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Extenders package – plus disaster relief, expanded worker and family credits, and estate tax offset – clears Ways and Means

After a marathon mark-up session, the House Ways and Means Committee on June 20 approved a series of measures that, among other things, would renew certain expired and expiring tax “extenders” provisions, provide short-term tax relief to victims of federally declared natural disasters, and address – albeit temporarily – some longstanding Democratic priorities such as expanding available benefits under the Child Tax Credit, the Earned Income Tax Credit, and the Child Care and Dependent Care Tax Credit.

The measures are largely unoffset and would reduce federal receipts by a combined $136 billion over 10 years, according to the Joint Committee on Taxation (JCT) staff. But Democratic taxwriters pushed through one contentious revenue raiser – as part of the extenders package – that would accelerate by two years the expiration of the increased
estate tax exemption amounts that were enacted in under the 2017 tax cut legislation informally known as the Tax Cuts and Jobs Act (TCJA, P.L. 115-97).

Approval of the bills generally came along party lines and much of the debate during the mark-up reflected on-going partisan tensions over the Tax Cuts and Jobs Act. Ways and Means Committee Chairman Richard Neal, D-Mass., and several Democratic taxwriters argued that the TCJA is a deficit buster that primarily benefits wealthy individuals and corporations at the expense of less affluent taxpayers, and that the bills under discussion would, in Neal’s words, “rectify these misguided choices.” Ranking member Kevin Brady, R-Texas, and Republican taxwriters, on the other hand, argued that the Democratic proposals would diminish the economic boost from the TCJA and criticized the majority for advancing what Brady called “fiscally irresponsible, temporary, and slow-growth tax policies....”

**Extenders, disaster tax relief, estate tax exemption clawback**

The Taxpayer Certainty and Disaster Relief Act of 2019 (H.R. 3301: JCT description), which was approved by a vote of 25-17, would extend through 2020 most of the nearly two dozen temporary tax deductions, credits, and incentives that expired in 2017 and 2018, as well as those that are scheduled to expire at the end of this year. (Expired provisions would be extended retroactively to the beginning of 2018.)


Among the more notable provisions that would be renewed are:

- Lookthrough treatment of payments between related controlled foreign corporations under the foreign personal holding companies rules (section 954(c)(6);
- Credits for electricity produced from wind and nonwind renewable resources (sections 45, 45(d), and 48(a)(5));
- The New Markets Tax Credit (section 45D(f)) and the Work Opportunity Tax Credit (section 51(c)(4));
- The seven-year recovery period for motorsports entertainment complexes (sections 168(i)(15) and (e)(3)(C)(ii)); and
- Expensing of certain qualified film and live theatrical productions (section 181), not already covered by section 168(k).

It is also worth noting that two expired cost recovery provisions – three-year depreciation for race horses two years old and younger (section 168(e)(3)(A)(i)) and the election to expense advanced mine safety equipment (section 181) were *not* included in the extenders package presented at the mark-up, though both are largely subsumed within section 168(k).

The panel also approved by voice vote an amendment from Texas Democratic taxwriter Lloyd Doggett that would eliminate the now-expired credit for Indian coal production facilities (section 45(e)(10)) from the extenders package.

A complete list of what is – and isn’t – in the extenders legislation is available from Deloitte Tax LLP.


**Disaster tax relief:** In addition to renewing the expired tax provisions, H.R. 3301 generally would provide targeted, temporary tax relief to individuals and businesses in areas in which a major federal disaster was declared during the period running from January 1, 2018, through 60 days after the measure’s enactment date. (These provisions would not apply to victims of the California wildfire disaster area who already received similar relief under the Bipartisan Budget Act of 2018.)

- **Employee retention incentives:** The bill includes a temporary tax credit for 40 percent of wages (up to $6,000 per employee) paid by an eligible employer to an employee from a designated disaster area. The credit would not be available in the case of wages paid for which the employer is already receiving a benefit under the Work Opportunity Tax Credit.
- **Access to retirement funds:** The measure would make it easier for disaster victims to gain emergency access to funds in qualified retirement plans by: (1) waiving the 10 percent early withdrawal penalty for qualified disaster-relief distributions, allowing income tax on the distributions to be paid over three years, and permitting recontributions of withdrawn amounts during that three-year period; (2) permitting re contribution
of retirement plan withdrawals for home purchases that were cancelled due to eligible disasters; and (3) relaxing the rules for loans from retirement plans for qualified disaster relief.

- **Deduction for personal casualty losses:** For individuals who incur uncompensated disaster-related losses, the proposal would temporarily eliminate the current-law requirements that personal casualty losses must exceed 10 percent of adjusted gross income (AGI) to qualify for deduction. Nonitemizers with qualifying disaster-related losses would also be eligible to take advantage of this tax relief.

- **Earned Income Tax Credit and Child Tax Credit calculations:** The bill would allow taxpayers to determine their Earned Income Tax Credit (EITC) and Child Tax Credit (CTC) for the taxable year in which a disaster was declared based on their earned income from the immediately preceding year. A special provision would allow taxpayers who were victims of Hurricane Sandy to elect to calculate their EITC and additional CTC for the taxable year that includes the dates of Hurricane Sandy (October 29, 2012 through November 3, 2012) using their earned income for the prior taxable year if it is greater than their earned income for the year that includes Hurricane Sandy. That provision also would extend the statute of limitations for Hurricane Sandy victims to amend their tax returns to make any claims for credit or refund relating to a change in their earned income.

- **Charitable giving:** For businesses and individuals, the bill would temporarily suspend limitations on the deduction for charitable contributions associated with qualified disaster relief.

- **Excise tax on net income tax of private foundations:** The bill would reform the two-tier excise tax on the net investment income of private foundations, including replacing the two rates on the investment income of foundations exempt from federal income tax with a single tax rate of 1.39 percent.

- **Low-income housing tax credit:** The bill would provide additional low-income housing tax credit allocations for qualified 2017 and 2018 California disaster areas.

- **Disaster relief for US possessions:** The bill also includes a permanent provision that calls for disaster-relief payments to US possessions based on certain revenue losses sustained in a federally declared disaster (for possessions with so-called “mirror” tax codes that replicate the US tax system) or an approximation of such losses for non-mirror possessions.

- **Automatic filing extension for all federally declared disasters:** More broadly, the bill would provide an automatic 60-day extension of tax filing deadlines for individuals and businesses located in a federally declared disaster area. This provision would apply to all federally declared disasters declared after the date of enactment.

These provisions generally would be effective upon enactment.

**Clawing back estate tax relief:** The JCT staff estimates that the extender provisions in H.R. 3301 would reduce federal receipts by nearly $33.2 billion between 2019 and 2029, and that the disaster relief provisions would shrink revenues by an additional $9.3 billion over the same period. 

**URL:** [https://www.jct.gov/publications.html?func=startdown&id=5200](https://www.jct.gov/publications.html?func=startdown&id=5200)

Those combined costs would be largely – but not entirely – offset by a provision that would accelerate by three years (to 2022) the expiration of the increase in the estate and gift tax exemption that was enacted in the Tax Cuts and Jobs Act and is currently scheduled to sunset at the end of 2025. As a result, the basic exclusion amount would return to $5 million per spouse (indexed for inflation occurring after 2011) for decedents dying and gifts made after December 31, 2022. (The TCJA increased the basic exclusion to $10 million per spouse and indexed it for inflation. For 2019, the basic exclusion amount is $11.4 million.)

According to the JCT, the estate tax provision would boost receipts by nearly $37.6 billion over 10 years, bringing the net 10-year cost of H.R. 3301 to just shy of $4.9 billion.

**GOP amendments defeated, including TCJA technical corrections:** Ways and Means Republicans offered a slew of amendments to the extender package that, among other things, called for making permanent selected extender provisions (including the controlled foreign corporation lookthrough rules) and temporary TCJA tax relief provisions, and repealing certain revenue offsets enacted in the Patient Protection and Affordable Care Act. All of these were defeated along party lines, rejected as nongermane, or withdrawn.

Among the more closely watched GOP amendments was a proposal to address five technical drafting errors from the TCJA, including fixes that would treat qualified improvement property as 15-year property under MACRS, clarify the tax treatment of legal fees incurred by plaintiffs in certain sexual harassment suits, clarify the effective date of the new net operating loss rules, amend section 965(h) to allow taxpayers to elect to treat claims for refunds or credits.
separately from their installments of the repatriation tax, and clarify the application of attribution rules under the subpart F controlled foreign corporation provisions.

Ways and Means Republicans, who passed legislation in the waning days of the last Congress to address them, claimed that these fixes were among those most urgently needed by taxpayers. And despite bipartisan support for several of these provisions, panel Democrats rejected the amendment. (Chairman Neal stated at the mark-up that TCJA technical corrections should be considered separately from an extenders package.)

Expanded worker and family tax credits

In addition to the extenders and disaster relief legislation, the committee also approved by a vote of 22-19 the Economic Mobility Act of 2019 (H.R. 3300: JCT description), which aims to make good on Democrats’ long-standing goal of enhancing the Earned Income Tax Credit for low-income workers without dependent children, but only for two years, while also offering similar short-term expansions of other family-focused refundable credits including the Child Tax Credit and the Child and Dependent Care Tax Credit (CDCTC). (In a related development, the committee also approved a separate, nontax bill – the Child Care Quality and Access Act of 2019 – that would boost spending on federal child care programs.)

The economic staff estimates that the bill, which is not offset, would reduce federal receipts by $101.7 billion over 10 years. Notably, three Ways and Means Democrats – Lloyd Doggett of Texas, Ron Kind of Wisconsin, and Stephanie Murphy of Florida – expressed their support for the underlying policy changes but nonetheless voted against the bill because it was not paid for. Ways and Means Chairman Neal indicated that he would search for additional revenue raisers to pay for the bill once it was out of committee.

Earned Income Tax Credit: For tax years beginning in 2019 and 2020, the Economic Mobility Act would expand the age range of taxpayers without qualifying children who are eligible for the EITC. Under the proposal, the minimum age would fall from 25 to 19 (so long as the taxpayer is not a full-time student) while the maximum age would rise from 65 to 66. For those two years, the bill would also roughly triple the maximum credit available to childless earners – which stands at about $530 under current law – by increasing the credit percentage and earned income amounts, as well as adjusting other parameters that factor into the credit’s computation.

On a permanent basis, the bill would also make several other changes to the EITC, including:

- Repealing a current-law provision that bars individuals from claiming the credit for taxpayers without dependents if they fail to meet the identification requirements (that is, providing a valid Social Security number) for otherwise qualifying children;
- Eliminating the restriction on an individual’s ability to claim the credit if he or she has excess investment income (which, in 2019, is defined as investment income over $3,600); and
- Providing for matching payments from the Treasury to certain US possessions based on the cost of each possession’s EITC regime.

All told, these EITC changes would total about $30.2 billion over the next decade, according to the JCT.

Child Tax Credit: H.R. 3300 would make the CTC fully refundable – that is, up to the maximum credit of $2,000 per qualifying child – for tax years beginning in 2019 and 2020. Under current law, the refundable portion of the CTC – sometimes called the Additional Child Tax Credit – is capped at $1,400 per child, indexed for inflation. The earned
income formula that currently limits CTC refundability to 15 percent of a taxpayer’s wages exceeding $2,500 would remain unchanged.

Similar to the EITC changes noted above, the bill also includes matching payments to US possessions based on their CTC costs (for possessions with so-called “mirror” tax codes that replicate the US tax system) or an approximation of such costs for non-mirror possessions. This change would be enacted on a permanent basis.

These changes would cost almost $51 billion over 10 years, according to JCT.

An amendment offered by Chairman Neal during the mark-up – and adopted on a 22-19 vote – would further expand the CTC to $3,000 per child for children under four years of age, a change Neal argued was necessary to battle childhood poverty. Under current law, the code defines a qualifying child for purposes of the CTC as an individual under the age of 17.

“It is a national disgrace that children make up the poorest age demographic in the United States,” Neal said.

According to press reports, the JCT staff has estimated that the amendment would reduce federal receipts by $29.5 billion over 10 years. Neal has indicated that he would find an offset for the provision.

**Child and Dependent Care Tax Credit:** For tax years beginning in 2019 and 2020, the Economic Mobility Act would make the Child and Dependent Care Tax Credit fully refundable. Under current law, the credit – which is designed to offset a portion of expenses incurred by a taxpayer for the care of qualifying dependents that enables the taxpayer to remain gainfully employed – is not refundable.

In addition, for those two years, the bill would double the amount of child and dependent care expenses that are eligible for the credit (to $6,000 for one child and $12,000 for two or more children), lift the maximum credit rate to 50 percent (from 35 percent under current law), and increase the adjusted gross income threshold above which the credit rate begins to phase out from $15,000 to $120,000. Under the proposal, the 20 percent credit rate (that is, the fully phased-out credit rate under current law) would still apply, but would not kick in until AGI exceeds $178,000. The equivalent threshold for the 20 percent credit rate under current law is $43,000.

**Exclusion for employer-provided dependent care assistance:** Under H.R. 3300, the maximum exclusion for employer-provided dependent care assistance under section 129 would be increased from $5,000 annually to $10,500. Unlike the other provisions discussed above, this change would apply for taxable years beginning in 2020 and 2021 (not 2019 and 2020).

Taken together, the proposed enhancements to the CDCTC and section 129 exclusion would cost about $18.8 billion over the next decade, according to the JCT, with nearly all of that cost front-loaded in the next few years.

**Nonprofit fringe benefits tax:** Unrelated to the bill’s broader purpose of expanding tax benefits for low-income workers and families, the Economic Mobility Act would also repeal the requirement under section 512(a)(7) – put in place by the TCJA – that tax-exempt organizations increase their unrelated business taxable income (UBTI) by the cost of any qualified transportation fringe benefit, including parking facilities used in connection with such fringes, offered to their employees.

The TCJA provision was enacted with an eye toward providing parity between tax-exempt and for-profit entities – under the TCJA, for-profits are denied deductions for transportation-related fringe benefits under section 274 – but it has generated considerable backlash among lawmakers in both parties. Notably, Ways and Means ranking Republican Kevin Brady, a primary author of the TCJA, proposed nixing section 512(a)(7) as part of a series of tax bills that passed the House but failed to gain traction in the Senate at the end of 2018.

According to the JCT, repealing the UBTI provision would cost about $1.9 billion over the next 10 years.

**Extended lookback for same-sex married couples to amend returns**

Taxwriters at the June 20 mark-up also approved the Promoting Respect for Individuals’ Dignity and Equality (PRIDE) Act of 2019 (H.R. 3299: JCT description). That measure would allow certain same-sex couples who were legally married before the IRS issued Rev. Rul. 2013-17 – which held that legally married same-sex couples would be treated
as married for federal income tax purposes – to amend prior-year returns going back to the date of their marriage to reflect their status as married filers.


Rev. Rul. 2013-17 applied prospectively as of September 16, 2013. As a result, taxpayers who were legally married under state law during tax years for which the three-year federal statute of limitations for amending returns was already closed when the revenue ruling took effect – that is, before 2010 – have been unable to amend their returns for those closed years.

The PRIDE Act, which cleared the committee by voice vote, would be effective upon enactment and would reduce federal receipts by an estimated $57 million over 10 years.

**URL:** [https://www.jct.gov/publications.html?func=startdown&id=5196](https://www.jct.gov/publications.html?func=startdown&id=5196)

**Changes ahead – including additional revenue offsets**

It is currently unclear when (or even if) the Ways and Means-approved bills will be taken up on the House floor, and it appears likely that the measures could see some revisions as the process moves forward.

Ways and Means Chairman Neal told reporters on June 19 that taxwriters “will come up with a series of” additional revenue raisers to include with the tax relief proposals, although he did not identify specific offsets under consideration, and he may be challenged to find politically acceptable ways to eliminate the deficit impact of this large package.

Hinting that the next step may not be passage by the House, Chairman Neal said, “the game plan is to move [legislation] out of committee for further negotiations,” perhaps signaling a desire to find common ground with Senate Finance Committee leaders on a package that can later hitch a ride to some other moving piece of legislation.

**Cold shoulder in the Senate:** For his part, Senate Finance Committee Chairman Charles Grassley, R-Iowa, told reporters on June 19 that the Ways and Means extenders package in its current form would be “dead on arrival” in his chamber because of the estate tax offset.

Grassley and Finance Committee ranking Democrat Ron Wyden of Oregon unveiled a narrower – unoffset – extenders package in late February that would renew the 2017 and 2018 expired provisions through the end of this year and provide tax-related disaster relief; however, that proposal has not yet been marked up. (For prior coverage, see Tax News & Views, Vol. 20, No. 8, Mar. 1, 2019.)


More recently, the committee formed five bipartisan task forces to develop a long-term approach to addressing expired and expiring tax provisions with recommendations due in the coming weeks. (In the House, Ways and Means ranking member Kevin Brady has long advocated permanently extending those temporary provisions that provide ongoing value and eliminating those that no longer serve their originally intended purpose following the enactment of TCJA.)

The Finance Committee so far has not taken up legislation to expand worker and family tax credits or make it easier for same-sex married couples to amend prior-year returns to reflect their status as married filers.

**Process and timing issues:** Also unclear at this point is exactly how an eventual House-Senate extenders agreement – even assuming one can be reached given substantial disagreements over scope and the need for offsets – will make it through Congress and to the White House. Extenders may not be able to pass on their own and so may need to be attached to a “must pass” legislative vehicle. Among the relatively few must-do items on the legislative agenda this year are bills to address the federal debt ceiling, fund the federal government for fiscal year 2020 (which begins October 1), and address federal budget caps and sequester limits. Congress could move any of these individually or in some combination, either with or without extraneous riders such as the extenders provisions.

All of those issues will require action around the end of September, although it remains possible that extenders could linger until later in the year – particularly if lawmakers don’t reach a quick agreement on a FY 2020 government
funding bill and opt instead to approve a continuing resolution to fund the government at current spending levels that runs into sometime in December, as has happened a number of times in the past several years.

The tight legislative calendar between now and September will also have an impact on how quickly lawmakers move on any of these issues. Congress is in session for just one more week in June and then off a week for the Independence Day recess. Once the legislative session resumes, the House is in session for just three weeks before departing until after Labor Day and the Senate will be in for four weeks.

— Alex Brosseau and Michael DeHoff
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Deloitte Tax looks at new regulations addressing GILTI issues, foreign tax credits, section 245A

The Treasury Department and Internal Revenue Service recently released several sets of regulations addressing various provisions affecting multinational corporations that were enacted under the 2017 tax cut law informally known as the Tax Cuts and Jobs Act (TCJA, P.L. 115-97).

The following resource materials on the new guidance are available from Deloitte Tax LLP:

- **GILTI, Foreign Tax Credits:** This summary examines final regulations that provide guidance to determine the amount of global intangible low-taxed income (GILTI) included in the gross income of certain United States shareholders of foreign corporations, including United States shareholders that are members of a consolidated group. It also looks at final regulations relating to the determination of a United States shareholder’s pro rata share of a controlled foreign corporation’s subpart F income included in the shareholder’s gross income, as well as certain reporting requirements relating to inclusions of subpart F income and GILTI, and final regulations relating to certain foreign tax credit provisions applicable to persons that directly or indirectly own stock in foreign corporations.
  

- **GILTI high-taxed exception, new domestic partnerships:** This summary looks at proposed regulations regarding the treatment of domestic partnerships for purposes of determining amounts included in the gross income of their partners with respect to foreign corporations and the global intangible low-taxed income provisions regarding gross income that is subject to a high rate of foreign tax.
  

- **Section 245A:** This summary considers key provisions of temporary regulations section 245A that limit the dividends-received deduction available for certain dividends received from current or former controlled foreign corporations and limit the applicability of the exception to foreign personal holding company income for certain dividends received by upper-tier controlled foreign corporations from lower-tier controlled foreign corporations. The regulations also contain detailed reporting rules under section 6038, including reporting requirements applicable with respect to transactions that may have occurred in taxable years prior to the publication of the regulations.
  

*Tax News & Views* will highlight additional Deloitte Tax materials on significant TCJA guidance as they become available.

— Michael DeHoff
Tax Policy Group
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Ways and Means subcommittee to examine SALT deduction limitation

House Ways and Means Select Revenue Measures Subcommittee Chairman Mike Thompson, D-Calif., announced this week that his panel will hold a hearing at 10:00 a.m. on June 25 to consider the economic impact of the $10,000 cap on the deduction for state and local taxes (SALT) that was enacted in the 2017 tax cut legislation known informally as the Tax Cuts and Jobs Act (TCJA, P.L. 115-97).

The subcommittee also will hold a Members’ Day hearing later on June 25 (at 2:00 p.m.) that will give all House lawmakers – taxwriters and non-taxwriters alike – an opportunity to discuss “recent changes made to the federal tax treatment of state and local taxes.” At press time, neither a witness list for the morning hearing nor a list of House members seeking to speak at the Members’ Day session was available.

The SALT deduction was not subject to a specific limitation before the TCJA became law, although many taxpayers were effectively limited in their SALT deductions because of the alternative minimum tax. The deduction tends to be used more heavily in higher-taxed “blue” states disproportionately represented by Democrats, such as New Jersey, New York, and California; but lawmakers in both parties who represent jurisdictions with expensive housing markets and steep property and income taxes have decried the $10,000 cap as unfair to their constituents.

House Democrats have introduced a variety of proposals in the 116th Congress to address the cap, ranging from outright repeal to measures aimed at making it less onerous for the middle class – for example, by increasing the cap amount and by applying separate limits for single taxpayers and joint filers to eliminate a perceived marriage penalty. (For additional details, see Tax News & Views, Vol. 20, No. 19, June 7, 2019.)

URL: http://newsletters.usdbriefs.com/2019/Tax/TNV/190607_2.html

House taxwriter Bill Pascrell, D-N.J., one of the chief critics of the cap, renewed his call for its repeal during a June 20 Ways and Means Committee mark-up of legislation to renew expired and expiring extenders provisions and expand certain refundable worker and family tax credits (see related coverage in this issue) and emphasized that he and other lawmakers in jurisdictions affected by the provision will continue to pursue the issue.

“Don’t think that we have gone away,” Pascrell said.

— Michael DeHoff
Tax Policy Group
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Senate Foreign Relations Committee schedules mark-ups of four tax treaty protocols

Senate Foreign Relations Committee Chairman Jim Risch, R-Idaho, announced this week that the panel will mark up four pending protocols to in-force US income tax treaties with Japan, Luxembourg, Spain, and Switzerland. The mark-up will take place during a business meeting scheduled for June 25 at 2:15 p.m.

If the committee reports the protocols favorably to the full Senate for ratification, the next step would be for Senate Majority Leader Mitch McConnell, R-Ky., to reserve time on the Senate calendar for floor debate and votes. McConnell has devoted the bulk of the Senate’s agenda in the 116th Congress to approving President Trump’s nominees for judicial and administrative appointments and to date has not commented publicly on when he might carve out time for considering treaties. (There has been some informal talk on Capitol Hill that floor action could come before Congress adjourns for the August recess.)

Notably, the Foreign Relations Committee will not take up three new pending tax treaties – with Chile, Poland, and Hungary – during the June 25 business meeting, as the Treasury Department seeks to clarify how provisions in those agreements interact with the base erosion and anti-abuse tax (BEAT) enacted in the 2017 tax legislation known informally as the Tax Cuts and Jobs Act (P.L. 115-97).
Lawmakers, witnesses, consider economic impact of White House trade and tariff policies

Many of the Democrats and Republicans at a June 19 House hearing on the economic impact of recent trade policy found common ground in their concern about the Trump administration’s use of tariffs, agreeing that the rising trade tensions with China in particular are having a detrimental effect on US businesses and farmers. However, while several Republicans said they have made their concerns known to President Trump, the minority members of the Financial Services Subcommittee on National Security, International Development, and Monetary Policy were also more inclined to give the president some leeway in his negotiating tactics and to downplay the long-term harm to the US. Instead, the GOP members largely focused on the need to approve the US-Canada-Mexico Trade Agreement (USMCA) the administration negotiated last year and on the generally strong economy, which they credited to the 2017 tax overhaul.

Since taking office, President Trump has used tariffs – and the threat of tariffs – as a tool in trade negotiations with China, Canada, Mexico, Russia, Japan, and members of the European Union, among others. He has made clear his goals of drawing manufacturing and other industries back to the US, gaining more favorable trade agreement terms, and shrinking the US trade deficit. The retaliatory measures China has taken, though – imposing or raising its own tariffs on US imports and lowering them for other countries – have squeezed many American producers and farmers.

In the case of Chinese tariffs, cancelled purchases of soybeans, beef, and pork, have hit farmers in midwest states like Iowa, Ohio, Wisconsin, and Missouri especially hard. In recognition of the importance of this constituency to the Republican White House, President Trump has authorized almost $25 billion in emergency relief from a Depression-era program since last year. At this week’s hearing, John Boyd of the National Black Farmers Association and Ronnie Russell, a Missouri member of the American Soybean Association, represented the agriculture industry and argued that they want open markets and fair free trade agreements, not government subsidies. Russell noted that China purchased $14 billion worth of US soybeans in 2017, which was a third of that year’s production and 60 percent of the industry’s annual exports.

To increase oversight of tariff policy, the subcommittee’s chairman, Rep. Emmanuel Cleaver, D-Mo., introduced at the hearing a discussion draft of legislation calling for detailed economic analysis of proposed tariffs, advance notice to Congress by the president, and review by a council of cabinet officials.

An indirect tax?

According to hearing witness C. Fred Bergsten of the Peterson Institute for International Economics, the limited number of winners from the recent tariffs – such as the US steel industry – have already come at an enormous price to the country (about $900,000 for each of the approximately 12,000 steel production jobs saved, he estimated).

“If fully implemented, all of the mooted tariffs...would essentially apply a tax of 25 percent to over $1 trillion of US imports,” Bergsten said. “This would amount to a tax increase of more than $250 billion on the American public, which ultimately pays most if not all of the cost of the tariffs.”

Bergsten went on to note that retaliatory actions could roughly double that impact and said the uncertainty of all the trade battles “dampens confidence in the economic outlook“ and “will deter investment.”

The Republican-invited witness, Gordon Gray of the American Action Forum, was more positive about the current economy, saying that “the combined effects of the regulatory policy changes, the [Tax Cuts and Jobs Act], and recent spending measures contributed to the recent improvement in economic growth and the related uptick in hiring and wage growth”; but he also advocated for “more certainty” in the trade outlook and warned that continued growth is not a given.
“To the extent that the administration can use tariffs as a negotiating tool that secures more beneficial trade terms, particularly with respect to China’s practices, the tariffs could be justified,” Gray said. “If the tariffs do not produce an improvement in trading terms, however, they will simply remain a new tax on US households.”

Rep. Roger Williams, R-Texas, noted that he is “not a fan of tariffs” and said he has talked to the White House about his differences with its approach. On the other hand, he said he supports the president’s goals of ensuring a “fairer playing field” and strongly advocated for congressional approval of the USMCA, saying, “[i]t seems as if [President Trump] has done a really good job of negotiating for the American people.”

Williams concluded his questioning period with a quick cheer for Republican orthodoxy: “My time is up. Tax cuts work.”

— Storme Sixeas  
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JCT releases overview of Qualified Opportunity Zones

The Joint Committee on Taxation (JCT) staff released a presentation on June 19 that provides an overview of the Qualified Opportunity Zone rules that were enacted in the 2017 tax cut legislation (P.L. 115-97).

URL: https://www.jct.gov/publications.html?func=startdown&id=5201

Among other things, the presentation offers background details on requirements and tax benefits for Opportunity Zone investors, rules governing qualified opportunity funds, and definitions and requirements for a qualified business and qualified property. It also compares the Qualified Opportunity Zone program with tax benefits available through the New Markets Tax Credit and like-kind exchanges.

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