U.S. Senate Committee on Finance

For Immediate Release
Wednesday, May 11, 2005

Grassley, Baucus Introduce Bill Cracking Down on Insurance Deals Using Charities

WASHINGTON -- As they announced last week, Sen. Chuck Grassley, chairman of the Committee on Finance, and Sen. Max Baucus, ranking member, last night introduced their bill to block insurance contracts in which tax-exempt organizations hold an interest. Following are a description of the bill and the senators' news release from last week.

EXCISE TAX ON CERTAIN ACQUISITIONS OF INTERESTS IN INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD AN INTEREST

The bill imposes an excise tax, equal to 100 percent of the acquisition costs, on the taxable acquisition of any interest in an applicable insurance contract. An applicable insurance contract is any life insurance, annuity or endowment contract in which both an applicable exempt organization and any person that is not an applicable exempt organization have, directly or indirectly, held an interest in the contract (whether or not the interests are held at the same time). An applicable exempt organization generally includes an organization that is exempt from Federal income tax by reason of being described in section 501(c)(3) (including one organized outside the United States), a government or political subdivision of a government, and an Indian tribal government.

The bill provides that an interest in an applicable insurance contract includes any right with respect to the contract, whether as an owner, beneficiary, or otherwise. An indirect interest in a contract includes an interest in an entity that, directly or indirectly, holds an interest in the contract. Exceptions apply under the bill. An exception is provided if each person (other than the exempt organization) with an interest in the contract has an insurable interest in the insured person independent of any interest of the exempt organization. Another exception is provided if each person (other than the exempt organization) has an interest solely as a named beneficiary.

An exception is also provided for a person (other than the exempt organization) with an interest as a trust beneficiary, if the beneficiary designation is purely gratuitous, or with an interest as a trustee who holds in a fiduciary capacity for an applicable exempt organization or another permitted beneficiary.

The bill provides reporting rules requiring an applicable exempt organization or other person that makes a taxable acquisition of an applicable insurance contract to file a return showing required information. A statement is required to be furnished to each person whose taxpayer identification information is required to be reported on the return. Penalties apply for failure to file the return or furnish the statement, including, in the case of intentional disregard of the return filing requirement, a penalty equal to the amount of the excise tax that has not been paid with respect to the items required to be included on the return.

The bill is effective for contracts issued after May 3, 2005. The bill requires reporting of existing life insurance, endowment and annuity contracts issued on or before that date, in which an applicable exempt organization holds and interest and which would be treated as an applicable insurance contract under the bill. This reporting is required within one year after the date of enactment.

For Immediate Release
Tuesday, May 3, 2005

Grassley, Baucus Announce Bill Cracking Down on Life Insurance Deals Via Charities

WASHINGTON – Sen. Chuck Grassley, chairman of the Committee on Finance, and Sen. Max Baucus, ranking member, today announced legislation to crack down on abuses in certain life insurance contracts involving tax-exempt organizations. The effective date for the legislation is today, with a reporting requirement to allow the Internal Revenue Service to examine previous deals to determine their compliance with even current law.

The legislation builds on the Bush administration's proposal in its budget that also sought to deal with life insurance contracts that inappropriately afforded benefits to private investors that would not otherwise be available without the charity's involvement.

"I'm very concerned about snake oil salesmen taking advantage of tax-exempt organizations to line their own pockets with life insurance schemes," Grassley said. "Many states are now considering legislation that would allow this kind of exploitation. The bill we're announcing today will toll the bell on this scam."

Baucus said, "Charities should be in the business of feeding the hungry, keeping the environment clean, and building opportunities for the disadvantaged – charities should not be in the business of tax shelters. I will work with Senator Grassley to make sure that these insurance scams are shut down quickly."

Grassley and Baucus said they plan to introduce their legislation early next week when the Senate comes back into session. They continue to work on other legislative reforms to shut down abuses in the non-profit sector while preserving charities' abilities to perform their good works. The senators have been soliciting input from charities about reforms. They plan to introduce more anti-abuse legislation in the near future.

Grassley and Baucus have convened two hearings on charitable abuses. Most recently, on April 5, IRS Commissioner Mark Everson described the scope of the charitable sector and enforcement challenges for his agency in a letter to Grassley and Baucus. Three relevant excerpts:

"Approximately three million entities make up this sector of the economy. They control approximately $8 trillion in assets and pay over $300 billion in employment tax and employee income tax withholding."

“... We must recognize that we are now at an important juncture. We can see that tax abuse is increasingly present in the sector, and we intend to address it. We will act vigorously, for to do otherwise is to risk the loss of the faith and support that the public has always given to this sector.”

“Almost half of the 31 transactions we have identified to date as listed transactions under the tax shelter disclosure regulations involve the use of a tax-indifferent party. In one listed transaction, Notice 2003-81, involving tax-avoidance using offsetting foreign currency option contracts, we have found both otherwise-legitimate and suspect charities to have been involved.”