



AMERICANS for TAX REFORM

June 18, 2010

The Honorable Max Baucus
Chairman, Senate Committee on Finance
United States Senate
Washington, DC 20510

Dear Chairman Baucus:

I was disappointed to read your second substitute amendment to the tax extenders bill this week. It remains a bad deal for taxpayers, and would violate the Taxpayer Protection Pledge. Americans for Tax Reform will be key-voting against passage, and considers support for the bill a Pledge violation.

This latest version also contains a clear payoff to trial lawyers in the form of a brand new tax hike. In order to “pay for” a temporary extension of the first-time homebuyers credit, your substitute amendment would permanently deny employers the ability to deduct punitive damage assessments from lawsuits as a business expense.

This is bad tax policy for several reasons:

1. **It is not tax reform. It is a permanent new tax increase to pay for a temporary extension of current tax relief.** Over time, this strategy leads to a permanent net tax hike.
2. Businesses can deduct all “ordinary and necessary business expenses” under tax law. This has always included punitive damage costs. **To deny this well-grounded deduction to employers is arbitrary and clearly intended to benefit a constituency.**
3. Since settlements out of court are still deductible under this tax law change, trial lawyers will be empowered to file junk lawsuits (hoping that employers will choose to settle rather than risk a punitive damage award with no tax benefits). **When a lawsuit is settled rather than challenged, the trial lawyer gets a guaranteed win.**

For these and other reasons, your second substitute amendment is even worse than the first version. I would urge all senators to oppose this bill—especially because of this blatant tax increase and payoff to the trial bar.

Sincerely,

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