



1120 Connecticut Avenue, NW
Washington, DC 20036

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www.aba.com

*World-Class Solutions,
Leadership & Advocacy
Since 1875*

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December 10, 2008

Chairman Max Baucus
Senate Finance Committee
219 Senate Dirksen Office Building
Washington, DC 20515

Senator Charles Grassley
Ranking Member, Senate Finance Committee
219 Senate Dirksen Office Building
Washington, DC 20515

Dear Chairman Baucus and Ranking Member Grassley:

The American Bankers Association fully supports the efforts of the legislative and executive branches of government over the last several months in response to the current financial crisis. The federal government has invested a huge amount of time and effort in initiating and establishing a number of programs intended to restore the smooth functioning of our financial markets.

ABA believes that Treasury's issuance of Notice 2008-83 on September 30, 2008, has encouraged healthy banks to complete substantial business motivated acquisitions that support and strengthen the entire financial system.

It is wholly appropriate for Congress to review Treasury's issuance of Notice 2008-83, but we believe if actions were taken to repeal Notice 2008-83 either retroactively or prospectively the results could be harmful to the financial markets.

In light of current economic conditions, this Treasury initiative has removed some of the hurdles that exist in the tax laws, which we believe will make it easier for the private sector to step in and assist with troubled institutions, thereby helping in the task of getting individual financial institutions back on their feet by encouraging the more healthy institutions to take on the challenge of acquiring those that are less healthy. ABA believes that Notice 2008-83 is a prudent complement to existing policy, which is to provide as much assistance as is necessary to help restore stability in the financial sector.

The application of the Notice essentially removes an existing disincentive in the tax rules, thereby facilitating transactions that will promote the infusion of capital into the financial sector through acquisitions or equity investments. Specifically, the

Notice modifies Section 382 by lifting an annual cap on built-in loss deductions of banks arising from losses on loans or bad debts following an ownership change. As you are aware, Section 382 discourages profitable companies from acquiring failing ones for the sole purpose of taking advantage of tax deductions available from the target's losses. The Notice allows a healthy bank that steps in and acquires a weaker bank to offset the target's loan losses against the combined organization's future profits without any limitations.

The current economic situation has resulted in a number of legislative and regulatory efforts intended to provide some relief and help restore economic stability. The Notice is consistent with other recent legislative actions designed to restore stability in the financial sector. The Notice also promotes private sector solutions by placing a potential acquirer in a better position to execute prospective acquisitions and preempt direct government assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward L. Yingling". The signature is fluid and cursive, with a large initial "E" and "Y".

Edward L. Yingling



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December 10, 2008

Chairman Charles Rangel
House Ways and Means Committee
1102 Longworth House Office Building
Washington, DC 20515

Representative Jim McCrery
Ranking Member, House Ways and Means Committee
1139 Longworth House Office Building
Washington, DC 20515

Dear Chairman Rangel and Ranking Member McCrery

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Edward L. Yingling