

Congress of the United States
Washington, DC 20515

**DO YOU KNOW ABOUT TAX PLANNING METHOD PATENTS?
IF YOU PAY TAXES, YOU MAY NEED TO.**

May 23, 2007

Dear Colleague:

Many individuals have sought and been granted patent protection for tax planning methods. This new form of business method patents is nothing less than a trap for the unwary certified public accountant who, in an attempt to abide by tax law as intended by Congress, advises clients on a tax plan that results in infringement on a patented tax strategy. All taxpayers and tax practitioners seeking to lawfully file and pay their taxes are at risk of infringing on tax planning method patents, which could result in payment of damages and attorney's fees as well as other remedies.

The Tax Planning Fairness Act of 2007 addresses this discrete patent issue, which has broad consequences affecting every taxpayer in the United States. Tax planning methods are plans that any taxpayer might consider when planning to pay taxes – plans to reduce, minimize or defer a taxpayer's tax liability. There are now 60 patents for tax planning methods, with over 80 tax planning method patent applications pending. And, patents on tax planning methods do not pertain to just esoteric portions of the tax code affecting a handful of taxpayers – the patents cover a broad range of areas, including estate and gift tax, pension plans, tax-deferred exchanges and deferred compensation.


Patents for tax planning methods thwart Congressional intent and undermine the public's confidence in the tax system. Tax planning method patents:


- ◆ Limit the ability of taxpayers to freely interpret tax law, as intended by Congress;
- ◆ Require taxpayers and tax advisors to understand the most current patent law as well as tax law, which is already rather complex, lest they face damages and remedies for infringement of a patent; and
- ◆ Mislead taxpayers into believing that a patented tax planning method is automatically valid under tax law, preferred by the government, and better as a whole.

The Tax Planning Fairness Act of 2007 protects taxpayers as well as tax practitioners and related professional organizations from patent infringement liability when they use a tax planning method that happens to be patented. Specifically, the legislation prohibits civil actions, injunctions, awards of damages, and awards of attorney fees for infringement of a tax planning method patent. The language of the bill resembles that of 35 U.S.C. § 287(c), which restricts infringement liability for certain surgical procedures.

To protect the ability of all citizens to file taxes and to ensure that all citizens have all options at their disposal when filing their taxes, we urge you to join us as cosponsors of H.R. 2365. To become a cosponsor of this important legislation or to obtain more information, please contact Jennifer Schneider in Congressman Rick Boucher's office at jennifer.schneider@mail.house.gov or x53861, or Branden Ritchie in Congressman Bob Goodlatte's office at branden.ritchie@mail.house.gov or x55431.

Sincerely,


Rick Boucher


Bob Goodlatte