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HATCH STATEMENT AT FINANCE COMMITTEE HEARING EXAMINING THE IMPACT OF TAX REFORM ON TRIBES & TERRITORIES

WASHINGTON – U.S. Senator Orrin Hatch (R-Utah), Ranking Member of the Senate Finance Committee, today delivered the following opening statement at a committee hearing examining the impact of tax reform on tribes and territories:

Thank you Mr. Chairman. This hearing deals with two very important yet distinct topics — tribal tax issues and territory tax issues. I want to stress that I do not come into this hearing with any preconceived agenda of how we ought to treat tribes and territories. Rather, we must consider how we can be most productive on these matters when we undertake fundamental tax reform.

With respect to tribal tax issues, certain of them, such as the general welfare exclusion, seem to have been outstanding for several years, and this Committee needs to determine the scope of actions to be taken when fundamental tax reform is finally realized.

Aside from the long-term implications for tax reform, there are short-term questions concerning the subject matter of today's hearing. Several so-called tax extenders explicitly designed to aid Native American tribes, such as accelerated depreciation for business property on Indian reservations, have actually expired. The credit for the production of Indian coal will expire at the end of this year. If we are going to break out of the repetitive loop of short-term extensions, we should not put off a discussion of these temporary measures, even prior to comprehensive tax reform.

I am also interested to hear about the tax treatment of territories. In a nutshell, even though the people of the various possessions are United States citizens or nationals, most do not pay tax to the federal government, but rather to their possession's government.

Some U.S. possessions have a mirror tax code, with tax laws essentially identical to the U.S. Internal Revenue Code, simply swapping the name of the possession wherever the Internal Revenue Code says *United States*. Yet others are given more autonomy to write their own tax laws as they see fit.

In some ways, possessions are treated like foreign countries. In other ways, however, they are treated like states. For example, research and development in a territory is eligible for the R&D credit, just as if the R&D were performed in a U.S. state. However, income taxes paid to a possession's government are generally eligible for a U.S. foreign tax credit, just as if paid to a foreign government. Of course, taxes paid to a state government are not creditable, and only sometimes deductible.

I will be interested in understanding whether greater consistency in the tax treatment of possessions is desirable or feasible.

I share the Chairman's dedication to thoroughness that this committee's tax reform hearings represent, and the emphasis they place on technical knowledge. I expect that this hearing will make a worthy contribution to that effort.

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