

112TH CONGRESS
1ST SESSION

S. 139

To provide that certain tax planning strategies are not patentable, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 25 (legislative day, JANUARY 5), 2011

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

A BILL

To provide that certain tax planning strategies 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. SHORT TITLE.**

4 This Act may be cited as the “Equal Access to Tax
5 Planning Act”.

6 **SEC. 2. TAX STRATEGIES DEEMED WITHIN THE PRIOR ART.**

7 (a) IN GENERAL.—For purposes of evaluating an in-
8 vention under section 102 or 103 of title 35, United States
9 Code, any strategy for reducing, avoiding, or deferring tax

1 liability, whether known or unknown at the time of the
2 invention or application for patent, shall be deemed insuf-
3 ficient to differentiate a claimed invention from the prior
4 art.

5 (b) DEFINITION.—For purposes of this section, the
6 term “tax liability” refers to any liability for a tax under
7 any Federal, State, or local law, or the law of any foreign
8 jurisdiction, including any statute, rule, regulation, or or-
9 dinance that levies, imposes, or assesses such tax liability.

10 (c) EFFECTIVE DATE; APPLICABILITY.—This section
11 shall take effect on the date of enactment of this Act and
12 shall apply to any patent application pending and any pat-
13 ent issued on or after that date.

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