United States Senate
Committee on Finance

Sen. Chuck Grassley · Iowa
Ranking Member

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Grassley Highlights Committee Passage of Tax Loophole Closers

WASHINGTON – Sen. Chuck Grassley, ranking member of the Committee on Finance, today praised the committee's passage of a series of measures cracking down on tax shelter abuses. Grassley developed the bipartisan measures when he was chairman; the Senate passed them before but the House resisted them and they were never enacted.

"We need to keep cracking down on tax avoidance abuse," Grassley said. "Every taxpayer who doesn't pay what he owes makes a sucker out of everyone who does. It's appropriate to shut down abuse and use the money from that to help small businesses preserve jobs as they face a minimum wage increase."

The committee unanimously passed the tax shelter loophole closers as part of the *Small Business and Work Opportunity Act of 2007*, which extends tax relief for small businesses in conjunction with an expected minimum wage increase. The tax relief includes a tax credit to hire disadvantaged workers and allows retailers and restaurant owners to more quickly write off the costs of remodeling leased buildings. The tax loophole closers approved as part of the package include:

A further crackdown on leasing tax shelters. These leases involve companies that pretend to sell or lease taxpayer-funded public works systems, such as subways and sewers, and then lease them back to the cities. The companies claim depreciation on these taxpayer-funded assets, while the cities get up-front money from the tax shelter promoter that Grassley has called "chump change," compared to what the companies get. Under Grassley's leadership, Congress in 2004 largely outlawed tax benefits from these transactions.

Grassley and Sen. Max Baucus have argued that even in cases of leases entered into before the 2004 law, the holders of the shelters should not gain future benefits -- especially if the lessee is a foreign person or company – because these deals are so abusive. Per the House's position, the 2004 law mainly restricts leases entered into after March 12, 2004. Today's legislation prevents companies from receiving tax benefits for leases entered into with foreign entities on or before March 12, 2004.

Further restriction on corporate inversions. In this practice, U.S. companies relocate nominally in overseas tax havens to reduce their U.S. taxes. The 2004 tax law restricted such transactions after March 4, 2003. The bill approved in committee today moves back the effective date to March 20, 2002, when Grassley and Baucus warned companies considering these deals to proceed at their own peril. This change is meant to capture any inversions that occurred in a rush to beat the new crackdown.

A **prohibition of the deduction of civil regulatory fines and penalties**, as well as punitive damages from a lawsuit, on federal tax returns. This grew out of some companies' attempts to deduct the expense of settling cases with the government over wrongdoing.

Encouragement of tax whistleblowers. These further refinements will help make sure the Internal Revenue Service fully encourages whistleblowers to come forward with information about tax cheats. Grassley sees this as an effort to help close the approximately $350 billion gap between taxes owed and taxes paid.

Grassley said today's loophole closers are a logical follow-up to the *American Jobs Creation Act of 2004*, which under his authorship in the Senate offered the strongest crackdown on tax shelters since 1986.

"It's only fair to fight tax avoidance abuse while giving continued tax relief to encourage job retention and creation," Grassley said. "Those who play by the rules deserve consideration, and those who abuse the tax code deserve a crackdown."

More detail on the *Small Business and Work Opportunity Act of 2007* is available at finance.senate.gov. A news release on the *American Jobs Creation Act of 2004* follows here.

M E M O R A N D U M

To: Reporters and Editors
Re: President Bush's signing of business tax bill
Da: Friday, Oct. 22, 2004

Today President Bush signed into law the business tax bill passed by Congress earlier this month. Sen. Chuck Grassley, chairman of the Committee on Finance, was the lead Senate author of the legislation and contributed the tax shelter loophole closers that ensured it added nothing to the current deficit. The new law contains the biggest business tax reform package since 1986, the most comprehensive agricultural, small business and rural community tax incentive package ever written by a Congress, and the strongest crackdown on tax shelters since 1986. Grassley made the following comment on the new law.

"This tips the scales of global competitiveness more in favor of American businesses. It'll do more to help to maintain and create jobs in the United States than any law in decades.

"This is the most comprehensive agricultural, small business and rural community tax incentive package ever written by a Congress. It extends small business expensing for another three years and contains very significant S corporation reforms. S corporations can now have up to 100 members, and a family-owned business will have more flexibility in adding generations of family members as owners of the family business. It expands the New Markets Tax Credit to help economic development in rural counties that have lost population. It includes a National Health Service Corps loan program to enhance the delivery of medical services to rural areas. It gives cattlemen tax-free treatment if they lost livestock to drought and flood. It contains incentives for renewable fuels to support our energy independence. The bill contains ethanol excise tax reform, VEETC -- 37 of the 50 states will receive more highway money because of VEETC. VEETC and provisions that shut down fuel excise tax fraud will put more than $24 billion into the Highway Trust Fund. These changes could create 674,000 new jobs across the country.

"The energy package includes new incentives for biodiesel. According to the American Soybean Association, the increase in demand for soybean oil created by biodiesel will add another $2,000 to the bottom line of soybean farmers growing 500 acres of soybeans. These provisions mean jobs in the Heartland – more than 150,000 new jobs. In 2004 alone, renewable fuel made out of farm crops will add 22,000 new jobs. The new law devotes more than $2 billion to the Section 45 renewable electricity production credit.

"The new law contains far-reaching measures to revive the manufacturing base in America by cutting taxes and creating incentives to invest in the United States. It devotes $76 billion to American manufacturers in the form of a 3 percentage point rate cut. This manufacturing tax cut goes to large and small corporations, family-held S corporations, partnerships, sole proprietors, farmers, and co-ops. If you make it here, you get a tax cut here. This $76 billion is only for manufacturing in the United States. It's not for manufacturing offshore.

"The changes will end the European Union sanctions on American exports, which we refer to as the Euro tax on American goods. These sanctions are costing American workers their jobs because American goods continue to be frozen out of the European marketplace. Those sanctions hit farm products, timber, paper, citrus, and manufactured goods. The sanctions are now are at 12 percent. We fulfilled our commitment to repeal FSC/ETI. I fully expect the European Union to fulfill its commitment to lift these sanctions now. Innocent businesses have suffered enough.

"The legislation provides all of these benefits, nearly $140 billion worth, but doesn't add one dime to the federal deficit**.** It's all paid for by shutting down corporate expatriations to Bermuda, tax shelter leasing abuses, and ending all the Enron tax shelter deals. This is the strongest anti-tax shelter measure since 1986. These measures have been four years in the making. By enacting this law, we're shutting down every known tax shelter.

"We're denying the tax benefits of leasing tax shelters, known as the 'Service-In, Lease-Out' or SILO, tax shelter. In these scams, companies pretend to lease taxpayer-funded public works systems, like subways and sewers, and then lease them back to the cities. The companies claim depreciation on these taxpayer-funded assets, while the cities get upfront money from the shelter promoter that is just chump change, compared to what the companies get. This measure raises $26.6 billion in revenue over the next 10 years.

"The new law has 21 provisions cracking down on tax shelters and requires companies and individuals to disclose to the Internal Revenue Service more details about tax shelters and boosts penalties for failing to do so. Tax shelter promoters are penalized even more heavily.

"We take aim at companies pretending to move their headquarters to an overseas tax haven – such as Bermuda – to evade U.S. taxes. This will hit the unpatriotic companies that dash and stash their cash.

"In response to the Enron Corp. and WorldCom scandals, the new law restricts the flexibility executives have in controlling distributions from deferred compensation plans and restricts nonqualified deferred compensation plans. One provision shuts down schemes to protect executives' deferred compensation from creditors in the event of a corporate bankruptcy. This is a matter of fairness. Executives shouldn't get to hide compensation from creditors while rank-and-file employees lose their shirts.

"The new law puts significant limitations on companies' ability to take deductions for the cost of executives' personal use of company aircraft. We'll ground a good number of these high-flying corporate executives.

"In July 2001, we discovered a huge fraud upon the taxpayer – fuel tax evasion -- costing the taxpayers $1 billion a year. One scheme involved an alleged terrorist cell that was skimming off money for unknown purposes.

"Corporations have been reducing their tax bill by hundreds of millions of dollars each year by taking intellectual property of little to no value and donating it to a charity. The new law ends this abuse while still encouraging the donation of legitimate intellectual property that has real value for actual development.

"The new law ends the shady practice of a donor giving a junker car to charity and claiming thousands of dollars for it as a deduction on his income tax. The reforms will place no additional burden on the donor and won't reduce the amount going to charities from a donated car by a dime.

"There are many people going down to the Virgin Islands to get more than a tan. They go to avoid the tax man. The new law makes it harder for someone to falsely claim he is a resident of the U.S. Virgin Islands to qualify for special income tax treatment.

"The new law closes the loophole in which small businesses, doctors and lawyers are able to write off up to $100,000 the cost of a large sports utility vehicle or truck weighing more than 6,000 pounds. It applies only to cars purchased after the date of enactment."

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