# Committee On Finance

**Max Baucus, Ranking Member**

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## Baucus Works To Shut Down Tax Loophole

*Bill Cracks Down on Those Unfairly Taking Advantage of Dividend Break*

**(WASHINGTON, D.C.)** U.S. Senator Max Baucus, ranking member of the Senate Finance Committee, introduced legislation that would shut down a loophole in the 2003 dividend tax cuts that allows shareholders of some foreign companies to get a lower tax rate on dividend income even though the companies pay little or no corporate tax. The tax break was created to end so-called 'double taxation,' as income is taxed by the corporation and then again by the shareholder when dividends are paid.

Senator Baucus is concerned that the definition of qualifying foreign companies is too broad and dividends from companies headquartered in tax haven countries with little or no tax system are considered eligible for the lower tax rate. Senator Jeffords and Kerry joined Baucus in co-sponsoring the legislation.

Senator Baucus' floor statement on the legislation follows:

### Dividends from Tax Havens Companies
### Bill introduction by Senator Max Baucus

MR. PRESIDENT. Today, I am pleased to be joined by my two friends and Finance Committee colleagues, Senator Jeffords and Senator Kerry, in filing legislation to close a loophole in the 2003 tax cut bill. The Jobs and Growth Tax Relief and Reconciliation Act of 2003 provided for lower rates of taxation on dividend income. Formerly, taxpayers paid ordinary income rates on dividend income. Now, individuals who receive dividends are taxed at either a 15% for upper-income taxpayers, or a 5% rate for lower-income taxpayers. Further, in 2008, this lower rate becomes zero before the whole provision expires in 2009.

Mr. President, the demand for lower rates was premised on the claim that dividend income was subject to double taxation; that is, taxed once by the corporate entity and then again by the shareholder. Assuming that is the case, then if we are sure the corporate entity is not subject to tax, the dividend should not be afforded the special rate. In fact, we heard testimony today in the Taxation Subcommittee that corporations with little or no taxes at the entity level really receive an additional benefit from the dividend tax break.

Current law, however, allows dividends from “qualified” foreign corporations to benefit from these lower rates if the company is based in a U.S. possession, or based in a country with which the U.S. has a tax treaty, or has stock which is traded on a U.S. stock exchange. Senator Jeffords, Senator Kerry, and I have become concerned that the definition of qualifying foreign corporations is overly broad and may encompass companies in tax haven countries with little or no tax system. Providing this special benefit for such companies simply because its stock is traded on a U.S. exchange does not meet with the original intent of the legislative change. Our bill would shut down this loophole by modifying the “stock exchange” test to only allow this special rate for companies based in countries with a comprehensive income tax system. By doing this, we will address a current inequity between dividend-paying stocks and make sure that only stock of companies subject to tax at the corporate level enjoys this preferential rate.

With every tax bill we enact, it is important to review the provisions from time to time to make sure the law works as intended. Here, I believe we have found a significant and unintended loophole. Certainly, as we debate whether to extend, expand, or eliminate these preferential rates, we should also be open to improvements in the current law. I encourage my colleagues to join with us in working for such an improvement.

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