



Tax

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Wyden, Hatch hint at short-term highway funding fix

As Senate lawmakers weighed in with more options to replenish the rapidly dwindling Highway Trust Fund, Finance Committee Chairman Ron Wyden, D-Ore., and ranking member Orrin Hatch, R-Utah, this week indicated that they may opt to move a short-term funding package now and save a long-term solution for a lame duck session after the midterm congressional elections.

Get through this year

The current authorization for the trust fund is set to expire September 30. However, according to projections released June 17 by the Department of Transportation, funding could dry up as early as August as spending continues to outstrip revenue coming into the fund. Wyden indicated at a May 6 Finance Committee hearing that the trust fund will require an infusion of approximately \$8 billion – on top of amounts projected from existing revenue sources such as taxes on gasoline, diesel fuel, and other transportation-related activities – to remain solvent through the end of the current calendar year. The Congressional Budget Office has estimated that keeping the trust fund solvent through 2020 would require another \$89 billion beyond what is projected from dedicated revenue sources.

URL: <http://www.dot.gov/fastlane/dot-updates-highway-trust-fund-tickers>

URL: <http://www.cbo.gov/sites/default/files/cbofiles/attachments/45315-TransportationTestimony.pdf>

After holding several Senate Finance Committee meetings over the past few weeks, Wyden told reporters June 17 that members in both parties wanted to make sure the trust fund remains solvent through the end of the year. “I see growing interest among members in terms of taking care of the short term, which is essentially...six months, and then trying to find a way to use that six months as a springboard to a broader set of reforms,” Wyden said.

Hatch likewise told reporters that “the best thing we can do right now is a short-term fix.”

Searching for offsets

Although the Finance Committee members meetings continue, consensus on a short- or long-term approach to plugging the highway funding gap appears to remain elusive.

Repatriation holiday – Senate Majority Leader Harry Reid, D-Nev., and Kentucky Republican Sen. Rand Paul have garnered attention on Capitol Hill and in the press with a yet-to-be-released proposal that reportedly would pay for highway infrastructure spending through a repatriation holiday coupled with a provision that would limit the ability of multinationals to deduct interest on certain domestic borrowings. But Wyden and Hatch have been reluctant to embrace that idea,

arguing that a repatriation holiday should not be considered outside the context of fundamental tax reform. (For prior coverage, see *Tax News & Views*, Vol. 15, No. 23, June 13, 2014.)

URL: http://newsletters.usdbriefs.com/2014/Tax/TNV/140613_3.html

The Reid-Paul proposal also has its critics off the Hill. White House press secretary Jay Carney told reporters June 18 that President Obama “does not support and has never supported a voluntary repatriation holiday, because it would give large tax breaks to a very small number of companies that have most aggressively shifted profits and, in many cases, jobs overseas.”

For its part, the Business Roundtable argued in a June 19 letter to leaders of the Senate Finance Committee and the House Ways and Means Committee that it opposed “ad hoc business tax increases to fund highway improvements, even if paired with a temporary reduction in the tax rate on repatriations” and that any proposed “limitation on interest deductions would raise the cost of financing new investment for American companies, and thereby disadvantage American companies relative to their foreign-based competitors.”

URL: <http://businessroundtable.org/resources/brt-opposes-one-time-tax-provisions-fund-shortfall-highway-trust-fund>

Gas tax hike plus permanent extenders – A longer-term solution proposed by Sens. Bob Corker, R-Tenn., and Chris Murphy, D-Conn., on June 18 would increase the federal gasoline and diesel fuel excise taxes by 12 cents over the next two years (six cents per year) and index them for inflation going forward. The proposal has not yet been made public, but Corker and Murphy explained in a press release that their plan also would make permanent a number of tax extenders “that already have broad, bipartisan support.” (Although the release does not identify specific provisions, the list of permanent extenders under the plan reportedly includes the research and development credit, the enhanced small business expensing limits and phase-out threshold under section 179, and the deduction for state and local sales taxes, among others.)

URL: http://www.corker.senate.gov/public/index.cfm/news?ContentRecord_id=b53492d7-af1c-43c7-962a-832eec9fb8a4

But the proposal has prompted criticism from Hatch and some other Republicans who are wary of raising the gas tax with or without additional sweeteners.

“Many feel that it’s a logical thing to do, since the users are paying for the roads. But, thus far, I don’t think you have broad support for it,” Hatch told reporters June 18.

Other options – Some of the other tax-related offsets reportedly being contemplated include:

- Adopting a so-called “pension smoothing” provision which would modify the interest rate that employers must use to calculate their pension plan liabilities for purposes of determining their annual minimum funding obligations;
- Increasing various transportation-related taxes – for example, by scaling back tax breaks for or imposing a manufacturing fee on hybrid electric vehicles;
- Expanding the “gas guzzler” excise tax to include light trucks;
- Paring back depreciation allowances for large trucks; and
- Imposing a per-barrel tax on oil at the wholesale level.

Mark-up by July 4? – Wyden indicated earlier this month that he expects the committee will mark up a highway funding package before the Senate adjourns for its Independence Day recess. A mark-up session had not been scheduled as of press time, however. (The Senate’s last scheduled work day before the recess is June 26; lawmakers will be back in session on July 7.) Majority Leader Reid has indicated that he wants to hold a vote in July on a comprehensive transportation funding package that combines a long-term spending plan developed in the Environment and Public Works Committee with the Finance Committee’s offset package.

House developments – Across the Capitol, House Speaker John Boehner, R-Ohio, told reporters June 19 that the Ways and Means Committee is mulling over options to pay for a nine-to-twelve-month highway funding fix, but stated that he believes a mark-up before the July 4 recess is unlikely. For his part, Ways and Means Chairman Dave Camp, R-Mich., told reporters that he was “not prepared to describe what it is [the committee is] looking at,” but stated that taxwriters would “try to get as long of an extension of the Highway Trust Fund as [they] can.”

Wyden renews warning on inversions

In other Finance Committee news, Chairman Wyden on June 16 responded to the announcement of another proposed corporate inversion by reiterating his call for new rules that would make it more difficult for inverting companies to avoid being treated as domestic entities for U.S. tax purposes.

"It's clear that America must establish a more efficient and competitive corporate tax rate. However, any company who is paying U.S. taxes today should expect to pay U.S. taxes for years to come regardless of how they try to game the system," Wyden said in a news release.

Wyden had initially laid out his position on inversions in a May 9 op-ed in *The Wall Street Journal* in which he called for legislation that 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. (The threshold is 20 percent under current law). The new standard, Wyden argued, should be effective "for all inversions taking place from May 8, 2014, on."

Although his op-ed was at first construed as an announcement that he intended to introduce an anti-inversion proposal, Wyden subsequently stated that he believes changes to the inversion rules should be enacted as part of comprehensive tax reform. He does not appear as a co-sponsor on free-standing anti-inversion legislation introduced in May by Senate Permanent Subcommittee on Investigations Chairman Carl Levin, D-Mich., which would set a 50 percent foreign-ownership threshold for inverted corporations seeking to avoid domestic tax treatment and would be effective for transactions completed after May 8, 2014. (For more details on Sen. Levin's proposal and similar House companion legislation introduced by Ways and Means Committee ranking Democrat Sander Levin of Michigan, see *Tax News & Views*, Vol. 15, No. 20, May 23, 2014. Neither bill has been taken up by a congressional taxwriting committee.)

URL: http://newsletters.usdbriefs.com/2014/Tax/TNV/140523_2.html

Wyden has also indicated that the Finance Committee will hold a hearing to examine international tax rules and inversions in the context of tax reform. A date for the hearing has not yet been announced.

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McCarthy to replace Cantor as House majority leader

House Republicans on June 19 elected Rep. Kevin McCarthy of California to succeed Rep. Eric Cantor of Virginia as their majority leader after Cantor steps down from the position at the end of next month. McCarthy, who currently serves as House majority whip, defeated Idaho Rep. Raul Labrador. The election was held under secret ballot and vote totals were not made public.

GOP lawmakers also chose Republican Study Committee Chairman Steve Scalise of Louisiana to replace McCarthy as majority whip. Scalise beat back challenges from Chief Deputy Whip and Ways and Means Committee member Peter Roskam of Illinois, and from Rep. Marlin Stutzman of Indiana.

The majority leader manages the House's legislative agenda, determines when bills are brought to the floor, and generally works to advance the goals of the majority party. The majority whip assists leadership in managing the party's legislative program on the House floor, keeps track of all legislation, and ensures that all party members are present for floor votes on important measures. The changes in the House GOP's leadership roster are unlikely to have an immediate impact on the chamber's approach to tax policy. That being said, the House's recent votes to permanently extend several of the now-expired temporary tax deductions, credits, and incentives was developed in part by departing Majority Leader Cantor, so it is possible – but not viewed as likely – that the extenders agenda could be retooled as House Republicans map out their end-of-year strategy. (For additional discussion, see *Tax News & Views*, Vol. 15, No. 23, June 13, 2014.)

URL: http://newsletters.usdbriefs.com/2014/Tax/TNV/140613_2.html

Rep. Cantor lost his primary election bid for another term as representative from Virginia's seventh congressional district on June 10; he announced a day later that he would resign as majority leader effective July 31, but will remain in Congress through the end of his current term.

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