: Dan Virkstis
202-224-4515

BAUCUS TAX MEASURES WIN PASSAGE IN HOUSING BILL, ROBUST RELIEF IN SIGHT FOR AMERICAN HOUSING SECTOR

Responsible tax package bolsters housing market with increased financing for homebuyers, property tax deduction for America's homeowners, funding for low-income housing development

Washington, DC – Senate Finance Committee Chairman Max Baucus (D-Mont.) today won Senate passage, by a vote of 72-13, of a package of tax measures in the housing bill, H.R. 3221. The bill, which is on its way to the President's desk for signature into law, was developed in cooperation with the Senate Banking Committee and includes important tax measures for property owners and first-time homebuyers. The tax package, totals approximately \$15 billion over 10 years and would create an additional standard deduction for property taxes for homeowners who do not itemize their federal taxes, provide an \$7,500 refundable, repayable tax credit that will help first time home buyers purchase homes and reduce the existing stock of unoccupied housing, and increase funding for mortgage revenue bonds, which will help homeowners and buyers obtain affordable loans. Also included is a provision to increase the amount of Federal low-income housing tax credits (LIHTC).

“This is an enormous win for millions of American families facing foreclosure and for our housing sector at the core of this economic downturn. It took ingenuity and great cooperation, and today I’m pleased to say that we passed a bill that will bring property tax relief to tens of millions of homeowners, help refinance subprime loans, and reduce the number of vacant homes on the market,” said Baucus. **“I’ve been working to get this done since April and I’ll say now what I said then – these are targeted, practical measures and they’re what’s right for our economy and for working American families.”**

Provisions to offset the cost of this important tax relief include a condition that banks provide information returns reporting annual credit card sales to the IRS and to merchants, a provision that requires homeowners to pay taxes on gains made from the sale of a second home to reflect the portion of time the home was used as a vacation or rental property, and a delay in implementation of worldwide allocation of interest, a tax benefit for businesses slated to take effect next year.

The House of Representatives made five changes to the tax package from the original Senate version, including:

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- The additional standard deduction for real property taxes provision is modified to allow taxpayers to claim the additional standard deduction if they reside in a locality that increased property tax rates in 2008.
- A technical change was made related to the Economic Stimulus Act of 2008 (see Section VI below).
- The provisions to increase information return penalties; to increase penalty for failure to file S corporation returns; to increase penalty for failure to file partnership returns; and to increase the minimum penalty for failure to file are no longer in the bill.
- A provision to delay implementation of worldwide allocation of interest has been added as a revenue raiser.
- The maximum allowance for the first-time home buyer credit is now \$7,500.

A complete summary of the tax provisions follows here:

I. CURBING THE RISING COSTS OF OWNING A HOME

Additional standard deduction for real property taxes. The bill would provide home owners who claim the standard deduction with an additional standard deduction for State and local real property taxes. The maximum amount that may be claimed under this provision is \$500 (\$1,000 for joint filers). This proposal applies for tax year 2008. *This proposal is estimated to cost \$1.537 billion over 10 years.*

II. REDUCING EXCESS SUPPLY IN THE MARKET

Refundable first-time home buyer credit. The bill would provide a refundable tax credit that is equivalent to an interest-free loan equal to 10 percent of the purchase of a home (up to \$7,500) by first-time home buyers. The provision applies to homes purchased on or after April 9, 2008 and before July 1, 2009. Taxpayers receiving this tax credit would be required to repay any amount received under this provision back to the government over 15 years in equal installments. The credit begins to phase out for taxpayers with adjusted gross income in excess of \$75,000 (\$150,000 in the case of a joint return). *This proposal is estimated to cost \$4.853 billion over 10 years.*

Temporary increase in mortgage revenue bonds. Under current law, there is a national limit on the annual amount of tax-exempt housing bonds that each state may issue. Many states have reached their limit. The bill would increase this national limit for both small and large population states in 2008 to allow for the issuance of an additional \$11 billion of tax-exempt bonds to provide loans to first-time home buyers and to finance the construction of low-income rental housing. The bill would also temporarily allow qualified mortgage revenue bonds (a form of tax-exempt bond issued by states to help provide financing to first-time home buyers) to be used to refinance certain subprime loans. *This proposal is estimated to cost \$1.475 billion over 10 years.*

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III. REBUILDING THE LOW-INCOME HOUSING INDUSTRY

Temporary increase in low-income housing tax credit. Under current law, there is a state-by-state limit on the annual amount of Federal low-income housing tax credits that may be allocated by each state. This limitation is currently set at \$2.00 for each person residing in the state. States with small populations are provided with a special set aside. The bill would increase this limitation in 2008 and 2009 by an additional 20 cents for each person residing in the state and increase the small state set-aside by 10 percent. *This proposal is estimated to cost \$1.084 billion over 10 years.*

Low-income housing tax credit simplification. The bill contains numerous proposals to simplify the technical rules relating to the LIHTC. In particular, the bill would: temporarily establish a minimum credit rate for non-Federally subsidized buildings placed in service after date of enactment and before December 31, 2013; clarify the circumstances under which a building is considered to be Federally subsidized and the circumstances in which Federal assistance will be taken into account in calculating the LIHTC; provide State housing agencies with greater flexibility to select sites for low-income housing projects and allocate adequate amounts of credit for projects; clarify the rules relating to determinations of current income; provide developers with more time to begin construction of low-income housing projects after the credits have been awarded (one year instead of current law 6 months); reform rules pertaining to sales of low-income housing buildings; allow projects to establish housing units for individuals who share common characteristics; relax income rules for rural areas; and eliminate technical barriers to rehabilitating low-income housing projects. *These proposals are estimated to cost approximately \$343 million over 10 years.*

Tax-exempt housing bond simplification. The bill contains two proposals to simplify the technical rules relating to tax-exempt housing bonds. In the construction and development of low-income housing projects, states may find that it is most efficient to finance projects using a series of short-term bonds. Under current law, there is a limitation on the annual amount of tax-exempt housing bonds that each state may issue. In the construction and development of low-income housing projects, states may find that it is most efficient to finance projects using a series of short-term bonds. The bill would clarify that where a state issues a series of short-term bonds for low-income housing projects that these bonds will only be counted once against this limitation. The bill would also update the tax-exempt housing bond rules to conform certain aspects of these rules to the low-income housing tax credit rules. *These proposals are estimated to cost approximately \$519 million over 10 years.*

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IV. HELPING THE RESIDENTIAL AND COMMERCIAL REAL ESTATE SECTOR

Eliminate costs imposed on housing programs by the alternative minimum tax. The alternative minimum tax (AMT) can increase the cost of implementing housing programs. Under current law, interest on tax-exempt housing bonds is subject to the AMT. This limits the marketability of these bonds and limits the incentive effect of these bonds. Additionally, under current law both low-income housing tax credits and rehabilitation tax credits cannot be taken against the AMT. This limits the incentive effect of these credits. The bill would allow the low-income housing tax credit and the rehabilitation tax credit to be used to offset the AMT and would ensure that interest on tax-exempt housing bonds is not subject to the AMT. *These proposals are estimated to cost \$2.093 billion over 10 years.*

Municipal bonds guaranteed by Federal home loan banks eligible for treatment as tax-exempt bonds. Under current law, municipal bonds that are guaranteed by Federal home loan banks cannot qualify as tax-exempt bonds unless the bonds are used to finance housing programs. State and local governments currently face significant costs when issuing tax-exempt municipal bonds to finance state and local projects. The bill would help these municipalities by temporarily allowing bonds that are guaranteed by Federal home loan banks to be eligible for treatment as tax-exempt bonds regardless of whether the bonds are used to finance housing programs. Allowing these bonds to be guaranteed by Federal home loan banks will help State and local governments obtain financing for necessary projects (e.g., constructing roads, repairing bridges, building and renovating schools and hospitals, funding college loans, etc) at a lower cost. *This proposal is estimated to cost \$126 million over 10 years.*

Protection of taxpayer Social Security numbers in real estate transactions. Under current law, an individual selling a home is required to provide the purchaser of the home with an affidavit stating, under penalties of perjury, that the seller is not a nonresident alien individual or a foreign corporation (special tax rules apply to sales of real estate by nonresident alien individuals and foreign corporations). This affidavit must contain the seller's Social Security number. In order to protect individuals from identity theft that could occur in connection with the sale of real estate, the bill will allow the seller to provide this affidavit to the business professional responsible for closing the real estate transaction (e.g., an attorney or title company) instead of sending this affidavit to the purchaser. *This proposal is estimated to cost \$20 million over 10 years.*

Encouraging the rehabilitation of government-leased buildings. Under current law, taxpayers are not eligible for the full amount of the rehabilitation credit if more than 35% of a rehabilitated building is leased to a State or local government. In such a situation, expenditures that are allocable to the portion of the building that is leased by the government will not be counted in calculating the rehabilitation credit. In general, the bill would allow taxpayers to qualify for the full amount of the rehabilitation credit so long as less than 50% of the rehabilitated building is leased to State and local governments or other tax-exempt entities. *This proposal is estimated to cost \$262 million over 10 years.*

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Disaster mortgage revenue bonds. The bill would also temporarily allow qualified mortgage revenue bonds (a form of tax-exempt bond issued by states to help provide financing to first-time home buyers) to be used to help individuals purchase new homes in Presidentially-declared disaster areas. This provision would apply to bonds issued after May 1, 2008 and prior to January 1, 2010. *This proposal is estimated to cost \$96 million over 10 years.*

Real estate investment trust reforms. The bill contains a number of provisions to modernize the rules regulating real estate investment trusts (REITs). Real estate investment trusts (REITs) are subject to complex rules that can limit the ability of these businesses to adjust to changing market conditions and to manage risk. The bill would liberalize these rules by clarifying that REITs can earn foreign currency income associated with real estate activities, increasing the permissible size of REIT investments in taxable REIT subsidiaries, modifying the REIT safe harbor for dealer sales, and extending the special rules for lodging facilities to health care facilities. *These proposals are estimated to cost \$359 million over 10 years.*

V. ADDRESSING URGENT ECONOMIC NEEDS

Extension and expansion of certain Gulf Opportunity (GO) Zone incentives. The bill would (1) allow taxpayers in affected GO Zone areas to amend prior returns to take into account receipt of hurricane-related recovery grants, (2) waive the start-construction deadline for certain property eligible for bonus depreciation in the GO Zone, and (3) allow projects in two additional counties in Alabama to qualify for tax-exempt bond financing. *This provision is estimated to cost \$1.333 billion over ten years.*

Election to accelerate recognition of historic AMT/R&D credits. The bill would allow taxpayers to elect to accelerate the recognition of a portion of their historic AMT or research and development (R&D) credits in lieu of the bonus depreciation tax benefit that was included in the Economic Stimulus Act of 2008. The amount that taxpayers receive is calculated based on the amount that each taxpayer invests in property that would otherwise qualify for bonus depreciation under the Economic Stimulus Act of 2008. This amount is capped at the lesser of 6 percent of historic AMT and R&D credits or \$30 million. *This provision is estimated to cost \$996 million over ten years.*

VI. TECHNICAL CHANGE RELATED TO THE ECONOMIC STIMULUS ACT OF 2008

Transfer of funds appropriated to carry out 2008 recovery rebates for individuals. The “Economic Stimulus Act of 2008” appropriated money into several Department of the Treasury accounts in order to carry out the recovery rebate program. The bill would provide the Secretary of the Treasury with flexibility to transfer funds among these accounts to carry out the purposes of the “Economic Stimulus Act of 2008.” *This provision has no revenue effect.*

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VII. CLOSING LOOPHOLES, IMPROVING FISCAL RESPONSIBILITY

Information returns for merchant payment card reimbursements. The bill would enact a proposal contained in the President's FY 2009 Budget to require institutions that make payments to merchants in settlement of payment card transactions to file an information return with the Internal Revenue Service. According to the Treasury Department, "Payment cards (both credit cards and debit cards) are an increasingly common form of payment to merchants for property and services rendered. Some merchants fail to report accurately their gross income, including income derived from payment card transactions. Generally, compliance increases significantly for amounts that a third party reports to the IRS." The bill would also require information returns for payments in settlement of certain third party network transactions that operate in a manner similar to payment card transactions. *This proposal is estimated to raise \$9.529 billion over 10 years.*

Delay implementation of worldwide allocation of interest. In 2004, Congress provided taxpayers with an election to take advantage of a liberalized rule for allocating interest expense between United States sources and foreign sources for purposes of determining a taxpayer's foreign tax credit limitation. Although enacted in 2004, this election is not available to taxpayers until taxable years beginning after 2008. The bill would delay the phase-in of this new liberalized rule for two years (for taxable years beginning after 2010). Special transition rules would apply in the first year that the liberalized rule phases in. A portion of the revenue raised from this provision will also cover some of the cost of supplemental funding for the Community Development Block Grant program. *This proposal is estimated to raise \$7.627 billion over 10 years.*

Modification of exclusion of gain on sale of a principal residence. The bill amends the current law exclusion of up to \$250,000 (\$500,000 if married filing a joint return) of gain realized on the sale or exchange of a principal residence. Under current law, the sale of a home will qualify for this exclusion if the home is a taxpayer's principal residence for at least two of the five years ending on the sale or exchange. This exclusion applies even if the home was initially purchased as a second home. Under the bill, if a taxpayer moves their principal residence to a second home, the taxpayer will only be able to utilize this exclusion to the extent that it relates to the period of time when the home was first used as a principal residence and to the extent that it relates to the period of time that the home was owned prior to January 1, 2009. *This proposal is estimated to raise \$1.394 billion over 10 years.*

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