

## John Kerry

### U.S. Senator for Massachusetts

#### White House Endorses Legislation to Close Tax Loophole That Hurts Workers and Businesses

**FOR IMMEDIATE RELEASE: Wednesday, September 15, 2010**

WASHINGTON, D.C. – The White House has endorsed legislation by Senator John Kerry (D-Mass.) and Representative Jim McDermott (D-Wash.) to protect workers from losing benefits and protections as the result of a tax loophole.

The *Fair Playing Field Act of 2010*, which Kerry and McDermott introduced today, will close a tax loophole currently allowing businesses to misclassify workers as “independent contractors,” thereby creating an unfair environment for businesses that play by the rules and an unfair environment for workers. The bill is cosponsored in the Senate by Senators Kirsten Gillibrand (D-N.Y.), Patty Murray (D-Wash.), Sherrod Brown (D-Ohio), Al Franken (D-Minn.), Daniel Akaka (D-Hawaii), Chuck Schumer (D-N.Y.), and Patrick Leahy (D-Vt.)

“When employees are classified as independent contractors, whether by design or because the rules are unclear, they are denied access to critical benefits and protections, at significant cost to government at all levels,” said Vice President Joe Biden. “For these reasons, stopping worker misclassification is a priority for the President’s Middle Class Task Force, which I chair, and I applaud Senator Kerry and Congressman McDermott for introducing this bill. The legislation is timely, as misclassification is an increasing problem, one that puts employers who properly classify their workers at a disadvantage in the marketplace and costs the government billions of dollars in unpaid taxes. I urge the Congress to stand up for workers and create a level playing field for law-abiding businesses by supporting this bill.”

“This reform is pro-worker and pro-business,” said Sen. Kerry. “Today a tax loophole is being abused to deny workers basic protections and benefits. We shouldn’t reward those who game the system while hard-working Americans are denied their due protections and businesses that play fair are disadvantaged.”

“For too long, the misclassification of employees has put an unnecessary financial strain on American businesses and workers,” said Rep. McDermott. “Having a distinction between independent contractors and full-time employees is a good thing, but the current law is leading to significant abuse. Companies that misclassify workers have an unfair advantage over companies who play by the rules. Misclassification also leaves hard-working American families vulnerable to an uncertain economic future. This new bill makes important changes to the original by making sure there is a smooth transition to a clear obeying of the rules and it gives the IRS the tools it needs to even-handedly enforce those rules.”

Current law provides a “safe harbor” loophole allowing employers to treat a worker as not being an employee for employment tax purposes, regardless of the worker’s actual status under the common law test, unless the employer has no reasonable basis for such treatment or fails to meet certain requirements.

The *Fair Playing Field Act of 2010* will:

- end the moratorium on Internal Revenue Service (IRS) guidance addressing worker classification;
- require the Secretary of Treasury to issue prospective guidance clarifying the employment status of individuals for Federal employment tax purposes;
- amend the provisions of the Tax Code that provide for reduced penalties for failure to deduct and withhold income

visited on 7/12/2012

taxes and the employee's share of FICA taxes;

- require persons who contract independent contractors on a regular and ongoing basis to provide a written statement to each independent contractor of the Federal tax obligations of independent contractors, the labor and employment law protections that do not apply to independent contractors, and the right of the independent contractor to seek a status determination from the IRS; and
- require the Secretary of the Treasury to issue annual reports on worker misclassification.

Identical legislation was introduced today in both the House and the Senate.

###

[ more ]

07/10/12	<a href="#">Senator John Kerry on Growing the Massachusetts Economy</a>	07/09/12	<a href="#">Kerry, Brown, Markey, Tierney: Mass. Fire Houses To Receive Over \$2.7 Mil</a>	07/09/12	<a href="#">Kerry Announces Office Hours in Southwick, Montgomery</a>
07/06/12	<a href="#">The time to address climate change is now</a>	07/03/12	<a href="#">Kerry Announces Office Hours in Winchendon, Ashburnham</a>		