

February 10, 2006

## EASEMENT LEGISLATION UPDATE

The conference committee members who will reconcile differences between the House and Senate tax bills proposing changes to the federal easement program have now been appointed. It is anticipated they will produce a conference report by the middle of March. The Senate bill proposed by Senator Charles Grassley (R-IA) passed on November 18<sup>th</sup> last year. The Tax Reform Act of 2005 is a general tax reform bill (S. 2020) folding together a number of hot tax related issues.

Perceived and real abuses of the federal easement program were called out in the press in late 2004. This publicity was shortly followed by a Joint Committee on Taxation report outlining changes that would have gutted the program. These included disallowing easements on donor-occupied properties. After strong lobbying by grassroots preservationists and preservationists working inside DC, the eventual Senate tax bill addressing the easement issue focused on properties within historic districts.

Easement language within S. 2020 requires that easements only be granted if all sides and the height of a property receiving an easement are included within the easement agreement restricting changes to the building's exterior. A \$500 filing fee is required for easement donations over \$10,000. Fines for appraisers that provide misstatements about the value of the easement donation are outlined. Changes would be retroactive to the November 15, 2005. The Senate version also disallows deductions on structures and land in historic districts.

On December 14, 2005, Representative Phil English (R-PA) proposed H.R. 4534, a “stand alone” easement bill that improves upon the provisions laid out in S. 2020. H.R. 4534 does not include the exclusion of structures and land within historic districts and is not retroactive, but rather, effective as of the date the easement legislation is passed.