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Finance Committee aide advocates for corporate integration

A Senate Finance Committee aide this week made the case that a corporate integration plan like the one being developed by Chairman Orrin Hatch, R-Utah, could lower the effective corporate tax rate without all the hurdles of actually modifying the statutory rate and is the most viable option for Congress to pursue in the near term while it contemplates a broader overhaul of the tax code. The aide, Christopher Hanna, a senior tax policy advisor on the Finance Committee's majority staff, spoke at the American Enterprise Institute on June 7.

Chairman Hatch's plan, which is still being finalized, is expected to couple a dividends paid deduction with a withholding tax on both interest and dividend payments. Hatch has indicated that he will release his proposal as a discussion draft in the coming weeks after it has received a revenue score from the Joint Committee on Taxation staff. Issues related to corporate integration were the focus of two recent Finance Committee hearings. (For prior coverage, see *Tax News & Views*, Vol. 17, No. 19, May 20, 2016, and *Tax News & Views*, Vol. 17, No. 20, May 27, 2016.)
URL: http://newsletters.usdbriefs.com/2016/Tax/TNV/160520_1.html
URL: http://newsletters.usdbriefs.com/2016/Tax/TNV/160527_1.html

Difficulties with lowering statutory rate

Hanna cited the high cost of lowering the corporate statutory rate from 35 percent to 25 percent – an estimated $1 trillion over 10 years – and argued that achieving a rate reduction of that magnitude would require the business community to sacrifice cherished tax incentives such as accelerated depreciation and deductions for advertising costs, research and development, and interest expenses. But the prospect of lawmakers eliminating any of these is slim, given their strong levels of support among taxpayers, Hanna said; moreover, with the increased focus on tax reform as a means to grow the economy, few lawmakers would be

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keen to remove provisions such as accelerated depreciation that economists believe are more likely to fuel growth, he added.

Hanna also noted that the passthrough community has been opposed to a corporate-only rate reduction because they would receive no benefit from business tax reform that does not lower the individual rate as well. (For prior coverage, see *Tax News & Views*, Vol. 16, No. 13, Apr. 17, 2015.)
URL: http://newsletters.usdbriefs.com/2015/Tax/TNV/150417_3.html

The case for corporate integration

Hanna said that proposals for corporate integration date back to the Carter administration and were also featured in the Treasury I report on tax reform issued during the Reagan administration. More recently, interest in integration was reinvigorated in late 2014 when the Finance Committee Republican staff released its report entitled *Comprehensive Tax Reform for 2015 and Beyond*. (Hanna noted that the 340-page report includes over 100 pages of discussion on integration.)
URL:
http://www.finance.senate.gov/imo/media/doc/Comprehensive%20Tax%20Reform%20for%202015%20and%20Beyond5.pdf

Although Chairman Hatch has said there was “near unanimous” agreement among corporate taxpayers that integration was a good idea, Hanna went further, and claimed that the only disagreement within the business community was over which of the eight different integration methods was best. According to Hanna, any integration method would eliminate four inefficiencies in our tax system: incentives to invest in noncorporate entities over corporate businesses, incentives to invest in debt over equity, incentives to retain or distribute earnings based on capital gains tax effects, and incentives to distribute earnings in a way that reduces the second level of tax (for example, payments giving rise to deductions).

Hanna stated that corporations contacting the Finance Committee have expressed particular interest in achieving corporate integration through a dividends paid deduction, which would allow corporations to deduct from their taxable income any earnings which they distribute to their shareholders. According to Hanna, this method does the best job of minimizing the disparities in the tax treatment of debt and equity. He also noted that growing concerns over the mobility of corporate income have led many to believe that imposing tax at the shareholder level would be preferable to taxing at the entity level, as shareholders cannot change residence as easily as a corporation can. Finally, he reiterated that a dividends paid deduction would deliver a cut in corporate effective tax rates without the challenges of enacting an actual statutory rate change.

Addressable issues

Hanna seemed optimistic about the prospects for integration, noting among other things that a dividends paid deduction proposal has the support of the passthrough community. But he also acknowledged that there are still some potential issues which would need to be worked out, such as concerns over how to address foreign and tax-exempt shareholders, who would need to be subject to a withholding tax; concerns that a withholding tax could override provisions in

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various US bilateral tax treaties, which generally reduce or exempt entirely withholding on residents of the treaty partner; and concerns over how to ensure that the proposal is revenue neutral.

Although he did not go into specific details, Hanna argued that these issues can be addressed and are not insurmountable.

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Wyden continues to pursue alternative energy extenders

Senate Finance Committee ranking Democrat Ron Wyden of Oregon told reporters June 7 that he is "looking at every possible opportunity" to push for the extension of several alternative energy tax incentives that are currently scheduled to expire at the end of 2016.

Wyden did not identify a specific legislative vehicle or a timetable for moving an energy package, but cautioned that "the longer you wait, the harder it is to protect those opportunities for good private sector employment…."

The massive tax extenders package enacted last December made a number of temporary business, individual, and charitable giving incentives permanent; extended a handful of provisions for five years; and renewed others through the end of 2016. Wyden and Senate Minority Leader Harry Reid of Nevada have argued that several alternative energy provisions – including the investment tax credits under section 48 for combined heat and power property, fuel cell property, small wind property, and geothermal property – were supposed to be renewed for five years as part of the extenders deal along with other section 48 credits, but were inadvertently left out of the final package because of a drafting error. Other lawmakers – including some key House taxwriters – have contended that the decision to provide five-year extensions for some renewable technologies but not for others was intentional.

In April, Wyden and Reid came close to an agreement with Senate Republican leaders to include a five-year extension of the provisions in the tax title of legislation to reauthorize the Federal Aviation Administration that was then moving through the chamber; but that deal ultimately collapsed as lawmakers in both parties sought to attach a wide range of additional amendments to what was likely one of the few must-pass tax bills to move through Congress this year. (For prior coverage, see *Tax News & Views*, Vol. 17, No. 15, Apr. 15, 2016.)
URL: http://newsletters.usdbriefs.com/2016/Tax/TNV/160415_1.html

Finance to hold energy policy hearing

Wyden's comments came the same day that the Finance Committee announced plans to hold a hearing to examine current-law energy tax incentives in the context of comprehensive tax reform. The hearing is set for June 14.

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Finance Committee Chairman Orrin Hatch, R-Utah, noted in a news release “[a]s the committee continues to chart the course towards a comprehensive overhaul of the tax code, a thorough review of energy tax provisions is a must.” The hearing is intended to give Senate taxwriters an “opportunity to explore how the code affects the energy industry and what policies have the most merit as we look forward towards tax reform,” Hatch said.

Witnesses will include Benjamin Zycher of the American Enterprise Institute in Washington; Steve Miller of Bulk Handling Systems in Eugene, Ore.; Susan Kennedy of Advanced Microgrid Solutions in San Francisco; and Karen Alderman Harbert of the Institute for 21st Century Energy, US Chamber of Commerce, in Washington.

Relatedly, Wyden is expected to release a discussion draft proposal to reform the energy tax rules in the coming weeks. It is believed his draft will build on an energy tax discussion draft released by then-Finance Committee Chairman Max Baucus, D-Mont., in 2013. (For prior coverage of the Baucus draft, see *Tax News & Views*, Vol. 14, No. 52, Dec. 18, 2013.)
URL: http://newsletters.usdbriefs.com/2013/Tax/TNV/131218_1.html

House resolutions on carbon tax, oil fee

Across the Capitol, House Republicans laid down familiar markers on energy tax policy June 10 as the chamber voted generally along party lines to approve two concurrent resolutions expressing opposition to:

- A carbon tax (H. Con. Res. 89, sponsored by Rep. Steve Scalise, R-La.) and
- The proposed $10.25-per-barrel “fee” on oil included in President Obama’s fiscal year 2017 budget package (H. Con. Res. 112, sponsored by Ways and Means Tax Policy Subcommittee Chairman Charles Boustany, R-La.).

The two resolutions now head to the Senate for an up-or-down vote. If approved in both chambers, their significance would be largely symbolic, however. Among other purposes, concurrent resolutions serve to formalize the opinions of Congress on issues of public policy, but they do not require the president’s signature and do not carry the force of law.

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CBO reports look at White House budget, patterns of income gains and tax burdens

Separate reports from the nonpartisan Congressional Budget Office (CBO) this week indicate that President Obama’s fiscal year 2017 budget package would boost the nation’s economy and help shrink the federal deficit, and that income gains and higher tax burdens are increasingly skewed to wealthier taxpayers.

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White House budget

According to a so-called “dynamic” estimate by the CBO released June 6, the Obama administration’s final budget proposal, if enacted, would increase the nation’s gross national product by an average of 0.2 percent between 2017 and 2021, and another 1.8 percent on average between 2022 and 2026, compared to current law. CBO also projects that the budget package would reduce the cumulative federal deficit by $2.4 trillion between 2017 and 2026. (The estimate takes into account the macroeconomic effects of the proposals and their estimated feedback on federal revenue and spending levels – factors typically excluded from “conventional” CBO budget analyses.)
URL: https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/51625-EconomicAPB.pdf

The CBO report notes that many of the president’s tax proposals – such as a $10.25-per-barrel “fee” on oil, a fee imposed on the liabilities of certain large financial institutions, a 30 percent minimum “fair share” tax on certain upper-income taxpayers, a 28 percent cap on the value of itemized deductions, and ordinary income treatment for carried interests – would increase marginal tax rates on capital and labor income, thereby increasing federal revenues but also discouraging work and saving.

Over the long term, however, CBO projects that the effects of the tax provisions would be offset by an increase in economic activity stemming from the administration’s immigration reform proposal (which would result in an expanded US work force) and its proposal to lift the statutory “sequester” spending caps enacted under the Budget Control Act of 2011 (which would lead to increased federal spending in areas such as infrastructure, education, and research and development). In addition, reductions in the federal budget deficit would result in a short-term reduction in demand for goods and services but a long-term increase in national saving and private investment, the report says.

Descriptions of the administration’s tax proposals are available in the “Greenbook“ released by the Treasury Department in conjunction with the budget package. (For prior coverage of new revenue provisions as well as some of the significant returning provisions in the White House budget, see *Tax News & Views*, Vol. 17, No. 8, Feb. 12, 2016.)
URL: https://www.treasury.gov/resource-center/tax-policy/Documents/General-Explanations-FY2017.pdf
URL: http://newsletters.usdbriefs.com/2016/Tax/TNV/160212_1.html

The administration’s budget proposals have been largely dismissed by congressional Republicans, who intend to use this election year to map out their own tax-and-spending agenda which they hope to see enacted under a new presidential administration in 2017. House Republicans plan to release a tax reform “blueprint” later this month; for his part, Senate Finance Committee Chairman Orrin Hatch, R-Utah, is preparing a draft proposal for a corporate integration plan that he contends will allow lawmakers to address certain critical concerns in the business tax code while they contemplate broader reform. (See separate coverage of Hatch’s integration plan in this issue.)

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Distribution of income, taxes

In an unrelated report released June 8, CBO discussed movements in household income and taxes over recent decades – trends that increasingly have resulted in both income gains and higher tax burdens being shifted to upper-income households.
URL: https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/51361-HouseholdIncomeFedTaxes.pdf

The report notes that between 1979 and 2013, the bottom 80 percent of households measured by income experienced a cumulative increase in inflation-adjusted income (before tax) of roughly 18 percent, compared to a 188 percent increase in such income for the top 1 percent of households.

Over the same time frame, however, the tax system as a whole has become increasingly progressive – an expected outcome given the graduated personal income tax rate structure. According to the report, average federal tax rates (defined as individual and corporate income tax, payroll tax, and excise tax divided by before-tax income) in all but the top income quintile were significantly lower in 2013 than they were on average between 1979 and 2013. By contrast, at 34 percent, the average federal tax rate for the top 1 percent of households was considerably above its historical average of 30.6 percent.

In 2013 – a year in which upper-income households experienced both the expiration of tax cuts on wages and investment income originally enacted in 2001 and 2003, and the imposition of new taxes such as the 3.8 percent net investment income surtax enacted as part of the 2010 health reform law – the federal income tax system was as progressive as it has been since at least the mid-1990s, according to the report.

The concurrent realities discussed in the report – that is, growing income inequality and an increasingly progressive tax system – help to illuminate the political divide between congressional Democrats and Republicans on the issue of whether tax reform should be used to alter the distributional incidence of tax.

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