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Tax News & Views
Capitol Hill briefing.
July 1, 2016

In this issue:

FAA reauthorization won't include energy extenders, Thune says

The Senate and House are likely to reach agreement in the first half of July on legislation to reauthorize the Federal Aviation Administration (FAA) – including fuel and passenger ticket excise taxes – through 2017, Senate Commerce Committee Chairman John Thune, R-S.D., told reporters this week. However, the bill is not expected to include extensions of any energy tax benefits, despite efforts by some lawmakers who view this as one of the few vehicles for revenue provisions this year.

Thune – who is also a member of the Senate Finance Committee – said that in order to finalize the FAA legislation before the current authority expires on July 15, the bill will be a fairly straightforward extension of current law and will not tackle more controversial issues such as the energy tax provisions or a proposal by House Transportation Committee Chairman Bill Shuster, R-Pa., to privatize the nation's air traffic control system and pay for air traffic control operations through user fees rather than airline ticket taxes. (Shuster's proposal has raised concerns over the impact that a shift to user fees would have on the jurisdiction of congressional taxwriters over FAA funding in the future.) The bill is expected to include some new nontax provisions on which there is broad consensus.

"There's no way we could have – with a July 15 deadline – tried to accommodate a major discussion on tax extenders," Thune said. "So this is going to be confined to aviation."

The December 2015 tax extenders package made permanent a number of business, individual, and charitable-giving incentives; extended a handful of provisions for five years; and renewed others through the end of 2016. Senate Minority Leader Harry Reid of Nevada and Finance Committee ranking Democrat Ron Wyden of Oregon 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 along with other section 48 credits but were inadvertently left out of the final package because of a drafting error. However, some Republican House taxwriters have shown less enthusiasm for revisiting these benefits, contending that the decision not to include them in last year's package was a deliberate one.

If the energy incentives are to be addressed this year, the most likely vehicle is seen as a miscellaneous tax bill that could come during the anticipated "lame duck" session between November's election and the end of the year.

Senate Commerce Committee ranking Democrat Bill Nelson of Florida said he expects the House to take up the bill shortly after members return from the Independence Day recess on July 5. "I think we've got everything set," Nelson said. "So I'm expecting that we're going to get agreement on this pretty soon."

Thune said the FAA bill is likely to reach the Senate floor between July 6 – when the Senate returns after a long weekend for Independence Day – and July 15. After that date, both the Senate and House are scheduled to be out of session for seven weeks for the national party conventions and the summer congressional recess.

Release date for integration draft remains elusive

In other developments this week, Senate Finance Committee Chairman Orrin Hatch, R-Utah, told reporters June 29 that the release of his draft corporate integration proposal remains on hold while he waits for a revenue score from the Joint Committee on Taxation staff. In response to reporters' questions, Hatch indicated that it was uncertain whether the draft would be ready for release before the extended summer recess begins in mid-July.

The draft proposal, which Hatch intends to be revenue neutral, is expected to couple a dividends paid deduction with a withholding tax on both interest and dividend payments. Hatch has argued that integration could allow Congress to lower the effective corporate tax rate without all the hurdles of actually modifying the statutory rate, thus making it the most viable near-term option for addressing issues such as earnings stripping, corporate inversions, and foreign acquisitions of US firms as lawmakers consider a broader tax reform plan.

Hatch first announced that he was working on an integration draft in January. He initially suggested that it would be ready in March, but subsequently revised the target date to sometime in May, and then to June.

Issues related to corporate integration were the focus of two Finance Committee hearings during May. (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.)
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