

June 15, 2010

The Honorable Max Baucus  
Chairman  
Committee on Finance  
United States Senate  
219 Dirksen Senate Office Building Washington,  
D.C. 20510

The Honorable Chuck Grassley  
Ranking Member  
Committee on Finance  
United States Senate  
219 Dirksen Senate Office Building Washington,  
D.C. 20510

Dear Chairman Baucus and Ranking Member Grassley:

The American Dental Association (ADA), which represents over 157,000 dentists nationwide, writes to express our support for the Snowe-Enzi amendment to strike Section 413 from H.R. 4213, the American Jobs and Closing Loopholes Act of 2010.

Section 413 would raise new taxes on dental practices structured as S Corporations. While it has been described as a “loophole closer” and a “payroll tax” it is neither and will overturn more than fifty years of established tax policy. The ADA shares the concerns of Congress that certain taxpayers are underpaying their payroll taxes, but we believe Section 413 is overly broad and will result in more increased tax collections than increased tax compliance.

This new tax would hurt job creation and expansion of dental practices. It would be imposed regardless of whether the affected practices make distributions to the shareholders and partners, or retain that income to reinvest in jobs and dental equipment. Shareholders and partners of “flow-through” businesses are taxed on their practice’s income even when that income is not actually distributed. As a result, this provision will reduce the capital dentists have to create jobs and invest in their practices.

Just as important, the new tax appears to be unenforceable. Section 413 would require dental practices – regardless of how many employees they have – to test each year to determine whether the “skill and reputation” of one, two, or three key employees is the practice’s “principal asset.” The IRS currently uses a “reasonable compensation” test to ensure S corporation shareholders pay the correct amount of tax. Replacing this established test with a “principal asset” test is a step backward for tax enforcement and should be rejected by the Senate.

For these reasons, the ADA respectfully requests that you support Senators Snowe and Enzi and remove Section 413 from the bill.

Thank you for your consideration.

Sincerely,



Ronald L. Tankersley, D.D.S.  
President

RLT:TS:nh