Tax

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Hatch eyes end-of-June deadline for tax reform working groups

After agreeing to give the Senate Finance Committee's tax reform working groups more time to develop recommendations for overhauling the tax code, committee Chairman Orrin Hatch, R-Utah, told reporters June 2 that he is now targeting an end-of-month deadline for the panels to submit their final reports. Hatch indicated that an official deadline date had not yet been decided, however.

The five bipartisan working groups – covering the topics of individual income tax, business income tax, savings and investment, international taxation, and community development and infrastructure – were formed in January and originally had been expected to complete their work by May 31. The groups recently made presentations to the entire Finance Committee to discuss their efforts to date; but as the May 31 deadline approached, Finance Committee staffers indicated that there was not sufficient consensus within the individual panels to make policy recommendations and that group leaders were seeking an extension. In a joint statement with Finance Committee ranking Democrat Ron Wyden of Oregon issued May 21, Hatch noted that "[a]fter receiving valuable feedback from our working group co-chairs on how they need more time to produce constructive results, we feel it is prudent to allow additional time so that they can continue their work."

Once the working groups' recommendations are submitted, it is unclear whether they will be shared outside of the Finance Committee. Hatch indicated early last month that he had not made up his mind about whether to release details of the working groups' final reports to the public and has not formally clarified his position since then. Some Finance Committee staffers recently indicated, however, that the international group is closer to consensus and may decide on its own to make its recommendations public. (Those recommendations reportedly may include the adoption of a US patent box, a mechanism designed to provide a low tax rate for income derived from research and development activities in order to stimulate domestic

research jobs and discourage companies from moving their intellectual property offshore. For prior coverage, see *Tax News & Views*, Vol. 16, No. 16, May 8, 2015.)
URL: http://newsletters.usdbriefs.com/2015/Tax/TNV/150508_2.html

Ways and Means developments

In other tax reform developments this week, House Ways and Means Committee member Charles Boustany, R-La., in remarks published in *Politico*, expressed concern about proposals to use revenue from revamping the international tax rules to replenish the rapidly dwindling Highway Trust Fund.

The latest extension of the trust fund's spending authority – a two-month patch approved in the House and Senate before Congress adjourned for the Memorial Day recess – is set to expire on July 31. (The two-month extension was approved without offsets because the trust fund was projected to have enough revenue to remain solvent until sometime in July.) Although there is broad agreement that a six-year highway bill would be optimal for planning and certainty, a long-term fix would require additional trust fund receipts beyond those projected under current law and lawmakers have been unable to agree on acceptable sources of funding. (A recent letter from the Congressional Budget Office to Ways and Means ranking Democrat Sander Levin of Michigan indicated that lawmakers would need to find an additional $85-90 billion to pay for a six-year bill.) Some advocates of a long-term highway bill contend that an increased gas tax would provide the most predictable – and directly relevant – revenue stream, but leaders in both the House and Senate have so far rejected that idea.
URL: http://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/SanderLevinHTFLetter.pdf

One idea being discussed – by lawmakers such as House Majority Leader Kevin McCarthy, R-Calif., as well as by White House officials – is to use revenues from international business tax reform to pay for a large transit bill. Some have suggested, for example, that a shift from the current worldwide system towards a territorial regime for taxing foreign-source income of US multinationals would create a one-time revenue increase resulting from a "deemed repatriation" that could be paired with a long-term extension of the Highway Trust Fund later this year.

Boustany commented that, in his view, revenue raised through one component of a tax reform plan should be used to offset the cost of other tax reform priorities.

No public signals from taxwriting leaders: Ways and Means Committee Chairman Paul Ryan, R-Wis., and Senate Finance Committee Chairman Orrin Hatch, R-Utah, have so far not signaled how they intend to address a long-term solution for transportation funding, although both in the past have rejected calls to pay for highway spending through a stand-alone tax on repatriated foreign earnings that is not tied to broader tax reform.

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House taxwriters OK medical device excise tax repeal

The House Ways and Means Committee voted 25-14 on June 2 to repeal the 2.3 percent excise tax on medical devices that was implemented in 2013 as part of the Patient Protection and Affordable Care Act.

The Protect Medical Innovation Act of 2015 (H.R. 160) was sponsored by Ways and Means Committee member Erik Paulsen, R-Minn. As modified by committee Chairman Paul Ryan, R-Wis., before the mark-up, it would be effective for sales in calendar quarters beginning after the date of enactment. The Joint Committee on Taxation staff estimates the approved legislation would reduce federal revenues by $24.4 billion over 10 years. (Paulsen's bill as introduced would have been effective for sales after December 31, 2012, for an estimated 10-year revenue loss of $26.5 billion.)
URL: https://www.jct.gov/publications.html?func=startdown&id=4786

The committee vote fell along party lines, with the exception of a 'yes' vote by Rep. Ron Kind, D-Wis., who is the bill's chief co-sponsor with Paulsen. While a number of other Democrats on the committee indicated their support for repealing the excise tax, they objected to doing so without providing an offset for the projected revenue loss.

House Majority Leader Kevin McCarthy, R-Calif., has indicated that the bill is likely to come to the chamber floor the week of June 15, where passage is expected. (The House has voted three times in recent years to repeal the medical device tax.)

Senate Finance Committee Chairman Orrin Hatch, R-Utah, introduced similar legislation – the Medical Device Access and Innovation Protection Act (S. 149) – in January, but has not yet indicated when the Finance Committee will consider the bill. Legislation to repeal the medical device excise tax did not advance in the Senate during the 113th Congress when the chamber was under Democratic control, although several nonbinding votes in recent years have shown broad bipartisan support in the Senate for such proposals.

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Senate clears trade adjustment assistance legislation with tax provisions

The Senate late on May 22 voted 62-37 to retroactively renew the now-expired Health Coverage Tax Credit (HCTC) as part of legislation (H.R. 1314) 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 the timing of estimated tax payments for large corporations, and an extension of increases in certain Customs user fees.

HCTC and offsets

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 (JCT) staff – would be offset by:
URL: https://www.jct.gov/publications.html?func=startdown&id=4775

- **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 Senate 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 the timing of 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

Two other trade bills approved in the Senate in May also include assorted small tax provisions:

- Legislation (H.R. 644) that would extend certain trade facilitation and trade enforcement activities includes a provision that would deny new passports to (or revoke existing passports held by) certain delinquent taxpayers (JCT estimated 10-year revenue gain: $398 million).
  URL: https://www.jct.gov/publications.html?func=startdown&id=4783
- A bill (H.R. 1295) that would extend certain trade preferences calls for requiring banks to send a Form 1099 to all interest recipients, including those with interest income below the current safe-harbor amount of $10 (estimated 10-year revenue gain: $90 million)

and changing the timing of estimated tax payments for large corporations (increasing them by 5.25 percent in the third quarter of 2020, with offsetting deceases in the following quarter so that the provision is revenue neutral over 10 years).
URL: https://www.jct.gov/publications.html?func=startdown&id=4782

Both bills also include tweaks to Customs user fees.

Next steps

Similar trade bills are expected to move through the House sometime this month.

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