



For Immediate Release
January 20, 2011

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BAUCUS, GRASSLEY RELEASE BILL TO DETER TAX SHELTERS AND INCREASE TAX FAIRNESS BY ELIMINATING PATENTING OF TAX STRATEGIES

Senators release legislation to fight tax evasion, ensure all taxpayers are treated fairly under the code

Washington, DC – Senate Finance Committee Chairman Max Baucus (D-Mont.) and Senator Chuck Grassley (R-Iowa) today released language of legislation they intend to introduce to protect taxpayers and fight tax evasion. The bill would prevent any individual or firm from being able to receive patents on tax strategies. If firms or individuals were able to hold patents for these strategies, some taxpayers could face fees simply for complying with the tax code. And, tax patents provide windfalls to lawyers and patent holders by granting them exclusive rights to use tax loopholes, which could provide some businesses with an unfair advantage. Baucus and Grassley said today their proposed bill works to make tax compliance fairer for all taxpayers.

“Patenting common tax strategies undermines the fairness of our tax system. Taxpayers shouldn’t have to pay royalties to others just to file their tax returns and comply with the tax code,” said Baucus. **“Tax patents would create an incentive for accountants to develop tax shelters, and worse, could give a false implication that we condone tax loopholes that violate the letter or the spirit of tax laws. This bill will fight tax evasion and ensure all taxpayers have a right to use the tax code fairly.”**

“Tax patents prevent taxpayers from being able to use certain tax strategies unless they’re willing to pay for them,” Grassley said. **“It’s unfair for taxpayers to have to pay for these methods. Also, tax patents undermine a tax system based on voluntary compliance. Our legislation reins in the cottage industry of those trying to own tax planning strategies that should be available to everyone or that would encourage inappropriate tax avoidance.”**

In order to obtain a 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. 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 which would result in extra costs for taxpayers. The legislative text is available on the Finance Committee website at <http://finance.senate.gov/legislation/>.