



Tax

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Amendment dispute stalls Senate tax extenders bill

The Senate this week took up legislation that would retroactively extend through 2015 the 55 temporary tax deductions, credits, and incentives that expired at the end of last year. But action came to a halt May 15 after Republicans, who were locked in a dispute with Majority Leader Harry Reid, D-Nev., over whether they would be able to offer amendments to the legislation, blocked a procedural motion that would have allowed the bill to move forward.

A motion to end debate on the extenders package failed by a vote of 53-40, short of the 60 votes required for passage.

Amendment issues

The legislation, which the Finance Committee approved in April, had easily cleared other procedural hurdles on the Senate floor earlier in the week. But as senators filed dozens of proposals to modify the bill – including a Republican proposal to repeal the medical device excise tax enacted in the Patient Protection and Affordable Care Act – Reid on May 14 invoked a procedural move restricting senators from offering amendments on the floor.

Finance Committee ranking member Orrin Hatch, R-Utah, raised concerns over Reid’s actions, stating in a May 14 floor speech that “[w]hile I’m satisfied with the way the Finance Committee handled the tax extenders package, the vast majority of senators do not serve on the Finance Committee. That being the case, most senators have not had a chance to fully debate these tax provisions or offer amendments of their own.”

Speaking moments before the May 15 procedural vote, Minority Leader Mitch McConnell, R-Ky., voiced similar objections.

“We’ve got a tax bill here that members on both sides want to improve. Democrats won’t allow it.”

As approved by the Finance Committee, the tax extenders legislation would, among other provisions, temporarily extend an expanded version of research credit; the subpart F active financing exception and lookthrough rule for payments between related controlled foreign corporations; increased section 179 expensing limits; the beginning-of-construction date for renewable power facilities eligible to claim the electricity production credit or investment credit in lieu of the production credit; and 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements. (For prior coverage, see [Tax News & Views](#), Vol. 15, No. 15, Apr. 4, 2014.)

URL: http://newsletters.usdbriefs.com/2014/Tax/TNV/140404_1.html

To satisfy the constitutional requirement that all revenue measures originate in the House of Representatives, Finance Committee Chairman Ron Wyden, D-Ore., packaged together the extenders legislation and a tax technical corrections bill that cleared the Finance Committee last month and then sought to attach them to a House-passed bill (H.R. 3474) that would serve as a legislative vehicle. (H.R. 3474, which the House approved in March, would permit an employer to exclude employees who are covered under a health care program administered by the Department of Veterans Affairs or the Department of Defense in determining whether it is subject to the employer mandate under the Patient Protection and Affordable Care Act. The mandate to provide health insurance generally applies to employers who have more than 50 full-time employees, including full-time equivalents.)

The Joint Committee on Taxation staff has estimated that Wyden's substitute to H.R. 3474, which is largely unoffset, would increase the deficit by nearly \$85 billion over 10 years.

URL: <https://www.jct.gov/publications.html?func=startdown&id=4601>

Next steps uncertain

Exactly how the Senate will proceed on extenders is unclear. Senate leaders, along with Finance Committee Chairman Wyden and ranking member Hatch, are expected to meet over the coming days in an attempt to craft an agreement allowing a limited number of amendments to be offered to the bill. Whether they can reach a deal will help determine whether the Senate can resume action and hold a vote on final passage before the chamber recesses for the Memorial Day holiday.

The House, meanwhile, is taking a different approach to extenders and operating on a different timetable than the Senate. (For prior coverage, see *Tax News & Views*, Vol. 15, No. 18, May 9, 2014.) As a result, regardless of whether the Senate is able to approve its version of extenders legislation this month, most observers believe a final agreement will not move through Congress and be signed into law until after the November mid-term elections.

URL: http://newsletters.usdbriefs.com/2014/Tax/TNV/140509_1.html

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Levin offers new details on anti-inversion proposal

Senate Permanent Subcommittee on Investigations Chairman Carl Levin, D-Mich., on May 14 revealed new details about his forthcoming proposal to discourage U.S. corporations from reincorporating overseas in so-called inversion transactions.

Levin told reporters that his proposal would be effective on the date of introduction and would likely raise the foreign-ownership threshold for inverted companies to somewhere around 50 percent. (Under current law an inverted company is not considered a domestic entity for U.S. tax purposes if at least 20 percent of the stock in the reorganized entity is owned by legacy shareholders of the new foreign partner.)

In an apparent nod to some Republican lawmakers – including Senate Finance Committee ranking Republican Orrin Hatch of Utah – who contend that the most effective deterrent to inversion transactions would be through a comprehensive tax reform plan that lowers the corporate tax rate and moves to a territorial system for taxing income of U.S. multinationals, Levin suggested that he would consider allowing his proposal to sunset after two years.

“[T]hen if tax reform addresses it, which everyone will say will be within the next two years, fine,” he said.

Levin is expected to introduce his proposal early in the week of May 19. His brother, House Ways and Means Committee ranking Democrat Sander Levin of Michigan, will introduce an identical proposal in the House.

Wyden proposal still in the works

Senate Finance Committee Chairman Ron Wyden, D-Ore., meanwhile, is expected to unveil his own anti-inversion proposal in the near term which would require a U.S. company that reorganizes in an inversion transaction to ensure that at least 50

percent of its stock is owned by legacy shareholders of the new foreign partner in order to avoid domestic corporation treatment. According to Wyden, the proposal would be effective for transactions on or after May 8, 2014.

Wyden announced his plans on May 8 and provided an overview of how the proposal would work in a May 9 op-ed in *The Wall Street Journal*. (For prior coverage, see *Tax News & Views*, Vol. 15, No. 18, May 9, 2014.)

URL: http://newsletters.usdbriefs.com/2014/Tax/TNV/140509_3.html

Hatch weighs in

For his part, Finance Committee ranking member Hatch took to the Senate floor May 13 to make the case for addressing inversions through tax reform. Specifically, Hatch argued that “inversions are only one symptom of our dysfunctional international tax rules” and that “proposals to restrict inversions or to impose some sort of management and control test are like trying to plug the dyke with your fingers to keep capital and jobs from flowing overseas.”

Hatch also criticized Democratic plans to make anti-inversion proposals effective retroactively.

“Put simply, retroactive changes to the law...are the antithesis of stability and predictability and will only make tax reform that much harder,” he said.

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