



Tax

## Tax News & Views

April 24, 2015

### In this issue:

Budget conference committee holds public meeting; deal reportedly near .....	1
Taxwriters include extension of Health Coverage Tax Credit – with revenue offsets – in trade adjustment assistance legislation .....	3
Dold tapped to fill Ways and Means vacancy .....	5

---

### Budget conference committee holds public meeting; deal reportedly near

Members of a House-Senate conference committee established to iron out differences between the separate budget resolutions approved in each chamber last month kicked off the week by sparring over tax and spending policy during their first – and likely only – public meeting; but by week’s end the panel’s leaders appeared to be closing in on an agreement.

The two chambers voted to create the conference committee last week and appointed 30 members to the panel – 17 Republicans and 13 Democrats – including House Budget Committee Chairman Tom Price, R-Ga., and Senate Budget Committee Chairman Mike Enzi, R-Wyo. (For prior coverage, see *Tax News & Views*, Vol. 16, No. 13, Apr. 17, 2015.) Although the panel’s membership is deep, the conference committee is likely to revolve primarily around negotiations between the two Budget Committee chairmen along with GOP leadership from each chamber. Both Price and Enzi also sit on their respective chambers’ taxwriting committees.

[URL: http://newsletters.usdbriefs.com/2015/Tax/TNV/150417\\_2.html](http://newsletters.usdbriefs.com/2015/Tax/TNV/150417_2.html)

### Conferees spar over taxes

During the April 20 public meeting, conferees used their opening statements to rehash familiar arguments over tax issues, with Republicans ruling out revenue increases and Democrats arguing in favor of a more “balanced” approach to deficit reduction through a combination of revenue increases and spending cuts. (The two Republican plans are designed to put the federal budget on a path to surplus within 10 years by cutting more than \$5 trillion in spending over that timeframe. For prior coverage, see *Tax News & Views*, Vol. 16, No. 11, Mar. 20, 2015.)

[URL: http://newsletters.usdbriefs.com/2015/Tax/TNV/150320\\_2.html](http://newsletters.usdbriefs.com/2015/Tax/TNV/150320_2.html)

House Budget Chairman Price contended that “a balanced budget can be and ought to be achieved without raising taxes. Washington does not need to take more from hard-working Americans – it needs to start living within its means.”

But several Democrats, including House Budget Committee ranking member Chris Van Hollen of Maryland and Sen. Tim Kaine of Virginia, claimed that the revenue levels in the House- and Senate-approved budget blueprints are at odds with House Republican efforts earlier this year to move unoffset bills that would repeal the estate tax and make permanent several of the so-called “tax extenders,” and with the GOP’s stated desire to repeal the Patient Protection and Affordable Care Act (PPACA) and related provisions of the Health Care and Education Reconciliation Act of 2010, including the revenue increases enacted in those laws. (The revenue levels in the two Republican budget blueprints are consistent with those projected by the Congressional Budget Office in January as part of its annual Budget and Economic Outlook. Those projections customarily assume that current laws remain unchanged. For prior coverage, see *Tax News & Views*, Vol. 16, No. 4, Jan. 30, 2015.)

[URL: http://newsletters.usdbriefs.com/2015/Tax/TNV/150130\\_4.html](http://newsletters.usdbriefs.com/2015/Tax/TNV/150130_4.html)

Addressing Republican conferees in his opening statement, Van Hollen argued that “in addition to the Affordable Care Act revenue that you need to balance and say you’re getting rid of, in the House we’re passing tax cut bills that add to the deficit which aren’t factored in here. You add to that the games that are being played in the war...account, and you’ve got a whole bunch of financial shenanigans going on here to claim balance.”

## Deal at hand?

After the committee’s public meeting, Price noted the panel would seek to reach agreement by the end of April. (There is a statutory deadline of April 15 for Congress to have a budget in place, but this is a deadline that lawmakers often miss.)

Press reports late this week indicate that the two Budget Committee chairmen may be closing in on a deal. Price told reporters on April 23 that an agreement is “close, but there are a few outstanding issues.” He did not elaborate on which issues remain open, however.

**Reconciliation instructions:** One of the key differences between the House and Senate budget blueprints heading into the conference negotiations was the roster of congressional committees to be charged with reporting legislation pursuant to each chamber’s “budget reconciliation” instructions. (If included in a congressionally adopted budget resolution, reconciliation instructions provide a fast-track procedure that limits debate in the Senate and allows for passage of certain legislation in that chamber by a simple majority vote, as opposed to the 60 votes normally required to clear procedural hurdles – a potentially useful tool for Republicans who currently hold 54 Senate seats.)

The Senate-passed plan includes reconciliation instructions directed at two committees – the Finance Committee and the Health, Education, Labor, and Pensions Committee – ostensibly targeted at repealing the 2010 health care reform laws. The House-passed plan, meanwhile, contains instructions directed at 13 committees, including those that have jurisdiction over tax and health policy as well as several that do not.

The reconciliation instructions in each budget are general enough, however, that they potentially could be used for other purposes, such as addressing the potential fallout that may result if the US Supreme Court decides in *King v. Burwell* that tax subsidies under the PPACA are available only on state-based exchanges. In any case, under the rules governing the process, reconciliation instructions cannot stipulate particular policies that are under the jurisdiction of other committees.

**Other differences:** Other major differences that will have to be resolved in a final agreement relate to the plans' proposed spending levels over the next decade on nondefense discretionary programs and the amount of savings and policy specificity surrounding the budgets' suggested reforms to entitlement programs.

The conference committee is also reportedly discussing ways to offset the roughly \$140 billion net 10-year cost of recently enacted legislation to reform the formula governing Medicare physician reimbursements (the so-called Medicare "Doc Fix").

**Getting to 'yes':** Any agreement that Price and Enzi work out would need to receive the support of a majority of each chamber's conferees in order to be sent back to the full House and Senate for votes on adoption. It is important to note that even if the two chambers agree on and pass an identical resolution and a congressional budget is adopted, the measure would not go to President Obama for his signature (or veto) and would never become law. (Once a budget resolution is adopted, any legislation that Congress approves pursuant to that resolution, including a reconciliation bill, could, of course, be subject to a presidential veto.)

Still, a congressional budget resolution is in itself an important document that lays out Congress's broad tax and spending priorities and sets a top-line figure which is used by the congressional appropriations committees to draft spending bills for the upcoming fiscal year. (The appropriations legislation currently funding domestic and defense programs must be renewed prior to the end of the current fiscal year on September 30, 2015.)

— Alex Brosseau  
Tax Policy Group  
Deloitte Tax LLP

---

## **Taxwriters include extension of Health Coverage Tax Credit – with revenue offsets – in trade adjustment assistance legislation**

House and Senate taxwriters this week voted to retroactively renew the now-expired Health Coverage Tax Credit (HCTC) as part of substantially similar bills to reauthorize the Trade Adjustment Assistance Program. Extension of the HCTC would be paid for through a modification to the refundable portion of the child tax credit for certain taxpayers living abroad, adjustments to estimated tax payments for large corporations, and an extension of increases in certain Customs user fees.

The underlying trade legislation, which was approved in the Senate Finance Committee on April 22 and the House Ways and Means Committee on April 23, reflects a bipartisan

agreement worked out among the chairmen and ranking members of the two congressional taxwriting panels.

## HCTC and offsets

The Ways and Means and Finance Committee versions of the trade adjustment assistance bill would renew the HCTC through 2019, retroactive to December 31, 2013. The HCTC was first enacted in 2002 and provides a refundable tax credit covering 72.5 percent of health insurance premium costs for certain individuals who became unemployed because their jobs moved offshore or who receive benefits from the Pension Benefits Guaranty Corporation. It expired at the end of 2013 and was not renewed in the extenders legislation that was enacted late last year.

The cost of extending the credit (\$173 million over 10 years, according to estimates from the Joint Committee on Taxation staff) would be offset by:

- **Denying the refundable portion of the child tax credit for taxpayers who elect to exclude foreign income from tax:** The legislation would deny the additional child tax credit (ACTC) – the refundable portion of the child tax credit – to taxpayers who elect the foreign earned income exclusion under section 911, which allows US citizens and US resident aliens living abroad to exclude a specified amount of foreign earnings (up to \$100,800 in 2015, indexed annually for inflation) from gross income for US tax purposes. (A summary provided by Finance Committee staff explains that the interaction of the foreign earned income exclusion and the ACTC under current law “can lead to the unintended consequence that taxpayers earning six-figure incomes and who have no tax liability receive a check from the government for the ACTC because they appear to have low earned income.”) This provision would conform treatment of the ACTC to current-law treatment of the refundable portion of the earned income tax credit.
- **Adjusting estimated tax payments for large corporations:** For corporations with assets over \$1 billion, the legislation would increase estimated tax payments due in July, August, or September of 2020 by 2.75 percent of the amount otherwise due and reduce the next estimated tax payment by the same amount.
- **Extending Customs user fee increases:** The legislation would extend through September 30, 2025, the increased COBRA (Consolidated Omnibus Reconciliation Act) fee imposed on all carriers and passengers entering the United States to ensure they are compliant with US Customs laws. It also would extend through September 30, 2025, an increase in the merchandise processing fee paid by importers who import products from countries with which the United States does not have a free trade agreement.

## Other trade measures approved

In addition to the trade adjustment assistance bill, House and Senate taxwriters approved similar versions of legislation that would reauthorize certain trade preferences. Both bills call for an increase of 5.25 percent in estimated tax payments for large corporations in the third quarter of 2020 and offsetting decreases in the following quarter, as well as extensions of certain Customs user fees. The two panels also cleared legislation that would extend certain trade facilitation and trade enforcement activities (containing tweaks to Customs user fees).

Both committees also approved separate versions of legislation that would allow for “fast track” consideration in Congress of international trade agreements negotiated by the White House. Those measures include no tax provisions.

### **Next steps unclear**

It is currently unclear when House and Senate Republican leaders plan to bring the trade measures to the floor in their respective chambers, although the expectation at press time is that the Senate is likely to consider these measures before the House takes them up.

— Michael DeHoff  
Tax Policy Group  
Deloitte Tax LLP

---

### **Dold tapped to fill Ways and Means vacancy**

The House Republican Steering Committee this week recommended Rep. Bob Dold, R-Ill., to take over the Ways and Means Committee slot vacated by former Rep. Aaron Schock, according to press reports citing anonymous Ways and Means Committee sources. Dold was first elected to Congress in 2010, lost his re-election bid in 2012, and regained his seat in 2014. He currently sits on the House Financial Services Committee.

The Steering Committee’s recommendation is subject to approval by the full House Republican Conference, whose next meeting is expected to occur on April 29.

Schock, a Republican from Illinois, resigned from Congress on March 31 amid questions surrounding his use of campaign funds. A primary election to determine candidates to fill Schock’s congressional seat is set for July 7; a general election will be held on September 10.

— Michael DeHoff  
Tax Policy Group  
Deloitte Tax LLP

**Have a question?**

If you have needs specifically related to this newsletter's content, send us an email at [clientsandmarketsdeloittetax@deloitte.com](mailto:clientsandmarketsdeloittetax@deloitte.com) to have a Deloitte Tax professional contact you.

**About Deloitte**

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see [www.deloitte.com/about](http://www.deloitte.com/about) for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms. Please see [www.deloitte.com/about](http://www.deloitte.com/about) for a detailed description of the legal structure of Deloitte LLP and its subsidiaries. Certain services may not be available to attest clients under the rules and regulations of public accounting.

**Disclaimer**

This publication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or its and their affiliates are, by means of this publication, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This publication is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your finances or your business. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. None of Deloitte Touche Tohmatsu Limited, its member firms, or its and their respective affiliates shall be responsible for any loss whatsoever sustained by any person who relies on this publication.