NEWS FROM

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Kerry, Obama, Ellsworth, Emanuel Introduce "Fair Share Act of 2008"

Reform Closes Offshore Tax Loopholes that Government Contractors Use To Dodge Social Security Taxes

WASHINGTON, DC – Sens. John Kerry (D-Mass.) and Barack Obama (D-Ill.) are introducing the "Fair Share Act of 2008," today with Reps. Brad Ellsworth (IN) and Rahm Emanuel (D-Ill.) The reform will close the loophole that recently has allowed the defense contractor KBR Inc. to fleece the American taxpayer by almost $100 million a year. It was discovered that KBR has avoided paying its fair share of Social Security and Medicare taxes by creating shell companies in the Cayman Islands. The Fair Share Act of 2008 will end the practice of U.S. government contractors setting up sham companies in foreign jurisdictions to avoid payroll taxes.

"Setting up sham companies in the Cayman Islands to avoid paying Social Security taxes for workers turns the idea of patriotism on its head. No wonder Americans are disgusted with Washington when big corporations profit from no bid contracts for the war in Iraq, then hide money and costs offshore to avoid paying taxes while hard working Americans get stuck with the bill," **said Sen. Kerry.** "KBR is abusing the public trust at the taxpayer's expense, and our reform will close the loophole that enables big corporations to take advantage of the American people."

"American companies have a responsibility to pay taxes, and guarantee that their employees will receive the Medicare and Social Security benefits they are entitled to through their employment," **said Sen. Obama.** "It's unacceptable for Federal contractors to use foreign affiliates or tax shelters in order to avoid paying their share of payroll taxes and to shirk on their basic obligations to American workers. This critical legislation will increase accountability and transparency of our tax system, and ensure that Federal contractors who are working on behalf of the American taxpayer do not abuse the tax system."

“These government contractors have been receiving millions, sometimes billions, in taxpayer dollars. Yet they still have the audacity to circumvent our tax system and cheat their workers, the taxpayers, and our government,” **said Rep. Ellsworth**. “It’s clear Congress cannot stand by and hope these companies will do the right thing. The Fair Share Act restores some needed accountability to the government contracting process; protecting American workers and ensuring all companies compete on an equal playing field.”

“Honest middle-class American taxpayers who pay their taxes deserve a tax system where companies cannot use every trick in the book to rig the system to avoid paying their fair share,” **said Rep. Emanuel.** “Known best this week as the company who gave our troops tainted water, KBR is taking advantage of a tax loophole that hurts Social Security and Medicare and prevents their own U.S. employees working abroad from being able to qualify for these vital programs. And just like we did in 2004 when we closed the Bermuda loophole that allowed companies to lower their taxes by setting up a mailing address in Bermuda, we are going to shut down this egregious loophole.”

Summary of the Legislation

The Fair Share Act of 2008 will end the practice of U.S. government contractors setting up shell companies in foreign jurisdictions to avoid payroll taxes. The legislation amends the Internal Revenue Code and the Social Security Act to treat foreign subsidiaries of U.S. companies performing services under contract with the United States government as American employers for the purpose of Social Security and Medicare payroll taxes. The legislation will apply to foreign subsidiaries of a U.S. parent. The degree of common ownership applied by the legislation is 50 percent, meaning that the U.S. parent would have to at least own 50 percent of the subsidiary.

In addition, the legislation addresses the situation in which a U.S. subsidiary of a foreign corporation subcontracts with a foreign subsidiary to perform a contract with the U.S government. In this situation, the legislation would apply to wages paid by the foreign subsidiary to its U.S. employees. The legislation does not address the situation in which the foreign parent contracts directly with the U.S. government. Present law will continue to apply to totalization agreements.

<u>Effective Date of Legislation</u>: This legislation applies to services performed after the date of enactment.

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