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**BAUCUS, GRASSLEY, CRAPO, ROBERTS, NELSON APPLAUD SENATE PASSAGE
OF BILL TO FIX UNFAIR TAX PENALTIES ON SMALL BUSINESSES**

Finance Committee Legislation Brings Penalties in Proportion with Benefits

Washington, DC — Senate Finance Chairman Max Baucus (D-Mont.) and Ranking Member Chuck Grassley (R-Iowa), along with Senators Mike Crapo (R-Idaho), Pat Roberts (R-Kan.) and Ben Nelson (D-Neb.), applauded unanimous Senate passage yesterday evening of legislation to prevent small businesses from incurring undue tax penalties aimed at large corporations and wealthy individuals investing in tax shelters. The Small Business Penalty Fairness Act, S. 2917, introduced by the Senators December 18, 2009, will require the Internal Revenue Service (IRS) to assess penalties for failure to disclose such investments in proportion to the benefits received and ensure small businesses don't suffer excessive fines. The Finance leaders originally developed legislation in November along with House Ways and Means Committee leaders after discovering some small businesses that unknowingly invested in transactions of listed tax shelters suffered tax penalties as high as \$300,000 per year, but received tax benefits of as little as \$15,000.

"These penalties are intended to punish big corporations who attempt to skirt their tax obligations by investing in abusive transactions, not break the backs of small businesses who unknowingly fail to disclose the proper information. This legislation will protect small businesses from excessive and unfair tax burdens by bringing tax penalties in line with tax benefits," Baucus said. **"We thank our colleagues for working with us to pass this legislation in the Senate and look forward to timely passage in the House, so America's small businesses do not suffer additional undue burdens in these already tough economic times."**

"The intent of the original tax shelter legislation was to get at the big corporations that were working hard to hide their participation in tax shelters," Grassley said. **"Small businesses that have no ill intent shouldn't get caught in the same net. The penalty should be in proportion to the transgression. This legislation makes that fix, and it's a matter of fairness to get it done."**

"I welcome the passage of this bipartisan legislation to protect small businesses in Idaho and throughout the country from overly burdensome and unintended penalties," Crapo said. **"With similar bipartisan support in the House for this legislation, I hope it is sent to the President as soon as possible."**

"I am pleased the Senate has approved this important legislation to provide tax relief to many small business that were facing devastating tax penalties," Roberts said.

“This bill ensures that the IRS is empowered to treat taxpayers fairly and isn’t legally forced to saddle them with huge fines for honest mistakes,” Nelson said. “This penalty was meant to crack down on tax shelters for big corporations and wealthy individuals, not small business people who thought they were playing by the rules. It has ended up snagging small businesses that weren’t advised of their responsibility to disclose. The least we can do is make the punishment fit the crime – otherwise, the penalty could put people out of business. I urge the House to act on it swiftly.”

The Small Business Penalty Fairness Act revises section 6707A of the IRS code to set the penalty for failure to disclose reportable transactions to the IRS at 75 percent of the tax benefit received. Reportable transactions are defined as investments in transactions that the IRS has identified as listed tax shelters or that have characteristics of tax shelters, including large losses or confidentiality agreements. The minimum penalty under this legislation is \$10,000 for corporations and \$5,000 for individuals, and the maximum penalty is \$200,000 for corporations and \$100,000 for individuals.

The bill also requires the IRS to submit an annual report to the Senate Finance Committee and the House Ways and Means Committee regarding tax shelter penalties assessed during the preceding year.

The Small Business Penalty Fairness Act is paid for by allowing the IRS to apply penalties for insufficient funds to electronic payments along with bad checks. Additionally, the bill will clarify the Department of Treasury’s authority to withhold payments to federal contractors who owe back taxes on amounts paid for property, as well as payments for goods and services. Both of these proposals are included in President Obama’s fiscal year 2011 budget recommendations.

The bill passed today improved upon the “Small Business Penalty Relief Act of 2009,” introduced by Baucus, Grassley, Crapo and House Ways and Means leaders November 16, 2009, by including these provisions to fully offset the cost of the package.

Co-sponsors of the Small Business Penalty Fairness Act include Senators Richard Lugar (R-Ind.), Orrin Hatch (R-Utah), Christopher Bond (R-Mo.), Sam Brownback (R-Kan.), Mary Landrieu (D-La.), Blanche Lincoln (D-Ark.), Evan Bayh (D-Ind.) and Mike Johanns (R-Neb.).

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