

UNITED STATES SENATOR • IOWA  
**CHUCK GRASSLEY**  
RANKING MEMBER • SENATE COMMITTEE ON FINANCE

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<http://grassley.senate.gov>  
[press\\_office@grassley.senate.gov](mailto:press_office@grassley.senate.gov)

Contact: Jill Kozeny, 202/224-1308  
Jill Gerber, 202/224-6522

Opening Statement of Sen. Chuck Grassley  
Committee on Finance Mark-up of Charitable, Tax Shelters, Inversions Legislation  
Thursday, June 13, 2002

Mr. Chairman, thank you for holding this markup on the President's charitable proposal as well as legislation that addresses corporate tax shelters and inversions. I also want to say how pleased I am that we have worked closely on a bipartisan basis on all three of these proposals. The bipartisanship of the Finance Committee in tax matters has continued on, regardless of which side holds the gavel.

Encouraging a greater role for charities in the fabric of our nation has been a strong priority for the President. The American people certainly agree with the President that charities are a vital part of our country. The tragedy of September 11<sup>th</sup> saw an enormous outpouring of giving to charities to help those in need.

This charitable bill contains many important proposals that will help millions of Americans. I want to quickly mention three. The bill provides for fairer tax treatment for individuals who donate IRAs to charities. The importance of charitable rollovers for IRAs is an issue that I have heard from many Iowans on, and that we heard testimony from the President of Iowa University on last year.

The bill has provisions to encourage donation of food that will help many Americans who are in need. This provision also allows farmers to effectively participate in donating food. Finally, this bill contains several changes that will encourage conservation and preservation of the land. This will help our nation's environment and also benefit our farmers and ranchers.

Now, I'd like to turn to two other pieces of legislation that we are marking up today. I'm referring to the inversion proposal and the tax shelter proposal. We are considering them as offsets and as stand-alone proposals. Mr. Chairman, my preference was that we move this legislation without offsets. That position is consistent with the President's budget. Also, I view many of the offsets as good tax policy, not just as revenue raisers. On a solid bipartisan basis, however, committee members wanted offsets for the CARE Act.

In response to my concerns and those of Senator Hatch and others, Mr. Chairman, you agreed to proceed on two tracks. The first track is the offset track. The second track is marking up inversions and tax shelters proposals on a stand-alone basis. So, today, we will approve these policies, as I would prefer, in a stand-alone matter, as well as offsets.

Let's take a look at the substance of these two proposals.

The Chairman's mark includes our bill, the *Reversing the Expatriation of Profits Offshore*

*(REPO) Act.* This bill stems from corporate inversions where U.S. companies create fictional headquarters in a tax haven to escape U.S. taxes.

These fictional headquarters are no more than a folder in a filing cabinet. Let me first say, I have no problem with U.S. companies operating in low-tax jurisdictions for legitimate business purposes. Companies from other countries do this, and U.S. companies must be allowed to operate in low-tax countries to compete in the international markets. However, there is a world of difference between a U.S. company operating in low-tax country for a valid business reason and a phony tax haven headquarters.

The recent spate of inversion deals couldn't be done if it were not for two things. The first is our two-year-old recession. Net operating losses have built up during the recession. Those losses are used to shield the corporation from tax when it transfers its paper assets to the tax haven country. But what is more troubling is that to make these deals work, you must have a depressed stock market. A depressed stock market reduces the tax on the shareholders who approve these deals. On one level, this is nothing new. For years, U.S. insurance companies have been fleeing to Bermuda to eliminate U.S. tax on their investments. They gain a huge advantage over U.S.-based insurers.

That is why we have included a provision that will enhance Treasury's ability to attack related-party reinsurance schemes that strip income out of the U.S. tax base and park it offshore tax-free.

While I am firmly committed to halting corporate inversions, I also recognize that the rising tide of corporate expatriations demonstrates that our international tax rules are deeply flawed. In many cases, those flaws seriously undermine an American company's ability to compete in the global marketplace. This competitive disadvantage is often cited by companies that engage in inversion transactions.

I believe that we need to bring our international tax system in line with our open market trade policies. I want to make it clear, for the record, that reform of our international tax laws is necessary for our U.S. businesses to remain competitive in the global marketplace.

Mr. Chairman, now more than ever, an anti-competitive tax code translates to a loss of jobs here in the U.S. The problems with the foreign tax credit, subpart F, and other set of rules are no longer boardroom abstractions.

Moreover, the U.S. companies that rejected doing a corporate inversion are left to struggle with the complexity and competitive impediments of our international tax rules. This is an unjust result for companies that chose to remain in the United States of America. I am committed to remedying this inequity.

This committee is fortunate to have two leaders in the area of international tax reform: Chairman Baucus and Sen. Hatch. For many years they have co-sponsored an international tax simplification bill.

I had hoped that our REPO inversion bill could be used as a down payment to implement some of their reforms, which would remove some of the unfairness imposed on those companies that "stay and pay" in America.

But I am nonetheless glad to see the REPO bill move any way that it can. We need to get

inversions shut down quickly. So I commend the chairman for including it in today's mark.

Let me also commend the Administration on its inversion work. In many ways, the Administration study and proposal aims at the heart of the problem. Our efforts today are meant to complement, not conflict with, the Administration's broader approach. Our REPO bill is a temporary response to an immediate tax policy concern. The Administration's approach looks to the long-term consequences of a deeper problem.

Finally, let's turn to the tax shelter curtailment measures. I am pleased that the chairman's mark includes our bill, the *Tax Shelter Transparency Act*. This bill encourages disclosure of potentially abusive tax avoidance transactions by shelter participants.

It is surprising and unfortunate that taxpayers, though required to disclose tax shelter transactions under present law, have refused to comply. The Treasury Department and IRS report that the 2001 tax return filing season produced a mere 272 tax shelter return disclosures from only 99 corporate taxpayers, a fraction of transactions requiring such disclosure.

There is evidence, however, that taxpayers will disclose their transactions when given an opportunity to avoid significant penalties. The IRS Office of Tax Shelter Analysis recently offered to waive the 20 percent understatement penalty if taxpayers voluntarily disclosed their tax shelter transactions. The response was overwhelming: nearly 1,000 taxpayers disclosed 1,341 illicit tax shelter transactions. It was a bonanza of new information.

The *Tax Shelter Transparency Act* has been carefully structured to reward those who are forthcoming with disclosure. It will curb non-compliance by providing clearer and more objective rules for the reporting of potential tax shelters. This proposal also provides strict and substantial penalties for anyone who refuses to comply with the revised disclosure requirements.

Transparency is essential to an evaluation by the IRS and ultimately by the Congress of the United States as to whether the tax benefits generated by complex business transactions are appropriate interpretations of existing tax law.

As with inversions, the Administration has stepped up to the plate. Much of the chairman's mark is derived from Treasury's proposals to curtail tax shelter activity. I'm pleased that Treasury partnered with Finance Committee staff on this project. Today, we will move the ball forward, arm in arm, with the Administration. I expect this bipartisan approach to soon become bicameral as well.

So, Mr. Chairman, to sum up, I am pleased we will act on three initiatives today. One, the CARE Act, is an important priority of President Bush. The other two, inversions and tax shelter curtailment, are important tax policy priorities that members of this committee and the Administration agree need to be addressed.