U.S. Senate Committee on Finance

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Grassley, Baucus to Appropriators: Drop Item That Would Hurt Tax Shelter, Terrorist Financing Crackdown

WASHINGTON – Sen. Chuck Grassley, chairman of the Committee on Finance, and Sen. Max Baucus, ranking member, are urging appropriators to drop a provision that could damage U.S. international competitiveness, impede U.S. initiatives to combat tax shelters, and undermine U.S. efforts to fight money laundering and terrorist financing.

The senators expressed their concerns in a letter sent yesterday to appropriators overseeing the pending Senate Commerce-Justice-State appropriations bill. The measure would bar the United States from funding the Organization for Economic Cooperation and Development (OECD) if the OECD engages in efforts to encourage information exchange between national tax authorities about the investment activities of foreigners in their country. The bill also would end funding for U.S. agencies that participate in or cooperate with such efforts.

"By encouraging transparency and cooperative agreements between countries, the OECD's work helps to counter money laundering and the financing of terrorism," Grassley and Baucus wrote. "Unfortunately, the provision to bar the funding of the OECD if it encourages information sharing runs counter to, and would have a chilling effect on, congressional and executive branch efforts to crack down on tax evasion and terrorist financing. ... We strongly oppose this measure or any measure that would make OECD funding contingent on suspending further discussions regarding information exchange agreements."

Grassley and Baucus have made shutting down abusive tax shelters a high priority. The text of their letter follows.

November 16, 2004

The Honorable Ted Stevens
Chairman
Committee on Appropriations
S-128 Capitol Building
Washington, D.C. 20510

The Honorable Robert C. Byrd
Ranking Member
Committee on Appropriations
S-126 Capitol Building
Washington, D.C. 20510

The Honorable Judd Gregg
Chairman, Appropriations
Subcommittee on Commerce,
Justice, State, and the Judiciary

The Honorable Ernest F. Hollings
Ranking Member, Appropriations
Subcommittee on Commerce,
Justice, State, and the Judiciary

S-146A Capitol Building
Washington, D.C. 20510

123 Hart Senate Office Building
Washington, D.C. 20510

Dear Senators Stevens, Byrd, Gregg, and Hollings:

We are writing to ask for your renewed diligence in respecting the jurisdiction of the Finance Committee. As you know, international tax laws and their underlying tax policies fall within the jurisdiction of the Committee on Finance. The Finance Committee has unique expertise concerning matters of international taxation and legislates in this area only after a thorough analysis of issues and possible solutions.

Section 412 of the pending Senate Commerce-Justice-State appropriations bill (S. 2809) would bar the United States from funding the Organization for Economic Cooperation and Development (OECD) if the OECD engages in efforts to encourage information exchange between national tax authorities about the investment activities of foreigners in their country. The bill would also end funding for U.S. agencies that participate in or cooperate with such efforts, including information exchange agreements. While we do not support efforts at tax harmonization, we do support information sharing that furthers our tax treaty network and U.S. tax law enforcement. Accordingly, we are gravely concerned that sec. 412 will damage our nation's international competitiveness, impede our initiatives to combat tax shelters, and undermine our nation's efforts to combat money-laundering and terrorist financing.

The OECD is an important forum in which the United States presents its views on international tax policies and opposes measures that would adversely affect U.S. international competitiveness. This is particularly true concerning transfer pricing principles to avoid double taxation and the OECD Model Treaty Convention, which is used to facilitate treaty negotiations between the U.S. and its trading partners. The OECD is an important tool in implementing the tax policy goals of the United States.

One of those goals has been expansion of transparency and tax information exchange, particularly as it applies to U.S. taxpayers that use offshore entities and bank accounts to evade their U.S. tax obligations. We need only recall Enron's extensive use of offshore entities to hide their tax and financial dealings to understand the importance of this goal. In fact, in the last two years the United States has negotiated and concluded new information exchange agreements with nine significant offshore financial centers: Antigua and Barbuda, Aruba, The Bahamas, the British Virgin Islands, the Cayman Islands, Isle of Man, Jersey, and the Netherlands Antilles.

The OECD encourages information exchange for the purposes of tax law enforcement, not for tax harmonization. Tax harmonization involves setting uniform tax rates among countries. The OECD has no power to compel any government to revise its tax rates or to enter into any information exchange agreement. The OECD is, however, a constructive forum for discussing what could be achieved from information exchange. In this respect, the OECD grants the United States an opportunity to present its own views on achieving information exchange through bilateral agreements.

Congress and the Executive Branch have made progress over the past several years in cracking down on tax evasion. The Finance Committee has held numerous hearings documenting tax evasion by corporations and individuals using offshore tax havens. One example was last April's hearing on a recent scam involving credit cards paid from secret offshore bank accounts. Finance Committee hearings have also documented U.S. law enforcement difficulties in combating abusive tax schemes because of the information secrecy invoked by uncooperative tax havens. An attempt to suppress progress in tax information exchange would foster an environment of disrespect for the law and would sanction safe harbors for financial abuses and terrorist financing activities.

The Federal government is currently losing enormous amounts of revenue each year (in excess of $300 billion) from non-compliant taxpayers. According to the IRS's most recent estimate, 740,000 taxpayers avoid $20 to $40 billion in taxes annually using offshore bank accounts. These abusive tax avoidance schemes compromise the competitiveness of those U.S. businesses that play by the rules and hurt honest taxpayers who must make up the lost revenue. Further, the events of September 11th significantly increased our need for detailed financial investigations aimed at terrorist funding. As such, it is important for Congress to continue its efforts to fund improved tax law enforcement through greater transparency.

By encouraging transparency and cooperative agreements between countries, the OECD's work helps to counter money laundering and the financing of terrorism. Unfortunately, the provision to bar the funding of the OECD if it encourages information sharing runs counter to, and would have a chilling effect on, congressional and Executive Branch efforts to crack down on tax evasion and terrorist financing. The United States has been an influential force in policy development at the OECD. If this Congress believes that our federal government representatives are pursuing the wrong course of action, then our committees should hold oversight hearings and pass legislation urging such changes. We would encourage you to forward to our committee any evidence you may have supporting such an assertion.

A revocation of funding is the most severe course of action and should not be done without extensive and thoughtful debate. We strongly oppose this measure or any measure that would make OECD funding contingent on suspending further discussions regarding information exchange agreements. We urge you to remove sec. 412 and all related report language from the final conference bill.

Sincerely yours,

Max Baucus	Charles E. Grassley
Ranking Member	Chairman