

110TH CONGRESS
1ST SESSION

S. 2369

To amend title 35, United States Code, to provide that certain tax planning inventions are not patentable, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 15, 2007

Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. LEVIN, Mr. WYDEN, Mr. OBAMA, and Mr. BINGAMAN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 35, United States Code, to provide that certain tax planning inventions are not patentable, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TAX PLANNING INVENTIONS NOT PATENTABLE.**

4 (a) IN GENERAL.—Section 101 of title 35, United
5 States Code, is amended—

6 (1) by striking “Whoever” and inserting “(a)
7 PATENTABLE INVENTIONS.—Whoever”, and

8 (2) by adding at the end the following:

9 “(b) TAX PLANNING INVENTIONS.—

1 “(1) UNPATENTABLE SUBJECT MATTER.—A
2 patent may not be obtained for a tax planning inven-
3 tion.

4 “(2) DEFINITIONS.—For purposes of paragraph
5 (1)—

6 “(A) the term ‘tax planning invention’
7 means a plan, strategy, technique, scheme,
8 process, or system that is designed to reduce,
9 minimize, avoid, or defer, or has, when imple-
10 mented, the effect of reducing, minimizing,
11 avoiding, or deferring, a taxpayer’s tax liability
12 or is designed to facilitate compliance with tax
13 laws, but does not include tax preparation soft-
14 ware and other tools or systems used solely to
15 prepare tax or information returns,

16 “(B) the term ‘taxpayer’ means an indi-
17 vidual, entity, or other person (as defined in
18 section 7701 of the Internal Revenue Code of
19 1986),

20 “(C) the terms ‘tax’, ‘tax laws’, ‘tax liabil-
21 ity’, and ‘taxation’ refer to any Federal, State,
22 county, city, municipality, foreign, or other gov-
23 ernmental levy, assessment, or imposition,
24 whether measured by income, value, or other-
25 wise, and

1 “(D) the term ‘State’ means each of the
2 several States, the District of Columbia, and
3 any commonwealth, territory, or possession of
4 the United States.”.

5 (b) APPLICABILITY.—The amendments made by this
6 section—

7 (1) shall take effect on the date of the enact-
8 ment of this Act,

9 (2) shall apply to any application for patent or
10 application for a reissue patent that is—

11 (A) filed on or after the date of the enact-
12 ment of this Act, or

13 (B) filed before that date if a patent or re-
14 issue patent has not been issued pursuant to
15 the application as of that date, and

16 (3) shall not be construed as validating any pat-
17 ent issued before the date of the enactment of this
18 Act for an invention described in section 101(b) of
19 title 35, United States Code, as added by this sec-
20 tion.

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