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## Daylight emerges between Trump, congressional Republican leaders on tax reform, PPACA replacement

Comments by Donald Trump in the days leading up to his inauguration as the nation's forty-fifth president suggest that he and House Republican leaders may not yet see eye to eye on how to treat imports and exports under a corporate tax reform plan – and possibly on how to replace the Patient Protection and Affordable Care Act.

### Trump on border adjustments: Too complicated?

House Republicans have proposed as part of their tax reform blueprint to move from the current worldwide tax regime to a territorial system for taxing US multinationals and to implement a new destination-based cash flow tax (DBCFT). Specifically, the DBCFT provides for “border adjustments” through a not-yet-specified mechanism that would serve to eliminate US tax on products, services, and intangibles exported abroad (regardless of their production location) and impose US tax on products, services, and intangibles imported into the US (also regardless of production location).

**URL:** [http://abetterway.speaker.gov/\\_assets/pdf/ABetterWay-Tax-PolicyPaper.pdf](http://abetterway.speaker.gov/_assets/pdf/ABetterWay-Tax-PolicyPaper.pdf)

In a January 13 interview with *The Wall Street Journal*, Trump deemed the blueprint's border adjustability proposal “too complicated” and said, “[a]nytime I hear border adjustment, I don't love it, because usually it means we're going to get adjusted into a bad deal. That's what happens.”

Later in the week, however, Trump struck a slightly different tone in an interview with media organization Axios, saying that the *Journal* article “didn’t totally reflect [his views] accurately.” He said the DBCFT is still under discussion and has not been ruled out.

“I would say over the next month and a half, two months we’ll be having more concrete discussions,” he stated.

Trump’s varying comments have raised questions in Washington’s tax circles about whether the incoming president truly disagrees with the concept of the border-adjusted tax – which is for some a more palatable alternative to the border tariffs Trump has called for – or merely with the way Republican House leaders are currently branding and explaining the plan. In response to Trump’s remarks, a spokeswoman for House Speaker Paul Ryan, R-Wis. – a former chairman of the House Ways and Means Committee who was heavily involved in drafting the Republican blueprint – said the speaker “is in frequent communication with [Trump] and his team about reforming our tax code to save American jobs and keep the promises we’ve made. Changing the way we tax imports and exports is a big part of that, and we’re very confident we’ll get it done.”

**Brady weighs in:** Removing the DBCFT from the House proposal would prove highly problematic for taxwriters, as the tax is estimated to raise more than \$1 trillion in revenue over 10 years (about a third of the total revenue raised in the business portion of the plan) to help offset the cost of lower tax rates on business income. Ways and Means Committee Chairman Kevin Brady, R-Texas, defended the proposal – which he characterized as “simple” – in an appearance on CNBC January 18 and said House Republicans and the Trump tax team are “on the same page” despite Trump’s somewhat contradictory remarks. Brady could provide further comments on the proposal in a speech on tax reform at the US Chamber of Commerce set for January 24, ahead of a three-day planning retreat for congressional Republicans.

**Business divide:** The DBCFT proposal – which has not yet been released as a discussion draft or an introduced bill – has become a focus of increased attention within the business community, especially from retailers, oil refiners, and other industry sectors that are import-dependent, while garnering support from export-heavy sectors and businesses.

Proponents of the border-adjusted tax argue that it will remove incentives for US companies to relocate overseas and obviate the need for drafting complex anti-inversion rules – a shared priority of congressional Republicans and the Trump administration. Proponents also contend that a border-adjusted cash flow tax will lead to an appreciation of the US dollar that will lower the cost of imported goods and offset the effects of the tax on import-dependent sectors. But critics have countered that some financial market analysis shows full dollar adjustment is unlikely, which would hit net importers to the extent there is not perfect currency fluctuation. For his part, Trump told the *Journal* that he believes the dollar is already too strong, especially versus China’s *yuan*.

### **Trump on PPACA replacement: ‘Insurance for everybody’**

On the health care front, congressional Republicans – fresh off passage last week of a budget resolution setting up a fast-track process to dismantle the PPACA – also were caught off guard by Trump’s comments during a January 14 interview with the Washington Post in which he suggested his incoming administration was nearing completion of a plan to replace the 2010 health reform law. (For coverage of recent actions in the House and Senate to set up the process for repealing the PPACA, see *Tax News & Views*, Vol. 18, No. 2, Jan. 13, 2016.)

[URL: http://newsletters.usdbriefs.com/2017/Tax/TNV/170113\\_1.html](http://newsletters.usdbriefs.com/2017/Tax/TNV/170113_1.html)

“We’re going to have insurance for everybody,” Trump said. “There was a philosophy in some circles that if you can’t pay for it, you don’t get it. That’s not going to happen with us.”

Although Trump did not provide any details, the phrase “insurance for everybody” raised eyebrows on Capitol Hill given Republicans’ past opposition to universal health coverage.

House Budget Committee Chairman Tom Price, R-Ga., who has been nominated to serve as Secretary of Health and Human Services in the Trump administration, sought to dial back Trump’s comments somewhat during his confirmation hearing January 18 before the Senate Health, Education, Labor, and Pensions (HELP) Committee.

Price’s remarks to the committee emphasized the GOP goal of universal “access” rather than universal “coverage.”

"[W]e all want a health care system that's affordable, that's accessible to all, of the highest quality, with the greatest number of choices....," he said.

Price, who is also a medical doctor, authored legislation in previous sessions of Congress that would replace the PPACA's mandates on individuals and employers to obtain or provide adequate health coverage with a more market-oriented approach that would, among other things, rely on age-adjusted refundable tax credits, expanded tax-preferred health savings accounts, and a limited tax exclusion for employer-provided health coverage. Many of Price's ideas are reflected in the House GOP "blueprint" on health reform that was unveiled in June 2016 in the run-up to the November elections.

**URL:**  
<http://tomprice.house.gov/sites/tomprice.house.gov/files/Section%20by%20Section%20of%20HR%202300%20Empowering%20Patients%20First%20Act%202015.pdf>

**URL:** [https://abetterway.speaker.gov/\\_assets/pdf/ABetterWay-HealthCare-PolicyPaper.pdf](https://abetterway.speaker.gov/_assets/pdf/ABetterWay-HealthCare-PolicyPaper.pdf)

The extent to which Trump's forthcoming plan may resemble these previous GOP proposals is unclear. Nonetheless, Trump noted to the *Washington Post* that his proposal is "very much formulated down to the final strokes" and that it would be unveiled after Price is confirmed by the Senate.

A vote on Price's nomination is likely to occur soon after he appears in a separate hearing before the Senate Finance Committee that is currently scheduled for January 24.

**CBO reassesses prior PPACA repeal bill:** In a related development, the Congressional Budget Office (CBO) released a report January 17 updating its assessment of legislation (H.R. 3762) passed by congressional Republicans in early 2016 that would have repealed – or in some cases simply defanged – major health-related components of the PPACA, and eliminated all of the tax increases enacted as part of health reform to help finance expanded coverage (for example, the 3.8 percent net investment income tax, the additional 0.9 percent Medicare payroll tax, the "Cadillac" tax on high-cost employer-provided health coverage, and the medical device excise tax).

**URL:** <https://www.cbo.gov/sites/default/files/115th-congress-2017-2018/reports/52371-coverageandpremiums.pdf>

Although President Obama vetoed the bill and Congress was not able to override that veto – outcomes that were widely expected – H.R. 3762 is nonetheless viewed as a template for the PPACA repeal legislation that is expected to move through Congress in the coming weeks and be signed into law by President Trump.

In its latest report, CBO notes that H.R. 3762 would increase the ranks of the uninsured by 32 million and double premiums in the individual market by 2026 after repeal was fully phased-in.

Congressional Republicans immediately took issue with the report – which had been requested by Senate Minority Leader Charles Schumer, D-N.Y., Senate Finance Committee ranking member Ron Wyden, D-Ore., and Senate HELP Committee ranking member Patty Murray, D-Wash. – arguing that it does not take into account any proposals designed to replace the PPACA's coverage expansion.

For his part, Senate Finance Committee Chairman Orrin Hatch, R-Utah, called CBO's assessment a "one-sided hypothetical scenario" and said that in the current context Republicans are focused on "repealing Obamacare and implementing step-by-step reforms so that Americans have access to affordable health care."

### **Few new tax policy details at Mnuchin's confirmation hearing**

In other developments this week, Steven Mnuchin, who has been nominated to serve as Treasury Secretary in the Trump administration, offered few new insights on the future direction of tax policy during his five-hour confirmation hearing before the Senate Finance Committee on January 19.

In his responses to questions on tax reform from taxwriters in both parties, Mnuchin hewed largely to the GOP position that simplifying the tax code by lowering rates and culling deductions for businesses and individuals would create economic growth that would benefit taxpayers at all income levels. On international reform, he noted that lowering the corporate rate would make US businesses more competitive on the global playing field and would have "a huge impact on stopping inversions."

Mnuchin mentioned Trump's proposal to allow certain passthrough entities to elect to be taxed as corporations (subject to a proposed 15 percent tax rate) rather than as individuals (subject to a proposed 33 percent top rate). Although he did not elaborate on the mechanics of the proposal, he told the panel that the Trump administration would develop anti-abuse rules to prevent passthrough business owners from gaming the system by recharacterizing wage income as more lightly taxed business income.

Mnuchin otherwise largely refrained from discussing specific elements of any tax reform legislation. When pressed by Finance Committee ranking Democrat Ron Wyden about whether the Trump administration intends to make changes to the earned income tax credit, for example, Mnuchin stated only that discrete provisions would have to be examined in the context of the entire tax reform plan.

He likewise offered few details in response to assertions from Democrats on the panel that Trump's proposals to overhaul the individual side of the tax code would primarily benefit wealthier taxpayers. In an interview with CNBC shortly after he was nominated for the Treasury post, Mnuchin contended that there was "no absolute tax cut" for the upper class under the Trump plan because any reduction in tax rates would be matched with reductions in credits and deductions those taxpayers generally take. (For prior coverage, see *Tax News & Views*, Vol. 17, No. 34, Dec. 2, 2016.) The nonpartisan Tax Policy Center, however, has estimated that under Trump's plan the lowest-income households would see an average tax cut of \$110 per year, middle-income taxpayers would receive an average tax cut of \$1,010, and taxpayers in the top 1 percent would receive an average tax cut of nearly \$214,690.

URL: [http://newsletters.usdbriefs.com/2016/Tax/TNV/161202\\_1.html](http://newsletters.usdbriefs.com/2016/Tax/TNV/161202_1.html)

URL: <http://www.taxpolicycenter.org/sites/default/files/alfresco/publication-pdfs/2000924-an-analysis-of-donald-trumps-revised-tax-plan.pdf>

When Pennsylvania Democrat Robert Casey asked for specifics on how the Trump's tax reform plan would lead to tax relief for the middle class, Mnuchin responded by reiterating the administration's broad policy goals of incentivizing businesses to be competitive, simplifying the tax code, and reducing rates.

Mnuchin appeared to veer from the Republican playbook in his comments on funding for the Internal Revenue Service. When asked by Finance Committee Chairman Hatch about how he would address the so-called "tax gap" – the difference between the amount of taxes owed to the government and the amount actually collected – Mnuchin replied that he was "concerned" about recent declines in staffing levels at the IRS and stated that addressing the headcount issue would be an important part of fixing the tax gap. He also suggested that additional funding to modernize the agency's technology would likewise make the Service more efficient in collecting revenue, as would improvements in customer service. (Congressional Republicans have cut the IRS budget in recent years and the House GOP's tax reform blueprint calls for further shrinking the agency.)

When Sen. Ben Cardin, D-Md., subsequently asked how Mnuchin would be able to reconcile beefing up staff levels at the IRS with Trump's call for a freeze in federal hiring, Mnuchin responded that Trump understands the concept of adding people in order to make money.

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