



In this issue:

Senate GOP taxwriters weigh in on border adjustability, promise separate path for tax reform..... 1
Cabinet confirmation update: Mnuchin, Price, Mulvaney cleared for Senate floor votes..... 3

Senate GOP taxwriters weigh in on border adjustability, promise separate path for tax reform

Breaking a rather lengthy public silence, several key Senate Finance Committee Republicans this week cited potential concerns with the border-adjustment tax proposed in the House GOP tax reform blueprint, and made clear that the Senate would advance tax reform legislation on a parallel legislative track rather than begin with a House-passed bill.

Hatch: No 'definitive position'

Addressing an audience of US Chamber of Commerce members and press on February 1, Finance Committee Chairman Orrin Hatch, R-Utah, said that Republicans in the Senate, House, and White House "agree on virtually every fundamental tax reform question" and will need to work through only issues of "detail and design" – though he noted that those final hurdles may not be easily surmounted.

Referring to one of these design issues, Hatch acknowledged that "at least a handful of senators" have reservations about the House Republicans' border-adjustment proposal – also known as a destination-based cash flow tax (DBCFT) – and stated that all the committee's members are working to understand how it would operate.

The DBCFT provides for "border adjustments" through an as-yet unspecified 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). The proposal 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 as well as from businesses who think the change is a reasonable price to pay to facilitate rate-reducing tax reform.

Hatch said key questions he has include who would ultimately bear the tax, whether it would be consistent with US trade obligations, and whether adjustments would be necessary to avoid undue burden on particular industries.

"We don't have definitive answers to any of those questions at this point," he said, "and without them, I don't think I can give a definitive position on the proposal."

Cornyn requests hearing

Specifically citing the potential impact on import-dependent oil refiners in his state, as well as companies that manufacture just over the border in Mexico, Senate taxwriter – and Majority Whip – John Cornyn, R-Texas, said this week that he has asked Hatch to hold a committee hearing on the proposal.

Senior Finance Committee members Charles Grassley, R-Iowa, and Pat Roberts, R-Kan., also raised potential concerns this week related to the impact a DBCFT could have on the agriculture industries prominent in their states, but they did not take a conclusive stance on the proposal.

"I'm not diametrically opposed to it," Roberts said. "In its current form, I think we could make some adjustments that could be helpful to agriculture."

Political realities point to separate House, Senate bills

House Ways and Means Committee Chairman Kevin Brady, R-Texas, has argued that the DBCFT would incentivize US-based production and jobs and make US companies more competitive globally – a point he continued to make in interviews with various news outlets over the course of this week. Speaker Paul Ryan, R-Wis., moreover, has stated that passage of tax reform legislation with a border-adjustment tax is part of the House's 200-day legislative agenda. (For prior coverage, see *Tax News & Views*, Vol. 18, No. 4, Jan. 27, 2017.)

[URL: http://newsletters.usdbriefs.com/2017/Tax/TNV/170127_1.html](http://newsletters.usdbriefs.com/2017/Tax/TNV/170127_1.html)

For his part, however, Hatch told the US Chamber that while he is "confident that [the House] tax reform plan will provide a strong, legitimate path forward," political realities of the Senate – where Republicans hold a fairly narrow 52-48 majority – will impact the process in his chamber.

"[A] major concern on tax reform is producing a bill that can get through the Senate, and that is likely going to require a separate Senate tax reform process, which will almost surely end up looking different from what passes in the House," Hatch said.

Cornyn offered a more blunt outlook, telling reporters, "I don't want to see the House bill come over here like a freight train, and then have them expect for us to rubber stamp it. I can tell that the House seems pretty dug in, and I just think there are a lot of questions."

Rival lobbying efforts

Highlighting the increasingly vocal division that has developed over the border-adjustment proposal within the business community, supporters and opponents of the plan this week debuted rival advocacy coalitions, each with high-profile corporate names backing them.

Americans for Affordable Products, which lists more than 100 companies and trade associations as members, says it hopes to stop the border-adjustable tax from moving forward, warning that it could result in higher prices for basic consumer goods.

[URL: https://keepamericaaffordable.com/](https://keepamericaaffordable.com/)

Weighing in on behalf of the proposal, the American Made Coalition launched with a reference to an oft-used talking point of Ways and Means Committee Chairman Brady that tax reform must "end the Made in America tax." The

American Made Coalition has not published the names of its members but says there are more than 25 companies on board. Two companies – GE and Boeing – have confirmed their participation in comments to the press.

[URL: http://www.americanmadecoalition.org/](http://www.americanmadecoalition.org/)

— Storme Sixeas
Tax Policy Group
Deloitte Tax LLP

Cabinet confirmation update: Mnuchin, Price, Mulvaney cleared for Senate floor votes

Senate committees of jurisdiction this week advanced the nominations of three Trump administration cabinet picks who, if confirmed by the full Senate, will play a role in shaping US tax policy.

Finance suspends quorum rules to approve Mnuchin, Price

Senate Finance Committee Republicans voted 14-0 on February 1 to approve the nominations of Steven Mnuchin to serve as President Trump's Treasury secretary and Rep. Tom Price, R-Ga., to serve as secretary of Health and Human Services.

The panel's 12 Democrats boycotted the vote. (They were also no-shows at another vote on the two nominations that had been scheduled for January 31, but that meeting was adjourned without action.) Final approval came after Republican taxwriters agreed by unanimous consent to waive a quorum rule that requires one-third of all committee members – including at least one member of the majority party and one member of the minority party – to be present in order for the committee to conduct business.

Finance Committee ranking member Ron Wyden, D-Ore., stated in a news release that Democrats boycotted the vote to protest what they viewed as incomplete answers from Mnuchin and Price to certain questions that were posed during the vetting process.

[URL: https://www.finance.senate.gov/ranking-members-news/senate-finance-democrats-once-again-call-for-price-mnuchin-to-come-clean-on-ethical-ties-business-practices](https://www.finance.senate.gov/ranking-members-news/senate-finance-democrats-once-again-call-for-price-mnuchin-to-come-clean-on-ethical-ties-business-practices)

Finance Committee Chairman Orrin Hatch, R-Utah, countered in his opening statement at the February 1 meeting that Democrats had been given ample time to address their concerns about the nominees and that their actions were motivated primarily by a desire to delay the confirmation proceedings.

[URL: https://www.finance.senate.gov/chairmans-news/hatch-statement-at-executive-session-to-consider-treasury-hhs-nominations](https://www.finance.senate.gov/chairmans-news/hatch-statement-at-executive-session-to-consider-treasury-hhs-nominations)

Party-line votes for Mulvaney in Budget, Homeland Security committees

In other developments, the Senate Budget Committee and the Senate Homeland Security and Governmental Affairs Committee on February 2 approved South Carolina Republican Rep. Mick Mulvaney's nomination to head the White House Office of Management and Budget.

Support for Mulvaney's nomination in both panels broke strictly along party lines, with a vote tally of 12-11 in the Budget Committee and 8-7 in the Homeland Security and Governmental Affairs Committee.

Senate confirmation expected

All three of the nominees are expected to be confirmed by the Senate, likely during the week of February 6.

— Michael DeHoff
Tax Policy Group
Deloitte Tax LLP

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee (“DTTL”), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as “Deloitte Global”) does not provide services to clients. In the United States, Deloitte refers to one or more of the US member firms of DTTL, their related entities that operate using the “Deloitte” name in the United States and their respective affiliates. Certain services may not be available to attest clients under the rules and regulations of public accounting. Please see www.deloitte.com/about to learn more about our global network of member firms.

Copyright © 2017 Deloitte Development LLC. All rights reserved.
36 USC 220506