



THE FINANCIAL SERVICES ROUNDTABLE



September 19, 2007

Dear Senate Finance Committee Member:

As you mark-up the "Habitat and Land Conservation Act of 2007" on Thursday, September 20, the undersigned trade associations ask that you oppose a retroactive change to the tax code included in the Senate version of this legislation.

The pay-for would retroactively change the March 12, 2004 effective date of a lease provision in the American Jobs Creation Act of 2004 (P.L. 108-357) by applying the "loss deferral rules" to leases entered into on or before March 12, 2004, if the lessee is a foreign person or entity.

We oppose retroactive taxation from a tax policy, economic policy and due process perspective. Retroactive changes to the tax code disrupt the certainty that businesses rely on to make sound decisions by changing the economics of past decisions about transactions. Additionally, retroactive tax policy will have deleterious effects on the economy and on companies that enter into long-term agreements in good-faith reliance on the law.

The retroactive tax increase set forth in the Senate version of this bill would be unlimited in its application, would apply to transactions completed long before any changes were considered by the Congress, and would impose retroactive tax increases on transactions never questioned by the government. The provision would result in significant new tax liabilities on U.S. taxpayers and significant adverse financial statement consequences caused by such recalculations for those affected U.S. companies that are publicly listed. This provision severely undermines the due process rights of U.S taxpayers by denying such taxpayers their day in court for transactions completed prior to the JOBS Act effective date. In addition, this provision has severe unintended consequences in that it would subject otherwise common cross border transactions to this retroactive change.

We urge you to exclude this harmful retroactive tax from the bill.

American Bankers Association
Equipment Leasing and Finance Association
The Financial Services Roundtable
U.S. Chamber of Commerce