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House GOP budget and taxwriters advance budget bills, floor action uncertain

The House Budget Committee voted along party lines this week to advance a fiscal year 2017 budget resolution, and Republicans on the Ways and Means Committee reported a handful of bills aimed at generating savings in certain nondiscretionary budget programs; but continuing GOP disunity on the contours of the budget blueprint could prevent the measures from reaching the House floor.

House budget: Long on spending cuts, short on tax reform details

Many observers were skeptical in recent days a House budget mark-up would even occur due to conservative opposition to the plan’s proposed top-line fiscal year 2017 discretionary spending level, which adheres to the level set in law by the Bipartisan Budget Act of 2015 negotiated last fall by President Obama and then-Speaker John Boehner, R-Ohio. (For prior coverage, see *Tax News & Views*, Vol. 17, No. 11, Mar. 11, 2016.)
URL: http://newsletters.usdbriefs.com/2016/Tax/TNV/160311_1.html

The tax-and-spending blueprint – which the Budget Committee approved on a party-line vote March 16 – calls for putting the federal budget on a path to balance within the next decade through major reductions in federal spending totaling more than $6.5 trillion over 10 years (including lower interest payments attributable to a smaller accumulation of federal debt). Those spending cuts would come mainly from reforming the major entitlement programs for health and retirement and by further reducing nondefense discretionary spending below the statutory spending caps known as the “sequester.”

A broad call for tax reform, Affordable Care Act repeal: On the tax side, the budget generally proposes revenue levels in line with the Congressional Budget Office's most recent projections issued in January. (For prior coverage, see *Tax News & Views*, Vol. 17, No. 4, Jan. 22, 2016.)
URL: http://newsletters.usdbriefs.com/2016/Tax/TNV/160122_2.html

The Budget Committee's description of the fiscal plan includes a broad call for comprehensive tax reform that lowers rates (to unspecified levels), repeals the alternative minimum tax, transitions away from our current worldwide system for taxing foreign-source income of US multinationals, and broadens the tax base in a way that reduces economic distortions and closes "special interest loopholes."
URL: http://budget.house.gov/uploadedfiles/fy2017_a_balanced_budget_for_a_stronger_america.pdf

The fiscal blueprint also calls for full repeal of 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. (Inherent in the budget's proposed revenue levels, however, is an assumption that revenues lost by repealing the health care reform law would be replaced by other sources.)

'Reconciliation' instructions included: Similar to last year's congressional GOP budget, the fiscal 2017 plan includes so-called "budget reconciliation" instructions calling on 12 separate House committees to report deficit-cutting legislation within 90 days of the budget's adoption. (If included in a congressionally adopted budget resolution, reconciliation instructions provide a fast-track procedure that can limit debate in the Senate and allow for passage of subsequent 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.)

Congressional Republicans utilized the budget reconciliation process last year to avoid a Democratic filibuster of a bill to repeal key components of the PPACA. (For prior coverage, see *Tax News & Views*, Vol. 17, No. 2, Jan. 8, 2016.) Although President Obama vetoed the repeal measure – an outcome that was expected – the reconciliation process has been discussed again as an avenue for congressional Republicans to bypass a Senate filibuster on contentious deficit-reduction proposals this year – or potentially to use early next year to fast-track another bill repealing key parts of the PPACA and deliver it to a new president who GOP lawmakers hope will be inclined to sign it into law.
URL: http://newsletters.usdbriefs.com/2016/Tax/TNV/160108_1.html

However, it is important to note that if the House and Senate cannot agree on a budget resolution – or if either chamber cannot pass (or chooses not to pass) its own plan in the first place – there would be no opportunity to move subsequent legislation under the reconciliation process. And Senate Republicans, for their part, have cast doubt on whether they will move their own fiscal 2017 budget at all, noting that enactment of the Bipartisan Budget Act last year reduces the necessity of drafting a budget resolution.

Ways and Means approves 'side-car' legislation

In accordance with the Bipartisan Budget Act, the budget's top-line discretionary spending level for fiscal 2017 exceeds the "sequester" level by $30 billion. As part of a plan formulated by House Republican leaders to address opposition to that higher spending level from the House Freedom Caucus (a group of roughly 40 of the chamber's most conservative members), the blueprint also includes a call for separate legislation, unrelated to reconciliation, that would reduce the deficit by at least $30 billion over two years (and at least $140 billion over 10 years).

The Ways and Means Committee got a jump on its part of this effort – dubbed a legislative "side-car" because it would move in conjunction with the budget resolution – on March 16 when it marked up three bills that would save a combined $16.5 billion over two years and $98 billion over the next decade.

The bills – each of which passed the committee without Democratic support – would:

- Require taxpayers to report a Social Security Number (or in the case of a joint return, the Social Security Number of at least one spouse) in order to claim the refundable portion of the child tax credit;
- Remove current-law caps on mandatory reimbursements to the government for overpayments of health care exchange subsidies received by certain lower-income individuals under the PPACA; and
- Repeal funding for the Social Services Block Grant program.

Prospects for further action in doubt

Due in large part to continuing opposition from Freedom Caucus members to the budget's proposed fiscal 2017 spending level – and their doubts that President Obama would ever sign (or even get the chance to sign) the side-car legislation – it remains unclear whether the side-car or the budget measure will be taken up by the full House.

In fact, press reports this week indicate that certain Budget Committee Republicans may have supported the blueprint in committee as a favor to party leaders but intend to oppose it on the floor. If GOP leaders cannot win over the support of a significant number of Freedom Caucus members, they would be unable to pass the budget resolution or the side-car, given that neither measure would be likely to garner any support from Democrats.

Majority Leader Kevin McCarthy, R-Calif., confirmed on March 17 that the House will not consider the budget resolution during the abbreviated work week of March 21, noting that "[t]here are more conversations among members [that] will be required before moving the budget to the floor…."

The House is scheduled to adjourn for the Easter recess on March 23 and remain out of session for the following two weeks, meaning the budget resolution – if it advances – would not reach the floor until the week of April 11 at the earliest.

— Alex Brosseau
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Search for policy 'consensus' will drive timing for international tax reform, Brady says

House Ways and Means Committee Chairman Kevin Brady, R-Texas, said this week that there is not a specific schedule for the committee to consider international tax reform legislation this year.

"We're going to let the consensus in the policy drive the timetable," he said in recent comments to *Politico*, although he suggested that a committee vote was likely in 2016.

"I intend to hold a vote on this, this year – again, we're going to let the process work out," he said.

Ways and Means Tax Policy Subcommittee Chairman Charles Boustany, R-La., who Brady has tasked with leading the international tax reform effort, said several weeks ago that he hoped to release a proposal by the end of March. (For prior coverage, see *Tax News & Views*, Vol. 17, No. 9, Feb. 26, 2016.) However, committee staff members have since dialed back expectations on that timing.
URL: http://newsletters.usdbriefs.com/2016/Tax/TNV/160226_1.html

Possible components

The basic contours of the international tax reform package are expected to include a shift from a worldwide system to a territorial system for taxing foreign-source income of US multinationals, accompanied by some type of base-erosion measures. Although discussions last year pointed to a likely minimum tax on future overseas profits, staff now say they are also considering other options to prevent base erosion and that no decision has been made.

In addition, an "innovation box" proposed last year by Boustany and Ways and Means Committee Democrat Richard Neal of Massachusetts that would provide a preferential tax rate on certain corporate profits related to patents and other intellectual property is still under consideration for inclusion. Many in the business community had a tepid response to the original proposal, while some criticized it as an unnecessarily complex provision that would benefit only a narrow group of corporations. Notably, White House Council of Economic Advisers Chairman Jason Furman came out against the proposal in a speech delivered March 11 at Georgetown University in Washington.
URL: https://www.whitehouse.gov/sites/default/files/docs/20160311_innovation_and_tax_policy_itpf.pdf

Earlier this year, Boustany mentioned the possibility of including a cut in the statutory corporate tax rate in the international bill – a surprise given the expected opposition from the passthrough and small business communities to a plan that would lower the rate for corporations but not for individuals. (Passthroughs are taxed on the individual side of the tax code and would not benefit from a reduction in the corporate rate. For prior coverage, see *Tax*

News & Views, Vol. 16, No. 13, Apr. 17, 2015.) But Ways and Means Chairman Brady commented this week that it is "too early" to know if the coming proposal will include such a cut.
URL: http://newsletters.usdbriefs.com/2015/Tax/TNV/150417_3.html

"In this environment, how we advance international tax reform will depend on how targeted and tailored it is," Brady said.

Laying the foundation

Brady, Boustany, and House Speaker Paul Ryan, R-Wis., have downplayed the likelihood that any tax reform legislation will be signed into law – or even make it through the House – this year, but they say the work done by the Ways and Means Committee will pave the way for action under a new presidential administration in 2017.

Boustany announces hearing on fundamental tax reform proposals: In that vein, Boustany announced this week that the Tax Policy Subcommittee will hold the first in a series of hearings on fundamental tax reform proposals on March 22. According to a press release from Boustany, this first session will focus specifically on "legislative proposals presenting cash-flow and consumption-based approaches to taxation." Although a witness list was not available at press time, lawmakers who have sponsored such bills – including Ways and Means member Devin Nunes, R-Calif. – are expected to speak. (For coverage of the business tax reform proposal that Nunes introduced earlier this year, see *Tax News & Views*, Vol. 17, No. 3, Jan. 15, 2016.)
URL: http://newsletters.usdbriefs.com/2016/Tax/TNV/160115_1.html

"Tax reform represents a crucial part of our party's pro-growth agenda, and I am committed to accomplishing these goals by considering bold, new ideas and building consensus among our members," Boustany said in his release.

Corporate integration

In other developments, Ways and Means Chairman Brady said this week that he believes the corporate integration proposal being developed by Senate Finance Committee Chairman Orrin Hatch, R-Utah, "is complementary to" the work of House taxwriters.

"[The Finance Committee] believe[s] it would have a significant impact on inversions, and that it makes US companies more competitive – and we feel the same about a permanent territorial system," Brady told *Politico*. "Having both taxwriting committees focused in 2016, laying the foundation for a new tax code in 2017, I think that's helpful – very helpful."

Hatch, who announced his plan to pursue a corporate integration draft in January, had hoped to unveil his proposal by the end of this month; more recently, however, he stated that the release was unlikely before May. (For prior coverage, see *Tax News & Views*, Vol. 17, No. 4, Jan. 22, 2016, and *Tax News & Views*, Vol. 17, No, 9, Mar. 4, 2016.)
URL: http://newsletters.usdbriefs.com/2016/Tax/TNV/160122_1.html
URL: http://newsletters.usdbriefs.com/2016/Tax/TNV/160304_1.html

In comments to reporters on March 15, Hatch attributed the delay to his recent request for the Joint Committee on Taxation staff to provide a "dynamic" scoring estimate (which accounts for the macroeconomic impact of revenue proposals) in addition to a traditional "static" estimate.

— Storme Sixeas
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Chambers clash over short-term FAA extension

With the spending and funding authorizations for the Federal Aviation Administration (FAA) set to expire at the end of this month – and with scheduled recesses in both chambers of Congress leaving little time for action – the House and Senate closed out the week at loggerheads over a short-term measure that would reauthorize the agency and the taxes that provide its dedicated revenue stream.

Senate amends House proposal

The Senate on March 17 approved by unanimous consent legislation (H.R. 4721) that would extend the agency's authority to draw from the Airport and Airway Trust Fund and spend money on the Airport Improvement Program – and renew the passenger, cargo, and fuel excise taxes that provide the bulk of the revenue for the trust fund – through July 15.

The Senate-approved measure is an amended version of legislation that cleared the House three days earlier that would extend the FAA's spending authorization through July 15 but extend the taxes that fund the agency through March 31, 2017. (A number of Senate lawmakers reportedly objected to the staggered renewal periods in the House-passed bill.)

House backed into a corner?

The amended version of H.R. 4721 now heads back to the House for consideration; however, the realities of the legislative calendar may well force lawmakers in that chamber to accept the Senate's changes rather than push for their original bill. The FAA's spending authorization and revenue stream expire on March 31. But the Senate is now in recess through April 3; meanwhile, the House is out of session on March 18 and plans to be in Washington for only three days next week (March 21-23) before adjourning for its spring recess until April 12.

In comments reported by *Politico* on March 18, a spokesperson for House Ways and Means Committee Chairman Kevin Brady, R-Texas, said that "[w]hile we believe a longer-term extension is in the best interests of American travelers, it's clear that [the amended bill] is the only legislative option on the table since the Senate will be out of session until after the expiration of these programs."

— Michael DeHoff
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JCT releases tax 'Bluebook' for 2015

The Joint Committee on Taxation (JCT) staff on March 14 released a "Bluebook" providing a general explanation of provisions in the 13 tax bills enacted into law in 2015. Although Bluebooks typically cover tax legislation enacted over the entire two years of a congressional term, the JCT staff from time to time produces separate publications for each session of a Congress when the legislative output includes a large number of tax bills.
URL: https://www.jct.gov/publications.html?func=startdown&id=4874

Among the more notable tax laws enacted last year and described in the Bluebook are:

- The Consolidated Appropriations Act, 2016/Protecting Americans From Tax Hikes Act of 2015 (P.L. 114-113), which includes permanent and long-term extensions of dozens of expired and expiring business and individual tax deductions, credits, and incentives; modifications to the tax treatment of real estate investment trusts; assorted targeted tax relief provisions affecting businesses and individuals; and a slew of administrative provisions affecting operations of the Internal Revenue Service and the Tax Court;
- The Bipartisan Budget Act of 2015 (P.L. 114-74), the two-year budget deal negotiated last fall between President Obama and then-House Speaker John Boehner, R-Ohio, which also includes new rules making it easier for the Internal Revenue Service to audit certain large partnerships;
- The Fixing America's Surface Transportation (FAST) Act (P.L. 114-94), which provides a long-term extension of spending authority and revenue for the nation's highway system and includes a handful of taxpayer compliance provisions related to information reporting by mortgage lenders, basis reporting by beneficiaries of estates, return filing deadlines for passthrough entities, and the statute of limitations on the IRS's ability to reassess taxpayers who substantially overstate basis; and
- The Trade Preferences Extension Act of 2015 (P.L. 114-27), which includes compliance provisions addressing the timing of corporate estimated tax payments, the provision of payee statements related to certain education tax benefits, and increased penalties for failure to file information returns and payee statements.

Other enacted tax laws described in the publication include short-term extensions of spending authority and dedicated tax revenues for the Highway Trust Fund, short-term extensions of spending authority and dedicated tax revenues for the Federal Aviation Administration, and measures providing targeted tax relief to public safety officers who were killed or injured in the line of duty (and their dependents) and to federal public safety officers who take early retirement.

The explanations are prepared in consultation with the staffs of the House Ways and Means Committee and the Senate Finance Committee and are presented in chronological order of the tax legislation as signed into law. For each provision in a given law, the Bluebook provides a description of present law (that is, the law in effect immediately prior to enactment), an explanation of the provision, and its effective date. The explanations do not reflect any legislative changes made or regulatory guidance issued after the enactment of any given provision. The publication also includes revenue estimates for the provisions in each enacted law.

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