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House OKs short-term highway patch with tax compliance offsets; Senate leaders mull multi-year package

The House of Representatives this week approved legislation that would extend spending authority for the Highway Trust Fund through mid-December, offset primarily by tightening taxpayer compliance rules. Meanwhile, Senate leaders considered options to offset the cost of an as-yet unreleased bill that would renew the trust fund for at least two years.

House action

The Highway and Transportation Funding Act of 2015, Part II (H.R. 3038), which cleared the House on July 15 by a vote of 312-119, would keep the Highway Trust Fund afloat through December 18. (The most recent extension of the trust fund's spending authority expires on July 31.) The measure calls for an $8 billion transfer from the general fund into the Highway Trust Fund, offset by roughly $5 billion in tax provisions and another $3 billion in spending reductions.

Tax provisions: Tax-related offsets include proposals to:

- Require mortgage lenders to report additional information on outstanding mortgage loans – including the origination date, the amount of outstanding principal, and the property's address – to the IRS. The Joint Committee on Taxation (JCT) staff estimates this provision would increase federal revenues by $1.8 billion over 10 years.
  URL: https://www.jct.gov/publications.html?func=startdown&id=4799
- Clarify that the six-year statute of limitations for the IRS to reassess taxpayers who substantially understate their income applies in cases where an overstatement of basis results in a substantial omission of income (JCT estimated 10-year revenue gain: $1.2 billion).

- Require estates with positive estate tax liability to report the value of property owned by a decedent upon the decedent's death (JCT estimated 10-year revenue gain: $1.5 billion).
- Adjust tax filing deadlines for partnerships, S corporations, and C corporations (JCT estimated 10-year revenue gain: $314 million).
- Extend through 2025 a current-law provision (set to expire in 2021) that allows employers to transfer excess defined benefit plan assets to retiree medical accounts and group term life insurance (JCT estimated 10-year revenue gain: $172 million).

The legislation also includes a provision that would tax liquefied natural gas, liquefied petroleum gas, and compressed natural gas on an energy-equivalent basis. This would reduce the tax on liquefied natural gas to 14.1 cents per gallon and the tax on liquefied petroleum gas to 13.2 cents per gallon and, according to the JCT, would reduce federal receipts by an estimated $90 million over 10 years.

Bridge to multi-year extension: As envisioned by House Ways and Means Chairman Paul Ryan, R-Wis., the House-approved patch, if enacted into law, would give Congress sufficient time to prepare a long-term Highway Trust Fund extension – up to six years – that would be paired with an international tax reform package broadly envisioned to include, among other things, a deemed repatriation tax on previously untaxed foreign-source income of US multinationals, a shift from a worldwide to a territorial/dividend-exemption regime, and an innovation box that would provide lower tax rates on income generated by certain intellectual property, as well as provisions to prevent base erosion. However, the short-term patch also would mean that failure to reach agreement on the details of an international tax reform plan would set up another last-minute scramble for highway funds in mid-December.

The House's move is in line with the strategy recently championed by Senate taxwriters Rob Portman, R-Ohio, and Charles Schumer, D-N.Y., who led the Finance Committee's international tax reform working group. That panel, in a report released July 8, recommended a reform plan – albeit without key details that would allow for its full evaluation – similar to what Ways and Means Chairman Ryan is advocating. (For prior coverage, see *Tax News & Views*, Vol. 16, No. 23, July 10, 2015.) In addition, the Obama administration, which at one time was threatening to veto another short-term highway patch, has expressed support for the House-passed bill, noting in a July 15 Statement of Administration Policy that the measure would "give the House and Senate the necessary time to work on a long-term bill this year that increases investment to meet the nation's infrastructure needs." The statement did not address the issue of international tax reform, however.
URL: http://www.finance.senate.gov/download/?id=E1FA3F08-B00C-4AA8-BFC9-7901BD68A30D
URL: http://newsletters.usdbriefs.com/2015/Tax/TNV/150710_1.html
URL: https://www.whitehouse.gov/sites/default/files/omb/legislative/sap/114/saphr3038h_20150715.pdf

GOP senators reach for a longer-term highway bill

Across the Capitol, some key senators remain reluctant to approve another short-term highway patch and would prefer to get a longer-term package through Congress and to the White House this month. Senate Majority Leader Mitch McConnell, R-Ky., spent much of the week trying to build support for a multi-year surface transportation bill that, at a minimum, would ensure the issue does not need to be revisited again before the November 2016 elections.

McConnell and other GOP senators have expressed skepticism that lawmakers can reach an agreement by year-end on a long-term bill partially funded by international tax reform, particularly with a presidential contest looming next fall.

For his part, Senate Finance Committee member John Thune, R-S.D. – who also chairs the Senate Republican Conference – told reporters July 15 that it would be “great” if Congress was able to pair international tax reform legislation with an extension of the Highway Trust Fund. But he cautioned that “most of us are pretty skeptical that we’re going to get any significant tax reform done before the end of the year that doesn’t include significant new spending initiatives. Democrats have a very different view of what tax reform is like.”

Hatch vetting potential offsets: According to reports, Senate Finance Committee Chairman Orrin Hatch, R-Utah, has assembled a list of potential offsets totaling some $80 billion in savings over 10 years that could be used to finance a long-term bill. However, one of those proposed changes – which would save roughly $30 billion by paring back the rate of return on an investment fund option within the Thrift Savings Plan used by federal employees – did not get a favorable reaction from congressional Democrats.

“If they come through with this ‘We’re just going to take it out of federal employee pensions,’ they’re never going to move that bill and I hope they know that,” said Senate Minority Whip Dick Durbin, D-Ill.

While most of the changes to fund a longer-term highway bill thought to be on McConnell’s list are said to be unrelated to tax, press reports indicate that tax compliance measures similar to those included in the House-passed plan are also under consideration.

Democrats divided?: Across the aisle, Senate Democrats appeared more split over how to address highway legislation, with some expressing measured support for the House approach and others arguing in favor of moving a long-term bill now. Talking to reporters July 15, Finance Committee member Charles Schumer, who is collaborating with fellow taxwriter Rob Portman on an international tax reform plan that would fund a longer-term highway bill with revenues generated through a deemed repatriation tax, hinted he could back either approach.

“It’s a very good way to go,” Schumer said of the House-passed plan. “But let’s face it – there’s a lot of details that would have to be worked out in tax reform. So if there’s another, more immediate proposal that would be long-term and have a robust funding increase, it’s something I’d look at.”

Ex-Im Bank to factor in: Another factor complicating the highway bill debate is the question of what to do about the Export-Import (Ex-Im) Bank – an independent federal agency which provides credit support to foreign buyers of US goods and services – whose charter lapsed at the end of June. Senate supporters of the bank would like to attach a provision extending its authorization to any highway legislation that moves this month. (McConnell reportedly promised Ex-Im supporters a vote on extending the bank’s authorization during debate on trade legislation earlier this summer, and a nonbinding vote in the Senate showed the proposal was very likely to get more than the 60 votes needed to advance most legislation in that chamber.)

But the bank's renewal is strongly opposed by many congressional Republicans, including Sen. Ted Cruz, R-Texas – who has vowed to raise procedural roadblocks to any highway bill that extends the bank's charter – as well as House Ways and Means Committee Chairman Paul Ryan, House Financial Services Committee Chairman Jeb Hensarling, R-Texas, and House Majority Leader Kevin McCarthy, R-Calif.. The opposition of the latter two is notable, as Hensarling's panel has jurisdiction over the matter, and McCarthy is responsible for scheduling legislation for consideration on the floor of the House.

Talks to continue over the weekend: Senators and staff are expected to work over the weekend of July 18 in an effort to produce a bill with sufficient bipartisan support to clear procedural hurdles. The Senate's first procedural vote on House-passed legislation that would serve as the vehicle for any bill that emerges from those negotiations is currently scheduled for July 21.

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Finance Committee to mark up extenders legislation

Senate Finance Committee Chairman Orrin Hatch, R-Utah, announced July 17 that the taxwriting panel will mark up legislation to address the temporary tax deductions, credits, and incentives that expired at the end of 2014. The mark-up is scheduled for July 21 at 11:00 a.m.

According to a description prepared by the Joint Committee on Taxation (JCT) staff, the chairman's mark would renew most of the expired tax provisions through 2016, retroactive to the end of 2014, without making additional policy changes. The chairman's mark includes no revenue offsets and, according to an estimate from the JCT staff, would reduce federal receipts by $95.6 billion over 10 years.
URL: http://www.finance.senate.gov/imo/media/doc/JCX-101-15%20Extenders%20Markup.pdf
URL: http://www.finance.senate.gov/imo/media/doc/JCX10215.pdf

In the House, Ways and Means Committee Chairman Paul Ryan, R-Wis., has indicated that he would like for his panel to move an extenders bill as early as September and that he expects to include permanent extensions of several of the now-expired provisions – a likely source of contention for congressional Democrats and the White House and one of the reasons most observers believe enactment of a package of extenders is unlikely until closer to the end of 2015.

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