

THE AMERICA INVENTS ACT

PROMOTING AMERICAN INNOVATION, CREATING AMERICAN JOBS, GROWING AMERICA'S ECONOMY

Understanding The America Invents Act – Tax Strategies

The America Invents Act will prevent the further issuance of patents on tax liability strategies.

Preventing patents on tax strategies from issuing will reduce costs for taxpayers.

The Patent Office began issuing patents for strategies to comply with, or reduce liabilities under, the tax code following the Federal Circuit's decision in *State Street Bank v. Signature Financial Group* in 1998.

Many of the patents issued since then were on strategies that were obvious and in prior use by tax professionals, **and therefore should not have issued**. Recognizing this, the U.S. Patent and Trademark Office took the extraordinary step in January 2011 of ordering a reexamination of one of the most notorious patents on a tax strategy.

The emergence of tax strategy patents has caused tremendous problems for accountants and tax payers, who now must search the patent office database to ensure that their methods of complying with the tax laws does not infringe on a patent. **Section 14 of *The America Invents Act* will prevent any further issuance of tax strategy patents, by deeming tax strategies within the prior art, thereby preventing the tax implications of an invention from being the basis for a patent.**

This provision **will reduce costs for taxpayers** and those assisting in compliance with the tax laws.

Support for Banning Patents on Tax Strategies

“The ongoing, serious concerns associated with tax strategy patents pose a significant threat to American taxpayers and businesses, and we believe that Congress must prioritize fixing this problem as soon as possible.” –*Consumer Action, Tax Justice Network USA, The American College of Trust and Estate Counsel, USPIRG, Citizens for Tax Justice, AICPA, New Rules for Global Finance, American College of Tax Counsel, Partnership for Philanthropic Planning, Global Financial Integrity, International Association for Registered Financial Consultants, National Association of Enrolled Agents, Certified Financial Planner Board of Standards, Financial Planning Association and American Association of Attorney-Certified Public Accountants, February 2, 2011*

“...the problems associated with tax strategy patents are multiple and complex...No one should have a monopoly on a particular form of tax compliance. And no taxpayer should be put at risk of lawsuits or royalties simply for complying with Federal tax law.” – *American Institute of CPAs, January 25, 2011*

Background on The America Invents Act

The America Invents Act was introduced in the Senate on [January 25, 2011](#), by Senator Patrick Leahy (D-Vt.), Senator Orrin Hatch (R-Utah) and Senator Chuck Grassley (R-Iowa). The legislation is cosponsored by Senators Jon Kyl (R-Ariz.), Amy Klobuchar (D-Minn.), Jeff Sessions (R-Ala.), Al Franken (D-Minn.), Joe Lieberman (D-Conn), Christopher Coons (D-Del.), Richard Blumenthal (D-Conn.), Kirsten Gillibrand (D-N.Y.), and Herb Kohl (D-Wis.). **The Senate Judiciary Committee unanimously approved the legislation by a 15-0 vote on [February 3, 2011](#).** Congressional efforts to reform the nation's patent system first began in 2005. The Senate Judiciary Committee has reported patent reform legislation to the full Senate in each of the last three Congresses.