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SENATORS SEEK TO PROHIBIT PATENTING OF TAX STRATEGIES

Baucus, Grassley introduce bill to protect taxpayers, stop monopolies

Washington, DC— Senate Finance Committee Chairman Max Baucus (D-Mont.) and Ranking Republican Member Chuck Grassley (R-Iowa) today introduced legislation to prohibit the Patent and Trademark Office (PTO) from granting patents for common tax strategies and tax planning inventions. To date, the PTO has granted 60 tax patents, with 99 pending final decisions. This measure seeks to protect taxpayers and tax practitioners from incurring fees when they use routine tax strategies. Additionally, the bill addresses fears that some tax patent applications are for tax shelters.

“America’s patent system promotes innovation and competitiveness in all industries. However, the growing number of attorneys and accountants applying for patents of tax strategies and techniques is cause for concern,” Baucus said. **“Taxpayers should not have to pay a toll charge or worry that they’re violating patent law when they try to file their tax returns. Tax practitioners should be able to provide advice and services to their clients without paying a fee to the patent holder.”**

Grassley said, **“Tax patents undermine the integrity and fairness of the federal tax system. They put taxpayers in the undesirable position of having to choose between paying more than legally required in taxes or paying a royalty to a third-party for use of a tax planning invention that reduces those taxes. Congress needs to level the playing field and improve options for taxpayers.”**

Tax planning inventions generally include tax plans, strategies, techniques, schemes, processes, or systems that are designed to reduce, minimize, avoid, or defer a taxpayer’s Federal or state tax liability. The U.S. Treasury Department recently expressed concerns about patent protection for tax planning methods, and issued proposed regulations that added patented transactions as a new category of reportable transactions.

This measure provides an important exception for the use of tax preparation software to assist practitioners and taxpayers prepare tax or information returns.

The bill would amend Title 35, Section 101 of the United States Code. Co-sponsors of the bill include Senators Carl Levin (D-Mich.), Ron Wyden (D-Ore.), Barack Obama (D-Ill.), and Jeff Bingaman (D-NM).

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