



**Letter to Thomas/Grassley, September 30, 2003  
opposing codification of economic substance**

To:

The Honorable Bill Thomas  
Chairman  
Committee on Finance  
U.S. Senate  
219 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Charles E. Grassley  
Chairman  
Committee on Ways and Means  
U.S. House of Representatives  
1102 Longworth House Office Building  
Washington, DC 20515

Dear Chairman Thomas and Chairman Grassley:

The Silicon Valley Tax Directors Group (SVTDG) wants to express our strong concerns over proposals to codify the economic substance doctrine. At a time when the economy continues to need a significant boost, we believe that proposals to codify the economic substance doctrine would have a significant chilling effect on ordinary commercial transactions.

Recent proposals dealing with codification of the economic substance doctrine would require that a transaction would only be respected for tax purposes if: (1) it changes a taxpayer's economic position in a meaningful way, (2) the taxpayer has a substantial nontax purpose for entering into the transaction, and (3) the transaction is a reasonable means of accomplishing the taxpayer's nontax purpose. We are concerned that such broad and sweeping proposals may inappropriately apply to legitimate business transactions that should not be (and historically have not been) subject to an economic substance or business purpose analysis.

Treasury officials have publicly indicated that such economic substance proposals should not be enacted, and have commented that it is not good tax administration and will further hamper the ability of the courts to apply the common law doctrine in a flexible manner. We share completely the concerns of Treasury and the business community at large that proposals to codify the economic substance doctrine should be rejected.

For that reason, we are pleased that proposals to codify the economic substance doctrine were not included in H.R. 2896, the "American Jobs Creation Act of 2003," as introduced by Chairman Thomas on July 25, 2003, and also was not included in S. 1637, the "Jumpstart Our Business Strength Act," as introduced by Chairman Grassley on September 18, 2003. While Chairman Grassley subsequently has proposed adding an economic substance codification provision as an revenue offset to S. 1637, we ask that proposals to codify the economic substance doctrine not be included as part of any final legislation approved by Congress.

Respectfully,  
The Silicon Valley Tax Directors Group

CC:

The Honorable Max Baucus  
Ranking Member  
Committee on Finance  
U.S. Senate

The Honorable Charles Rangel  
Ranking Member  
Committee on Ways and Means  
U.S. House of Representatives

The Honorable Pamela F. Olson  
Assistant Secretary (Tax Policy)  
U.S. Treasury Department

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