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Trump, Dems target $2 trillion in infrastructure spending – but leave offsets for another day

An Oval Office meeting between President Trump and a group of Democratic congressional leaders this week highlighted once again that while there is broad agreement on the desire for a significant infrastructure improvement program, the question of how to pay for it remains an open one with no easy answer.

As Senate Finance Committee member Pat Roberts, R-Kan., put it: "Everybody is for an infrastructure bill. Then you get into details."

On April 30, Democrats including House Speaker Nancy Pelosi of California, Senate Minority Leader Charles Schumer of New York, and House Ways and Means Committee Chairman Richard Neal of Massachusetts met with the president and emerged with a broad agreement to work together on a $2 trillion infrastructure package addressing roads, bridges, telecommunications improvements, and more. However, the participants pushed the discussion of where the revenue would come from to another day, leading many to view the goal with considerable skepticism. Funding options that have been discussed by various stakeholders in recent years, including an increase in the federal fuel tax, a vehicle-miles-traveled tax, public-private partnerships on infrastructure initiatives, debt spending, or a rollback of some of the provisions in the 2017 tax cut law (P.L. 115-97, informally known as the Tax Cuts and Jobs Act or TCJA), all have their detractors.
‘A pretty high number’

“Two trillion is a pretty high number,” said Sen. Shelley Moore Capito, R-W.Va., who serves on three committees – Appropriations, Environment and Public Works, and Commerce, Science and Transportation – that would be key to drafting an infrastructure bill. “I think we’d have to look at what the pay-fors are and what the whole package looks like. I don’t think that a commitment to a gas tax, singularly, would fly.”

House Transportation and Infrastructure Committee ranking member Sam Graves, R-Mo., was even more skeptical, saying the $2 trillion number is not realistic “at all.”

Senate Majority Whip and Finance Committee member John Thune, R-S.D., told Politico he was “OK with the meeting” President Trump had with the Democrats, but noted the reality that “ultimately whatever we will do will have to pass a Democratic House and get 60 [votes] in the Senate.” Thune also said he does not believe there is sufficient support for an infrastructure package that isn’t paid for and emphasized that even a sizeable increase in the federal gas tax would not raise revenue approaching $2 trillion.

The Joint Committee on Taxation (JCT) staff has estimated that increasing the excise tax on motor fuels – which hasn’t been raised since 1993 – by 35 cents per gallon and indexing it to inflation would generate about $515 billion in additional revenue over the next 10 years. (The JCT estimate is cited in a December 2018 report from the Congressional Budget Office on options to decrease the federal deficit.) The president reportedly told Republican lawmakers last year that he could support a 25-cents-per-gallon increase in the gas tax, but the idea ran into opposition from congressional leaders and Trump has since given more mixed signals about whether he could support such a proposal.


A 2018 plan from Senate Democrats called for funding about $1 trillion in infrastructure improvements by modifying several Tax Cuts and Jobs Act provisions benefiting upper-income individuals and corporations – for example, by raising the top individual income tax rate from 37 percent to 39.6 percent, raising the corporate tax rate from 21 percent to 25 percent, and reverting to the lower pre-TCJA exemption amounts for the individual alternative minimum tax and the estate tax. The plan also proposed to tax carried interest income as ordinary rather than capital gain. (For prior coverage, see Tax News & Views, Vol. 19, No. 9, Mar. 9, 2018.)


Following this week’s meeting, Schumer said that “the pay-fors should not fall on the backs of middle class and working people,” seeming to imply that any increase in the gas tax – which could be regressive – would need to be paired with provisions impacting higher-income individuals, businesses, or both. But the idea of looking to the TCJA for revenue was quickly rejected by several top congressional Republicans, including Senate Majority Leader Mitch McConnell of Kentucky and House Minority Leader Kevin McCarthy of California.

For his part, House Transportation and Infrastructure Committee Chairman Peter DeFazio, D-Calif., told reporters May 2 that rolling back TCJA provisions to pay for infrastructure spending was a “nonstarter” but added he would be “happy to repeal many of the tax cuts when [Democrats] control the Senate and the White House.”

“I want to do a real [infrastructure] bill. I want to do user fees. I want it to be paid for,” DeFazio said.

Wait and see...

Democrats have put the onus on the White House to propose funding mechanisms at another meeting to be held in about three weeks, and Republicans are waiting to see if this ambitious undertaking will go any further. Senate Majority Leader McConnell said last month that he’s willing to consider legislation “once the president and Democrats and everybody says, ‘OK, here is how we’re going to pay for it.’”

On the other side of the country at the time the president and Democrats were meeting this week, though, Acting White House Chief of Staff Mick Mulvaney cast doubt on the likelihood of any kind of agreement on infrastructure emerging in the foreseeable future. During an onstage interview at the Milken Institute’s Global Conference, Mulvaney said that the Democrats’ participation in discussions was just “a show” that he does not expect to lead to a legislative deal.
"I’ve told the president several times, ‘Mr. President, it doesn’t make a difference how much money you put in, ...you won’t see a single lane of traffic or road paved before the end of your second term,’” Mulvaney said.

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IRS reform legislation stuck in the Senate

An IRS reform bill that easily cleared the House last month and was thought to have a path for quick passage in the Senate instead became bogged down in that chamber this week as a growing number of Democrats raised objections to a provision in the legislation that would codify the IRS Free File program, a partnership between the IRS and private software providers that was established to make no-cost tax return preparation software available to certain lower-income taxpayers.

Some Senate Democrats initially had worried that codifying the program (which currently exists as a memorandum of understanding between the Service and the software providers) would prevent the IRS from ever developing its own return preparation software and offering it to the public directly. But concerns about the program have mounted in recent days in the wake of press reports suggesting that some private software providers were suppressing details about their Free File software on internet search engines and instead steering taxpayers to fee-based products.

Finance Committee ranking member Ron Wyden, D-Ore., reportedly is consulting with other Democrats on the taxwriting panel – as well as Finance Chairman Charles Grassley, R-Iowa, and Ways and Means Committee Chairman Richard Neal, D-Mass. – to see if there is a way to revise the provision to address those concerns. (Striking the provision from the bill does not currently appear to be part of the discussion.) For his part, Ways and Means ranking member Kevin Brady, R-Texas, told reporters May 1 that he would “certainly be glad to work with Chairman Neal and others” should a “clarification” of the provision prove necessary.

The Taxpayer First Act of 2019 (H.R. 1957) generally would lay out a path forward for reorganizing the IRS; make taxpayer-friendly changes in the areas of enforcement, appeals, and customer service; modernize the Service’s technology and cybersecurity infrastructure; and provide protections for taxpayers who are victims of tax-related identity theft. (For additional details, see Tax News & Views, Vol. 20, No. 13, Apr. 5, 2019.) If enacted into law, it would bring about the first major restructuring of the IRS since 1998.

House to take up retirement savings bill

In other developments, House Majority Leader Steny Hoyer, D-Md., told Tax Notes this week that he intends to hold a floor vote the week of May 6 on bipartisan legislation aimed at making it easier for smaller businesses to offer tax-qualified retirement savings plans to their employees, encouraging individuals to participate in retirement plans, and promoting tax-preferred savings for certain nonretirement expenses.

The Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019 (H.R. 1994) was approved in the Ways and Means Committee on April 2. The retirement plan enhancements and savings incentives would reduce federal receipts by nearly $16.3 billion between 2019 and 2029, according to an estimate by the Joint Committee on Taxation staff. But that amount would be more than offset by revenue-raising provisions – including, most notably, a call for accelerating distributions of retirement plan assets following the death of a plan participant or account holder that would raise nearly $15.8 billion over 10 years, as well as proposals to hike penalties for failure to file income tax returns and retirement plan returns. (For prior coverage, see Tax News & Views, Vol. 20, No. 13, Apr. 5, 2019.)
Ways and Means plans hearings on tax gap, paid family and medical leave

Also this week, the House Ways and Means Committee announced that it will hold a hearing on May 9 to examine the tax gap and taxpayer noncompliance.

Trump administration officials in recent months have cited concerns about the tax gap – the difference between the amount of money owed to the government and the amount actually collected – in making a case for proposed fiscal year 2020 budget increases for IRS technology modernization. Treasury Secretary Steven Mnuchin told the panel at a hearing in March that the Trump administration sees beefing up the Service’s technology infrastructure as a key step in improving the agency’s enforcement efforts and capturing previously uncollected revenue. (For prior coverage, see Tax News & Views, Vol. 20, No. 11, Mar. 22, 2019.)


The IRS has estimated the average annual tax gap for 2008-2010 to be $458 billion. IRS Commissioner Charles Rettig told members of the Senate Finance Committee at a hearing last month on “the 2019 tax filing season and the 21st century IRS” that the Service expects to release an updated estimate of the tax gap – covering the years 2011 through 2013 – by this coming June. (For prior coverage, see Tax News & Views, Vol. 20, No. 14, Apr. 12, 2019.)

URL: https://www.irs.gov/newsroom/the-tax-gap

House taxwriters also plan to hold a hearing on May 8 to examine issues related to paid family and medical leave and its impact on employers and workers. One relevant tax issue that could be up for discussion is a temporary provision enacted in the 2017 tax cut legislation (P.L. 115-97) that provides a credit under section 45S to qualifying employers that offer paid family and medical leave to their employees. The credit, which applies to wages paid to employees while they are on leave, currently is set to expire at the end of this year. (For additional details, see Reshaping the code: Understanding the new tax reform law from Deloitte Tax LLP.)


Witness lists for the two hearings were not available at press time.

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