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## Brady doubles down on 100 percent expensing at Ways and Means hearing

House Ways and Means Committee Chairman Kevin Brady, R-Texas, doubled down on the importance of a proposal for full and immediate expensing of business assets included in the "Better Way" GOP tax reform blueprint as a key factor in generating economic growth. Brady made his comments during a May 18 Ways and Means Committee hearing.

The blueprint, which Brady released last June with House Speaker Paul Ryan, R-Wis., calls for 100 percent expensing in year one for all assets, tangible and intangible, other than land. In his opening statement at the hearing, which explored the impact of tax reform on economic growth and job creation, Brady contended that "[i]n addition to lowering rates, …bold policies such as full and immediate expensing are incredibly pro-growth for jobs, paychecks, and our economy as a whole." He also cited a Tax Foundation study stating that this provision could lead to more than 5 percent economic growth over the next decade and the creation of one million jobs.
**URL:** https://waysandmeans.house.gov/chairman-brady-opening-statement-hearing-tax-reform-will-grow-economy-create-jobs/
**URL:** https://waysandmeans.house.gov/event/hearing-tax-reform-will-grow-economy-create-jobs/

Yet not all committee members who weighed in on the issue at the hearing seemed to agree that the expensing provision would grow the economy as much as promised. Democratic taxwriter Sander Levin of Michigan, for example, cautioned against comparing the economic impact of expensing to the impact bonus depreciation, arguing the increased investment during years that bonus depreciation has been in effect can be linked to the fact it was a temporary provision meant to spur recovery. Levin also noted that former Ways and Means Chairman Camp, R-Mich., chose to move in the opposite direction – extending cost recovery periods – in the comprehensive tax reform legislation he introduced in 2014.

One of the witnesses, Steven Rattner, Chairman of Willet Advisers, cautioned that the economic impact of a tax reform plan has to be considered in the context of the plan as a whole and that it would be a mistake to place too much emphasis on a few selected provisions. During questioning from Ways and Means member John Larson, D-Conn., Rattner suggested that the committee's focus was "excessively narrow."

**Broad agreement that tax reform ought to be permanent, paid for**

Members from both sides of the aisle stressed the need for permanence when making changes to the corporate tax system, however.

Brady has long insisted on permanent reform, noting in an interview on Bloomberg Television earlier this week that "the greatest growth for the greatest number of years is when tax reform is bold, when it's balanced within the budget counting on economic growth and it's permanent. History shows the most growth for the greatest number of years comes when tax reform is permanent, when businesses can count on this rate."

At the hearing, Ways and Means Tax Policy Subcommittee Chairman Peter Roskam, R-Ill., asked witnesses about the value of permanence by comparing it to renting versus buying. "We put a premium on owning something, and it would seem to me that there's a real premium on permanence," Roskam said.

John Stephens of AT&T replied that permanent tax policy "allows us to make consistent, significant, material capital investments that allow for the demand for jobs, demand on our suppliers, and quite frankly, with the demand on those jobs…wages go up."

But making tax reform permanent will require that the legislation is offset. Congressional Republicans want to move tax reform under so-called "budget reconciliation" protections, which allow legislation meeting certain budgetary and procedural guidelines to clear the House and Senate by a simple majority and avoid procedural hurdles in the Senate that normally can only be overcome with a 60-vote supermajority. (This makes reconciliation a potentially powerful tool in the Senate, where Republicans control only 52 seats.)

But under Senate rules, reconciliation bills that are determined to increase the deficit beyond the budget window (currently 10 years) and fail to achieve a 60-vote supermajority to waive a point of order must expire, or "sunset." Many members discussed the difference between tax cuts, simply lowering rates to spur growth – a possibility that has been floated by President Trump – and tax reform, which involves reshaping tax policy and making potentially difficult tradeoffs to ensure the proposal is revenue neutral outside the 10-year budget window.

Rep. Larson stated his preference plainly: "If we do a tax cut bill and we ignore the reform, we lose and the American people lose…. I think we need to pay for it in real terms."

**Urgency versus accuracy**

Taxwriters acknowledged that they have a "once in a generation" opportunity for tax reform, but they disagreed about how to balance the urgent need for tax reform with the desire to get it right.

Rep. Pat Tiberi, R-Ohio, cautioned that delaying tax reform would be costly.

"As the rest of the world has reformed, lowered rates, and taken our jobs, we continue to let the perfect be the enemy of the good…and we've been talking about tax reform here on this panel for years now," he said.

Other Ways and Means members, such as Rep. John Lewis, D-Ga., advocated for a deliberative approach: "I think we must to take our time and we must do it right," Lewis said.

Connecticut Democrat John Larson told witnesses that "we need to return to regular order, we need to have witnesses like you where both sides participate in drafting…. Without that we're not going to get the permanency or the long-term consistency that you would like."

Several taxwriters said they hoped this would be the first of many hearings on tax reform so that the committee had time to consider a range of issues and options. (Brady has indicated that the committee will hold a series of hearings on tax reform. The next in the queue – addressing issues around US competitiveness and the proposed border-adjustment tax in the blueprint – is scheduled for May 23.)

**Repatriation for infrastructure**

Several Democrats on the panel suggested that Republicans should include an infrastructure component in tax reform legislation as a way to win bipartisan support. (The House GOP blueprint currently does not include an infrastructure package. President Trump, for his part, has suggested that he might consider pairing tax reform and infrastructure in an effort to win over Democrats.)

Ways and Means ranking Democrat Richard Neal of Massachusetts called for using revenue from deemed repatriation to pay for infrastructure spending. Rep. Ron Kind, D-Wis., a member of the New Democrats, noted that the coalition had sent a letter to President Trump urging him to support such a plan.

Rep. Earl Blumenauer, D-Ore., suggested an infrastructure spending package could be financed in part with an increase in the federal gasoline tax.

**Don't forget the middle class**

Some Democrats on the panel worried that the hearing focused too much on business tax issues and paid insufficient attention to the concerns of the middle class. Rep. Linda Sanchez, D-Calif., argued "when we get one narrow swatch of perspectives, I don't think that does anything good for a thoughtful and robust discussion about how [to accomplish] tax reform in a way that is fair."

And Rep. Bill Pascrell, D-N.J., stressed the disparities between wage earners and capital owners and cautioned against a focus on lowering tax rates on assets rather than on income.

"I will not vote for tax reform that simply is directed and targeted at those who are at the engine; I want to take care of the people also who are in the back cars and maybe the caboose.... Yes, we need a change, but it's gotta cover everybody."

**JCT report available**

The impact of tax policy on economic growth is also the focus of a report prepared by the staff of the nonpartisan Joint Committee on Taxation (JCT) in conjunction with the hearing. The report, released May 16, examines the four principal determinants of economic growth that tax policy may be able to influence – labor supply, physical capital (for example, equipment, buildings, and infrastructure), human capital (education and health), and technological progress (improvements in how labor and capital can be combined to produce goods and services) – and considers how lawmakers can shape economic growth and efficiency through policies that change the after-tax returns to certain economic activities in these areas or change the cost of pursuing those activities. The report also provides some historical data on growth in productivity, real gross domestic product, the labor force and changing labor force participation rates, and in workers' real compensation per hour.
**URL:** https://www.jct.gov/publications.html?func=startdown&id=4992

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## Senate GOP tax reform priorities emerging

Senate Republicans have not released a tax reform proposal or detailed outline of their own and are now working with House leaders and the Trump administration to hammer out a single tax reform proposal that can be advanced through both chambers. But recent comments from GOP leaders in the Senate have provided an indication of how their tax reform priorities may or may not mesh with proposals put forward by their colleagues across the Rotunda and the tax reform "principles" released by the White House late last month.

### Revenue neutrality

Senate Majority Leader Mitch McConnell, R-Ky., told Bloomberg Television May 15 that tax reform "will have to be revenue neutral," noting that "we have a $21 trillion dollar debt and we added an enormous amount of debt during the Obama years."

That position aligns with the blueprint that House GOP leaders released last June, which calls for tax reform that is revenue neutral under "dynamic scoring" rules, which take into account certain macroeconomic feedback effects of tax and spending legislation. But it could be at odds with President Trump, who recently suggested in an interview with *The Economist* that he could accept a tax reform plan that adds to the deficit in the short term because the plan would pay for itself through increased economic growth. (For prior coverage, see *Tax News & Views*, Vol. 18, No. 17, May 12, 2017.)
**URL:** http://newsletters.usdbriefs.com/2017/Tax/TNV/170512_1.html

McConnell's stance also sets up a potential conflict with Senate Finance Committee Chairman Orrin Hatch, R-Utah, who told Bloomberg Television earlier this month that he is "not so sure that it's absolutely critical that [tax reform] be revenue neutral" and that he "would be more concerned about how we can get the economy to move forward and grow than whether or not we meet the formal test of budget neutrality."

The issue of revenue neutrality is critical since congressional Republicans intend to move tax reform under budget reconciliation rules, which allow legislation that meets certain strict budgetary and procedural requirements to be approved in both chambers with a simple majority vote, thus obviating the need to garner Democratic support. (Republicans control only 52 seats in the Senate and would need to win over 8 Democrats to clinch the 60 votes normally required to overcome procedural hurdles that arise when legislation moves through that chamber under regular order.)

Taking the reconciliation route would involve certain tradeoffs, however. Among the budgetary rules governing the reconciliation process – often collectively referred to as "Byrd Rules," named after the late Sen. Robert Byrd, D-W.Va. – is a prohibition against legislation that would increase the deficit in any year beyond the budget window (unless offset by other budgetary changes within the same legislative title). As a result, for a reconciliation bill to be Byrd-rule compliant, it would have to either include revenue offsets to ensure it does not increase the deficit beyond the 10-year budget window or be drafted to sunset in a way that would prevent any net out-year revenue loss, as was the case with the reconciliation tax cuts enacted in 2001 and 2003.

But a recent letter from the nonpartisan Joint Committee on Taxation (JCT) to House Speaker Paul Ryan, R-Wis., illustrated just how difficult it would be for Republicans to move an unpaid-for, temporary reduction in the corporate tax rate. According to the JCT analysis, reducing the corporate tax rate from 35 percent to 20 percent (the level specified in the House GOP tax reform blueprint) for just three years would reduce federal revenues by about $490 billion over the 10-year budget window and produce a "nonnegligible" revenue loss in the years beyond the budget window. (For prior coverage, see *Tax News & Views*, Vol. 18, No. 15, Apr. 28, 2017.)
**URL:** http://newsletters.usdbriefs.com/2017/Tax/TNV/170428_1suppA.pdf
**URL:** http://newsletters.usdbriefs.com/2017/Tax/TNV/170428_1.html

### Border-adjustment tax

McConnell's comments on tax reform this week indicate that ongoing disagreements – within Congress and within the business community – over a proposed border-adjustment tax in the House GOP blueprint are unlikely to be resolved anytime soon.

The blueprint proposes a destination-based cash flow tax that 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 a 20 percent US tax on products, services, and intangibles imported into the US (also regardless of production location).

The proposal has prompted strong reactions – pro and con – from rival taxpayer advocacy coalitions representing export-heavy and import-heavy interests and from Republicans in both chambers.

McConnell appeared to reject the proposal outright this week when he told Bloomberg Television that it “probably wouldn’t pass the Senate.”

The Trump administration has yet to formally endorse or reject the House proposal. Treasury Secretary Steven Mnuchin – who, along with White House National Economic Council Director Gary Cohn is negotiating a tax reform agreement with congressional Republican leadership – has stated that the proposal “does not work in its current form” although the administration likes “some parts” of it. President Trump, meanwhile, has criticized the border-adjustment tax as “too complicated,” but at other times has expressed interest in the notion of an as-yet undefined “reciprocal tax” on imports.

House Ways and Means Committee Chairman Kevin Brady, R-Texas and Speaker Ryan have indicated that they are open to revising the proposal but are adamant that it is an essential element of a tax code overhaul. The provision has been estimated to raise upwards of $1 trillion, which they argue would help finance the cost of reducing the corporate tax rate to 20 percent.

In remarks at a May 17 panel on tax reform sponsored by *Politico*, Brady stated that enactment of some version of the border-adjustment tax – what he is dubbing version 2.0 – is necessary for the economic growth he is targeting. He said he is meeting with stakeholders who are concerned that the proposal would not result in a stronger dollar. (Economists who support the proposal argue that currency fluctuations will mitigate the effect of the border adjustment and minimize the impact on consumer prices). Brady added that he is working to develop a “smarter” approach, although he would not offer any details on the modifications under consideration.

Ryan defended the provision at a May 18 press conference, stating that it would make “the tax code the most internationally competitive of any other version we’re looking at.” He also cautioned that if lawmakers reject the border-adjustment proposal, they would have to look at alternative revenue offsets if they hope to lower the corporate tax rate to the level proposed in the blueprint.

**Cost recovery and business interest**

Developments this week also suggest that there also could be daylight between House and Senate Republicans on how the tax code should treat depreciation and business interest expense.

Under the House Republican blueprint, interest expense would be deductible against interest income, but no current deduction would be allowed for net interest expense. Net interest expense could be carried forward indefinitely and deducted against net interest income in future years. The provision is included in the blueprint as a tradeoff for a proposal that would allow 100 percent expensing in year one for all assets, tangible and intangible, other than land. At the May 17 *Politico* tax reform panel, Brady contended that pairing repeal of the interest expense deduction with 100 percent first-year expensing is “probably the most pro-growth” piece of the House tax reform blueprint.

But Senate taxwriter – and Republican Conference Chairman – John Thune of South Dakota introduced legislation on May 17 that would liberalize the current-law depreciation rules in the tax code but stops short of permitting 100 percent first-year expensing. The Investment in New Ventures and Economic Success Today (INVEST) Act of 2017 (S. 1144), would, among other things, permanently extend 50 percent bonus depreciation, allow small businesses to immediately expense up to $2 million in business equipment and property under section 179, increase the amount a business can deduct for a business-use passenger vehicle to $50,000 over six years, and allow businesses to expense intangible property over 10 years (rather than 15 years under current law.) It also would increase the deduction for start-up costs of new businesses and simplify accounting rules for small businesses.

In a news release that accompanied his proposal, Thune noted that although the legislation was introduced as a stand-alone bill, it “is intended to be included in the Senate’s broader tax reform tax legislation.”

Thune did not pair his INVEST Act with a proposal to limit business interest deductions. A recent article in *The Wall Street Journal*, however, indicates that he wants to place limits on the deduction but is reluctant to repeal it because of the potential negative impact on agricultural sector, which relies on debt financing. For his part, Finance Committee

Chairman Orrin Hatch, R-Utah, stated in an interview earlier this month that it would be “pretty tough to do away with interest deductibility – people are so used to it.”

The one-page fact sheet the administration released on April 26 outlining its tax reform principles does not address issues around cost recovery or business interest expense. Treasury Secretary Mnuchin recently told *The Economist* that he is “contemplating” retaining the current-law deduction rather than scrapping it, but did not clarify the administration’s position on cost recovery.

**Timeline**

McConnell told Bloomberg Television that he is reluctant to “put a strict timeline” on enacting tax reform, but added that he certainly want[s] to complete it [during] this Congress. (The 115th Congress expires at the end of 2018.)

House Speaker Ryan and Ways and Means Chairman Brady, on the other hand, still hope to complete action on tax reform in 2017. At the May 17 *Politico* event, Brady acknowledged the challenges posed by the congressional calendar and the process of adopting a bicameral budget resolution for fiscal year 2018 – a prerequisite for moving tax reform legislation under reconciliation – but maintained that congressional taxwriters and the administration’s tax team are going “full bore” on tax reform and are “laser focused.”

“Here’s our responsibility: Deliver – this year,” he said.

At his May 18 press conference, Ryan likewise discounted the idea of tax reform slipping into next year, telling reporters “[o]ur goal, and I believe we can meet this goal, is calendar 2017 for tax reform. And I think we’re making good progress.”

(For additional discussion of House tax reform priorities, see separate coverage in this issue.)

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## White House FY 2018 budget release set for May 23

White House Office of Management and Budget Director Mick Mulvaney indicated this week that the Trump administration will release a formal tax-and-spending blueprint on May 23.

It was unclear at press time, however, whether the budget package will provide significant new details on the tax reform principles that the administration unveiled on April 26. Those principles, which were released as a one-page fact sheet, include, among other things, lowering the top income tax rate for corporations and passthrough entities to 15 percent, as well as shaving individual rates, compressing the rate brackets, and significantly increasing the standard deduction. (For prior coverage, see *Tax News & Views*, Vol. 18, No. 14, Apr. 26, 2017 and *Tax News & Views*, Vol. 18, No. 15, Apr. 28, 2017.)
**URL:** http://newsletters.usdbriefs.com/2017/Tax/TNV/170426_1.html
**URL:** http://newsletters.usdbriefs.com/2017/Tax/TNV/170428_1.html

Administration officials – namely, Treasury Secretary Steven Mnuchin and White House National Economic Council Director Gary Cohn – are currently working with Republican leaders in the House and Senate to negotiate a single tax reform plan that can be moved through both chambers. (See separate coverage in this issue for additional details.)

The House Ways and Means Committee will hold a hearing on the administration’s budget package on May 24 at 2:00 p.m. Mnuchin will be the sole witness.

Mnuchin also will discuss tax reform and the administration’s budget proposals at a Senate Finance Committee hearing set for 10:00 a.m. on May 25.

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