



American Institute of CPAs
1455 Pennsylvania Avenue, NW
Washington, DC 20004-1081

The Honorable Lamar Smith
Chairman
U.S. House Judiciary Committee
2138 Rayburn House Office Building
Washington, DC 20515

April 13, 2011

Dear Chairman Smith:

As the House Judiciary Committee prepares to mark up the America Invents Act, H.R. 1249, I write, on behalf of the 360,000+ members of the American Institute of Certified Public Accountants (AICPA), to support your efforts to pass comprehensive patent reform legislation. In particular, I commend you for your steadfast leadership in addressing the problem of tax strategy patents in Section 13 of the legislation. There is enormously broad and bipartisan support for resolving this threat to taxpayers and their advisers, and the AICPA believes that this provision is an essential component of patent reform legislation. I thank you for making this a priority in the legislation.

As you know, the problems associated with tax strategy patents are multiple and complex. First, the AICPA believes that they may limit the ability of taxpayers to utilize fully interpretations of tax law intended by Congress. Barriers to compliance caused by these patents may also cause some taxpayers to pay more tax than Congress intended and may cause other taxpayers to pay more tax than others similarly situated; this is simply unfair. In addition, tax strategy patents complicate the provision of tax advice by professionals and create a new burdensome level of compliance and cost born by taxpayers. Finally, just because a patent has been issued, it does not guarantee that the underlying strategy is valid under our tax code. What is patentable is different than what constitutes compliance with the Federal tax code. And, the Patent and Trademark Office is not an expert on our tax laws. Current and future tax strategy patents may mislead taxpayers into believing that a patented strategy is valid under the tax law simply by virtue of it being patented.

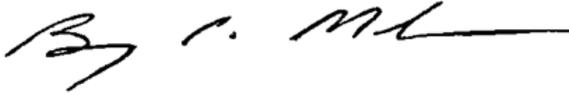
No one should have a monopoly on compliance with part of the tax code and every taxpayer should be able to use any legal means available to him or her to best mitigate the taxpayer's tax burden. I appreciate your efforts to make this basic philosophy, once again, the law of the land.

The growth in tax strategy patents, over the last decade, is troubling. Indeed, there are currently over 130 tax strategy patents which have been issued and over 150 applications which are pending. This rise, if left unabated, is likely to continue to extend into a broad array of compliance activities that affect every day taxpayers and only further complicate the tax code. Fortunately, thanks to your leadership, along with others such as Congressman Bob Goodlatte, and Senators Patrick Leahy, Charles Grassley, and Max Baucus, we are close to resolving this problem once and for all.

The AICPA stands ready to assist you in any way we can as you move forward with the America Invents Act. We also are continuing to work closely with a broad and diverse national coalition representing consumer, taxpayer, charitable, financial planning, and tax adviser groups all committed to the passage of tax strategy patents legislation.

Again, thank you for all you are doing on behalf of taxpayers and their advisers to ensure that our tax code is fair, simpler, and accessible to everyone.

Sincerely,

A handwritten signature in black ink, appearing to read "B. C. Melancon". The signature is fluid and cursive, with a long horizontal stroke at the end.

Barry C. Melancon, CPA
President and CEO

cc: The Honorable John Conyers, Ranking Member
House Judiciary Committee

The Honorable Bob Goodlatte, Chairman,
Subcommittee on Intellectual Property, Competition, and the Internet

The Honorable Mel Watt, Ranking Member
Subcommittee on Intellectual Property, Competition, and the Internet