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Selling 2017 tax reform law dominates 2018 Republican game plan

Both the president's State of the Union address and the congressional Republican policy retreat seemed to confirm this week that generating public enthusiasm for the recently enacted tax code overhaul (P.L. 115-97) will be one of the GOP's key agenda items through November's mid-term elections.

On January 30, President Trump delivered his first State of the Union message to a joint session of Congress – an audience not surprisingly composed of enthusiastic Republicans and far less enthusiastic Democrats. Early in the speech, the president touted the legislation that he signed in December as providing "massive tax cuts" by lowering rates for individuals and businesses as well as zeroing out the individual mandate penalty under the Patient Protection and Affordable Care Act (PPACA).

"Since we passed tax cuts, roughly 3 million workers have already gotten tax cut bonuses – many of them thousands of dollars per worker," he said, after declaring that "a typical family of four making $75,000 will see their tax bill reduced by $2,000."

With the impact of the tax legislation likely to be reflected in workers' paychecks beginning in February and public approval ratings of the bill beginning to tick up in some recent polls, Republicans hope that voters will look favorably on the party come November – or at least favorably enough to maintain their majorities in both chambers. Democrats need to flip about two dozen House seats to take control of the chamber and have consistently decried the GOP-only tax bill as skewed to the wealthy while providing "crumbs" for most lower- and middle-class families.

Republican members who attended the party's retreat beginning January 31 told reporters that Senate Majority Leader Mitch McConnell of Kentucky and House Speaker Paul Ryan of Wisconsin urged their members to devote this year to selling the tax legislation to voters.

Other possible tax opportunities

Republicans so far do not appear to have settled on additional tax legislative priorities for 2018. The GOP is not expected to use the budget reconciliation process again this year (which allowed them to pass the tax reform bill with no Democratic support), a decision that essentially would mean ceding the opportunity to make another run at the long-sought repeal of the PPACA. They could, however, try to move legislation repealing discrete PPACA revenue provisions such as the medical device excise tax and the "Cadillac" tax on certain high-cost employer-sponsored health insurance plans. (Both provisions were temporarily suspended in the short-term government funding bill approved on January 22 and their repeal has in the past won support among some Democratic lawmakers as well as among Republicans.)

Infrastructure: Legislation to rebuild the nation's infrastructure – something that could include a significant tax component – has generated bipartisan interest but not necessarily bipartisan consensus when it comes to policy or financing proposals.

The White House has long promised to roll out its plan for a nationwide infrastructure overhaul, and many expected the president to include details in the State of the Union address. However, the plan the president pitched this week was fairly light on specifics, and administration officials say the full proposal may not be released for another few weeks. The $1.5 trillion investment through public-private partnerships Trump proposed January 30 (up from $1 trillion in earlier speeches) caught even most Republicans in the chamber off guard. While the White House says $200 billion of that would come from the federal government, it is expected to leave the question of how to pay for it up to Congress.

An increase in the federal gas tax, which hasn't been raised since 1993 and is not indexed to inflation, remains a favorite financing option for many Democrats and some in the business community. Congressional Republican leaders have long opposed such a move, and anti-tax GOP backers will likely try to tamp down any emerging proposals. But senior Senate taxwriter Chuck Grassley, R-Iowa, this week acknowledged that "everything has to be on the table" during legislative negotiations. He noted, however, that he "won't be out there pushing for" a gas tax hike. For his part, House Transportation and Infrastructure Committee Chairman Bill Shuster, R-Pa., told reporters this week that he raised the issue – what he called "the elephant in the room" – at the congressional GOP retreat.

A White House official told reporters at the GOP retreat February 1 that the administration is "neutral" on a gas tax increase. A draft outline of an infrastructure plan that has been attributed to the White House and has been circulating in Washington does not mention the gas tax but suggests that the administration may support expanding tax-preferred private activity bonds as part of an infrastructure package. (For prior coverage, see *Tax News & Views*, Vol. 19, No. 4, Jan. 26, 2018.)
URL: http://newsletters.usdbriefs.com/2018/Tax/TNV/180126_2.html

Ways and Means Republicans to discuss agenda: House Ways and Means Committee Republicans plan to spend a half day huddling on their agenda February 6. With tax legislation successfully passed in December, members have indicated that the committee is likely to turn its focus to other areas within its jurisdiction, including international trade. In the tax arena, an effort to address drafting flaws in the recently enacted tax bill is possible, and an initiative to restructure the Internal Revenue Service is already underway. (See separate coverage in this issue for details on a recent hearing on IRS restructuring proposals.)

Immediate hurdles: Government funding, debt ceiling

But lawmakers won't be able to advance any significant legislative agenda unless they can first find a way to keep the government open and allow the Treasury Department to continue making payments on the nation's debts.

Government funding: The current stop-gap measure funding government operations is set to expire at midnight on February 8. House Republicans reportedly plan to vote as soon as February 6 on a continuing resolution that would keep the government running through February 22, but whether such a measure can clear the chamber is currently a matter of debate. Conservative Republicans object to moving yet another short-term spending bill – this one would be the fifth for fiscal year 2018 – and Democrats are expected to withhold their support unless lawmakers also take steps to adjust the spending caps Congress has been working under and to address the immigration status of individuals who were brought to this country illegally as children and are currently protected under the Deferred Action for Childhood Arrivals (DACA) program. (President Trump has rescinded the Obama-era DACA program as of March 5 of this year.)

Disagreements over those issues led to a three-day partial government shutdown last month as Congress negotiated the current continuing resolution. (For prior coverage, see *Tax News & Views*, Vol. 19, No. 4, Jan. 26, 2018.)
URL: http://newsletters.usdbriefs.com/2018/Tax/TNV/180126_1.html

Debt ceiling: Congress last fall suspended the federal debt ceiling through December 8 and since then the Treasury Department has been using what are known as "extraordinary measures" to pay the government's bills. Treasury Secretary Steven Mnuchin recently informed House and Senate leaders that the government's ability to use those extraordinary measures likely will be exhausted by the end of February.
URL: https://www.treasury.gov/initiatives/Documents/Ryan_DL_Letter.pdf

Meanwhile, the Congressional Budget Office (CBO) announced January 31 that if Congress does not act quickly to increase the federal debt limit the Treasury will "most likely run out of cash in the first half of March 2018."
URL: https://www.cbo.gov/publication/53514

Earlier projections had indicated that the government would run out of money by late March or early April, but according to CBO that timetable had to be altered because the lower income tax rates for individuals enacted in the 2017 tax law reduce the amount of income tax withholdings flowing into the Treasury beginning in 2018.

"As a result of those changes, CBO now estimates that, starting in February, withheld amounts of individual income taxes will be roughly $10 billion to $15 billion per month less than anticipated before the new law was enacted," CBO said.

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House members talk IRS improvement at Ways and Means Oversight Subcommittee hearing

House lawmakers offered suggestions for improving the Internal Revenue Service at a January 30 Ways and Means Oversight Subcommittee "member day" hearing. Subcommittee Chairwoman Lynn Jenkins, R-Kan., convened the hearing for subcommittee members as well as nonmembers to offer legislation and proposals.

"I am looking forward to exploring ways to restore the relationship between taxpayers and the IRS and help the agency better administer the tax code," she told the panelists in her opening remarks.

Many proposals involved boosting efficiency or reducing fraud by updating technologies. Several of the bills have bipartisan support, and one has already passed the House.

Among the bills discussed at the hearing were proposals to:

- Limit the IRS's authority to seize property of taxpayers who are suspected of structuring financial transactions to avoid Bank Secrecy Act requirements (H.R. 1843, the Restraining Excessive Seizure of Property through the Exploitation of Civil Asset Forfeiture Tools Act, sponsored by Oversight Subcommittee member Peter Roskam, R-Ill., and approved by the House in September of 2017);
- Reduce fraud in Earned Income Tax Credit refund payments (H.R. 4233, sponsored by Ways and Means member Jim Renacci, R-Ohio);
- Repeal the IRS's authority to contract with private debt collectors and give taxpayers a lifetime income exclusion of up to $10,000 in cancellation-of-indebtedness income (H.R. 2171, sponsored by Oversight Subcommittee ranking member John Lewis, D-Ga.)

- Provide relief for victims of identity theft in the tax filing process (H.R. 439, the Stolen Identity Refund Fraud Prevention Act of 2017, sponsored by Renacci);
- Make permanent the Volunteer Income Tax Assistance (VITA) program (H.R. 2901, sponsored by Oversight Subcommittee member Carlos Curbelo, R-Fla.);
- Create new appeals procedures for taxpayers who have received IRS deficiency determinations (H.R. 3220, sponsored by Ways and Means member Jason Smith, R-Mo.);
- Simplify tax filing for small businesses (H.R. 3717, sponsored by Rep. Steve Chabot, R-Ohio);
- Make permanent the IRS Free File Program and partner with private-sector vendors to increase access to electronic filing (H.R. 3641, sponsored by Roskam);
- Streamline and standardize procedures for electronic signatures on tax returns (H.R. 3153, sponsored by Ways and Means member Tom Rice, R-S.C.); and
- Simplify tax filing for senior citizens (H.R. 2721, sponsored by Rep. Bill Posey, R-Fla.).

All presentations were limited to five minutes and no questions were asked by members of the Oversight panel.

Several lawmakers made suggestions for improvements without offering specific legislation. These ranged from increasing the IRS's focus on customer service to replacing the Service altogether with a much smaller organization whose authority would be limited to conducting random taxpayer audits.

Jenkins remarked at the conclusion of the hearing that some of the proposals could be included in future legislation.

"There were a lot of good legislative solutions proposed and I look forward to working together to include some of those in a bill to make reforms to the IRS," she said.

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