White House continues bipartisan outreach on infrastructure package

President Biden held several meetings this week with prominent congressional Democrats and Republicans who may prove key to the fate of his infrastructure agenda, but it remains unclear whether any package will be moved on a bipartisan basis or with the support of only Democrats.

In recent weeks, the president has proposed two massive packages of spending and tax proposals to overhaul the nation’s physical infrastructure and what the administration has dubbed the nation’s “human” infrastructure.
Biden’s American Jobs Plan calls for investing an estimated $2.7 trillion (over eight years) in transportation infrastructure, broadband, the electric grid, water systems, schools, manufacturing, renewable energy, and more, and would be paid for largely through increased taxes on corporations and, in particular, US multinationals. (For details, see Tax News & Views, Vol. 22, No. 19, Apr. 9, 2021.)

URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/TNV/210409_1.html

The president’s American Families Plan calls for $1.8 trillion over 10 years in proposed spending and tax credits in areas such as education, child care, health care, and paid family leave, and would be paid for primarily with tax increases on taxpayers earning more than $400,000 per year. (For details, see Tax News & Views, Vol. 22, No. 23, Apr. 30, 2021.)

URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/TNV/210430_1.html

White House meetings

President Biden kicked off the week by inviting Democratic Sens. Joe Manchin of West Virginia and Tom Carper of Delaware to the White House for separate May 10 meetings to discuss infrastructure. Carper chairs the Senate Environment and Public Works (EPW) Committee – a panel likely to play a central role in crafting infrastructure legislation this spring and summer.

Manchin – who has indicated that he is not an automatic “yes” vote on the president’s proposals and is regarded as a linchpin for legislative success regardless of whether any bill moves through Congress on a bipartisan basis or on a partisan basis under the budget reconciliation process – did not reveal many details of what he discussed with the president, but spoke about his meeting with Biden in positive terms.

“He just knows there’s a lot of need out there, and he wants to make sure we meet that need,” Manchin said.

The ‘Big Four’: A more high-profile meeting came later in the week, however, when President Biden sat down May 12 with the two top Democrats and the two top Republicans in Congress: House Speaker Nancy Pelosi, D-Calif., Senate Majority Leader Charles Schumer, D-N.Y., House Minority Leader Kevin McCarthy, R-Calif., and Senate Minority Leader Mitch McConnell, R-Ky.

The issue of taxes played a central role in that meeting, with both GOP leaders saying afterward they drew a hard line against raising taxes to offset any infrastructure legislation – a position on which they have held firm over the past several weeks.

“We’re not interested in reopening the 2017 tax bill,” McConnell said, referring to 2017’s Tax Cuts and Jobs Act (TCJA, P.L. 115-97). “We both made that clear to the president. That’s our red line.” (Many of the proposed revenue offsets in President Biden’s tax plans would repeal or roll back provisions in the TCJA.)

House Minority Leader McCarthy added: “Raising taxes would be the biggest mistake you could make.”

The Democratic leaders, meanwhile, expressed some measured optimism that they could work with congressional Republicans to craft an infrastructure package.
“It was a positive meeting in terms of agreeing that we want to build the infrastructure of America...,” Pelosi said. “I’m more optimistic now about being able to do so in a bipartisan way. But we’ll see. We’ll see.”

At the same time, however, Senate Majority Leader Schumer noted that there could be a limit to the duration of bipartisan talks, referring back to negotiations around health care reform during the early months of President Barack Obama’s administration.

“We prefer to do things in a bipartisan way, and we’re going to keep pursuing that in a variety of different ways,” Schumer said. “But obviously we don’t want to make the mistake of 2009 and ‘10 where the negotiations went on forever and then the Republicans didn’t join and we didn’t get much else done.”

President Biden himself expressed a similar view during a television interview later on May 12.

“I want to know what we agree on and let’s see if we can get an agreement to kick start this, and then fight over what’s left, and see if I can get it done without Republicans if need be,” Biden told MSNBC’s Lawrence O’Donnell.

In separate remarks to reporters, the president said he was opposed to paying for an infrastructure package through so-called “user fees” – for example, excise taxes on fuel collected from users of infrastructure – as Republicans have proposed, saying that would mean “the burden falls on working-class folks who are having trouble.”

Earlier in the week, Senate Finance Committee Chairman Ron Wyden, D-Ore., struck a similar tone, arguing that it would be a “big mistake” to raise the excise tax on gasoline.

“It just seems to be a big mistake to go there when corporate [tax] revenue is down something like 40 percent in the last few years,” Wyden said. (One of the significant offsets for the American Job’s plan is a proposal to increase the corporate income tax rate to 28 percent from the 21 percent enacted in the TCJA.)

Offsets recently floated by Republicans have focused in a general way on user fees, such as an increase in the gas tax, the imposition of a vehicle-miles-traveled tax, and tolls, as well as public-private partnerships and repurposing unspent funds previously approved in the federal response to the coronavirus pandemic.

There have been some recent signs that lawmakers may be able to agree on raising revenue through provisions aimed at closing the “tax gap” – the difference between the amount of money owed to the government and the amount actually collected – although details about specific proposals and the amount of revenue they might generate remain unclear. (See separate coverage in this issue for additional discussion on the tax gap.)

**GOP senators head to White House, too:** This week’s bipartisan talks were capped off by a May 13 visit to the Oval Office by a handful of Republican senators – including Senate EPW Committee ranking member Shelly Moore Capito of West Virginia and Senate Finance Committee ranking member Mike Crapo of Idaho, as well as
Senate taxwriters John Barrasso of Wyoming and Pat Toomey of Pennsylvania – who serve on panels with jurisdiction over infrastructure legislation and would be influential in crafting any bipartisan proposal.

Capito led a group of Republicans who offered a $568 billion counterproposal to the American Jobs Plan in late April that is focused more narrowly on what they labeled “traditional infrastructure.” (For prior coverage, see Tax News & Views, Vol. 22, No. 21, Apr. 23, 2021.)

URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/TNV/210423_1_suppA.pdf
URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/TNV/210423_1.html

Sen. Roy Blunt, R-Mo., who was also present at the meeting, told reporters afterward that there was still distance between the two parties as to the definition of “infrastructure.”

“We’re still looking for a bill that would be traditional infrastructure – with some flexibility,” Blunt said. “Broadband would be something that wouldn’t have been traditional 10 years ago that I think we’d argue could very well be now. And ways to pay for that.”

For her part, Sen. Capito noted after the meeting that another GOP offer would be forthcoming next week, potentially with additional detail as to how it would be financed.

“More definition, but maybe some different numbers, too,” Capito said.

Majority Leader McConnell has indicated recently that he might be open to accepting an infrastructure package of no more than $800 billion.

Hearings, mark-ups in the works

The next several weeks are poised to see negotiations – and potentially legislative activity – pick up and may prove determinative as to whether congressional Democrats will seek to compromise with Republicans or instead attempt to go it alone through the filibuster-proof budget reconciliation process. (Biden reportedly has set an informal deadline of Memorial Day for making that decision.)

Senate EPW Chairman Tom Carper reiterated this week that he would like his panel to report a highway reauthorization measure prior to Memorial Day. (Separate from the ongoing large-scale infrastructure talks, the current authorization for federal spending on highway and mass transit programs is set to lapse after September 30, 2021.)

Across the Capitol, House Transportation and Infrastructure Committee Chairman Peter DeFazio, D-Ore., has similarly signaled that his committee will mark up a surface transportation bill during the last two weeks of May.

Speaker Pelosi, meanwhile, reiterated this week that she would like to see any infrastructure package pass through the House prior to July 4.
**Taxwriters plan infrastructure funding hearings:** The House and Senate taxwriting committees, meanwhile, announced that they will examine issues related to infrastructure financing at separate hearings planned for the coming week.


The House Ways and Means Committee will hold a hearing of its own on May 19 to consider issues around “leveraging the tax code for infrastructure investment.” A witness list for that hearing was not available at press time.

**Wyden promises energy tax mark-up:** In other developments, Finance Committee Chairman Ron Wyden indicated in a statement released May 12 that his panel “will begin consideration of jobs and infrastructure legislation” this month and that a “clean-energy mark-up centered on reforming our broken energy tax code and creating jobs by boosting clean-energy manufacturing is first on the agenda.”

Any Finance Committee mark-up is expected to focus on the Clean Energy for America Act, legislation that Wyden rolled out during April that would consolidate roughly 40 current-law energy-related provisions into just a handful of so-called “technology-neutral” incentives, while repealing a number of fossil fuel tax provisions. (For prior coverage, see *Tax News & Views*, Vol. 22, No. 21, Apr. 23, 2021.)

**URL:** https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/TNV/210423_2.html

**‘Green Book’ coming May 27**

Another development of keen interest to tax observers will be the release on May 27 of President Biden’s first official budget proposal – along with the Treasury Department’s so-called “Green Book,” which will provide more granular details on the administration’s tax and revenue policies (such as its proposed changes to the international tax regime and rules around the taxation of inherited assets) and their projected impact on federal receipts.

The details in the Green Book are likely to influence subsequent legislation that is marked up in the congressional taxwriting committees and moves through Congress.

An Office of Management and Budget spokesperson confirmed the release date for the budget and the Green Book this week.

**Timing of potential budget resolution unclear**

Finally, it is important to note that any effort by congressional Democrats to utilize the filibuster-proof budget reconciliation process would first require the adoption of a concurrent resolution on the budget that includes
reconciliation instructions to relevant committees. Adopting a budget resolution requires a simple majority vote in both the House and Senate – as such, given what is expected to be uniform GOP opposition, all 50 Senate Democrats would have to support the budget plan to tee up the reconciliation process. Even then, it would require the tie-breaking vote of Vice President Kamala Harris.

If they choose to pursue reconciliation, Democratic leaders appear to have at least two more opportunities to do so this year. One path would involve adopting a budget resolution for upcoming fiscal year 2022 (which is set to begin October 1) that includes reconciliation instructions. A second would involve revising the fiscal 2021 budget resolution that Democrats adopted to move the American Rescue Plan in a way that recharges the reconciliation process teed up in that blueprint.

At present, it remains unclear if and when Democrats will attempt to move a budget resolution. That should become clearer after a decision is made as to whether a bipartisan compromise on infrastructure is possible.

—  Alex Brosseau
    Tax Policy Group
    Deloitte Tax LLP

**Capital gains, estate taxes dominate debate at Ways and Means Select Revenue Measures hearing**

House Democratic and Republican taxwriters squared off over President Biden’s proposals to increase the tax rate on capital gains and modify the tax treatment of inherited assets during a May 12 Ways and Means Select Revenue Measures Subcommittee hearing to consider perceived income and wealth inequities in the tax code.

President Biden’s American Families Plan, which he unveiled on April 28, calls for increasing the top individual income tax rate and the capital gains tax rate, taxing carried interests as ordinary income, eliminating stepped-up basis for certain inherited assets, and other tax hikes focused on upper-income taxpayers to offset the cost of enhancements to family-focused tax incentives such as the earned income tax credit, the child tax credit, and the child and dependent care credit, and to pay for spending initiatives generally benefiting lower- and middle-income taxpayers. The president has said his plan is intended to rebalance the tax code in an effort to “reward work, not wealth.”

**Progressive enough?**

Select Revenue Measures Subcommittee Chairman Mike Thompson, D-Calif., and the subcommittee’s Democrats argued at the hearing that the federal tax system as it operates today exacerbates economic inequality, with its benefits accruing primarily to more affluent taxpayers.

“For a generation, the bulk of the gains in our economy have been concentrated in the wealthiest Americans,” Thompson said in his opening statement. “Middle-class families have seen real incomes stagnate while those
at the top grow richer. ...A tax system that favors financial assets and dynasty trusts over working families won’t support the investment we need to build a more prosperous future.”

But subcommittee ranking member Adrian Smith, R-Neb., along with the panel’s Republican members, disputed the contention that the tax code’s benefits are skewed to the wealthy. Citing an analysis prepared by the nonpartisan Joint Committee on Taxation (JCT) staff, Smith noted in his opening statement that in 2018, “a taxpayer earning $20,000 to $30,000 dollars per year paid 3.1 percent of their income in federal taxes. Someone earning between $75,000 and $100,000 paid an average rate of 15.8 percent, and a taxpayer over $1 million paid 31.5 percent on average.” Moreover, he said, middle-class taxpayers made significant gains under the 2017’s Tax Cuts and Jobs Act (P.L. 115-97), which doubled the standard deduction and significantly expanded the child tax credit.

URL: https://www.jct.gov/publications/2021/jcx-24-21/

“If we want a tax code where the burden of taxation is largely paid by upper-percentile workers, we have it,” Smith said.

**Capital gains**

The American Families Plan proposes to tax income from long-term capital gains and certain dividends at ordinary rates for “households making over $1 million,” although the White House has not specified how the threshold would be calculated. (Presumably, taxpayers in this income bracket would see their capital gain and dividend income taxed at the president’s proposed top ordinary rate of 39.6 percent. That rate, combined with the 3.8 percent Medicare tax on net investment income that was enacted 2010 as part of the Patient Protection and Affordable Care Act, would bring the maximum tax rate on capital gain and dividend income to 43.4 percent.)

Democrats on the panel argued that this proposal would help level the playing field between wealthier taxpayers, who tend to hold higher levels of capital assets and have the flexibility to decide when to recognize gain, and lower- and middle-income taxpayers, whose income primarily is derived from wages and is subject to current taxation.

**Suppressing growth?:** Republican taxwriters contended that the president’s proposal is excessive and would not achieve its intended results because, rather than generating revenue, it would simply encourage holders of capital assets to avoid a taxable event by deferring sales.

“Economists tell us there is a revenue-maximizing capital gains rate, and if you exceed that rate people won’t sell assets and the government collects zero revenue,” ranking member Smith said. “This lock-in doesn’t benefit government, and it’s even worse for our economy.”

In an exchange with Smith, Chris Edwards, director of tax policy studies at the Cato Institute and the GOP’s sole invited witness at the hearing, agreed that the president’s proposal would discourage holders of capital from selling assets and seeking out new investments. He also contended that the “revenue-maximizing rate” on
capital gains is closer to 28 percent. (It’s worth noting that two Democratic members of the Senate Finance Committee – Robert Menendez of New Jersey and Mark Warner of Virginia – recently commented that while the gap between capital gains and ordinary income tax rates needs to be narrowed, they believe the president’s proposal could be an overreach. For prior coverage, see Tax News & Views, Vol. 21, No. 23, Apr. 30, 2021.)

URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/TNV/210430_1.html

Subcommittee Republican Tom Rice of South Carolina argued that preferences such as a lower capital gains rate are included in the tax code precisely because Congress wants to encourage certain types of behaviors that grow the economy.

Edwards agreed that favorable tax treatment of capital gains encourages entrepreneurs to invest, which in turn leads to increased innovation and worker productivity.

Republican taxwriter Dave Schweikert of Arizona asked Edwards whether eliminating specific tax and spending subsidies – such as federally subsidized flood insurance and tax incentives for electric vehicles – that tend to be used more heavily by wealthier individuals would be more effective than making broad changes to the tax treatment of capital assets.

Edwards replied that there is value in eliminating “unfair” subsidies on both the tax and spending sides of the federal budget. In addition to the ones Schweikert cited, Edwards commented that the tax exemption for municipal bond income and the tax incentives related to Opportunity Zones also should be excised from the code.

**Mark-to-market:** One of the Democratic witnesses, Jason Oh, a tax law professor at the UCLA School of Law, told the panel that Congress should consider adopting an annual mark-to-market tax on capital assets in conjunction with a higher capital gains tax rate as a way to eliminate the issue of deferred sales. (President Biden has not included such a proposal in his American Jobs Plan; however, Senate Finance Committee Chairman Ron Wyden, D-Ore., has called for implementing an annual mark-to-market regime for assets of high-income households and taxing the resulting gains at higher rates. Legislative text has not been released but is expected in the coming months. For details on Wyden’s proposal, see Tax News & Views, Vol. 22, No. 2, Jan. 15, 2021.)

URL: https://newsletters.usdbriefs.com/2021/Tax/TNV/210115_3.html

Del. Stacey Plaskett, D-V.I., asked Oh how a mark-to-market regime would work in a recession when asset prices fall.

Oh replied that this is a “primary design issue” that would have to be addressed in crafting legislation. Lawmakers would need to include a rule that does not allow for unlimited deductibility, he said, adding that such a system may need to be limited to publicly traded assets.
Estate tax

There was a similar partisan split among taxwriters over the president’s proposal to eliminate the current-law step-up in basis on inherited assets. Democrats on the panel argued that repealing stepped-up basis would prevent wealthier taxpayers from indefinitely deferring tax on appreciated capital assets. Republicans, for their part, countered that the president’s proposal amounts to a “tax on success” and contended that it would have dire consequences for heirs of family farms and closely held businesses, who might be forced to sell those operations just to pay the taxes due.

The notion of protecting family farms and small businesses also has its supporters among House Democrats, however. Chairman Thompson, whose district includes agricultural regions in California’s wine country, cautioned that lawmakers “need to keep in mind how the tax system affects working small-business and farm owners,” and a group of House Democrats raised a similar concern in a recent letter to House Speaker Nancy Pelosi, D-Calif., and Ways and Means Committee Chairman Richard Neal, D-Mass.


Thompson asked witness Henry L. Gutman whether it is possible to eliminate the basis step-up in a way that protects closely held businesses and family farms.

Gutman, a former chief of staff at the JCT, argued that the best approach would be to allow for deferral of tax on nonmarketable assets until those assets are actually sold and require immediate taxation of marketable assets such as stocks, bonds, and mutual funds.

Ways and Means Committee member Bill Pascrell, D-N.J., (who is not on the subcommittee but was permitted to speak at the hearing) asked Gutman about a proposal (H.R. 2286) he recently introduced that would eliminate the basis step-up but also provide a $1 million exemption for net capital gains, with any remaining tax deferred over seven years at a low rate of interest.

URL: https://pascrell.house.gov/uploadedfiles/pascre_003_xml_deemed_realization_final_signed.pdf

Gutman replied that the proposal would address the issue of closely held businesses “very responsibly.”

Ranking member Smith, however, was doubtful that any proposed carve-outs would be effective.

“I don’t trust that exemptions will help these folks,” Smith said in his opening statement, “because at the end of the day, either the exemptions won’t work or the capital gains tax increase won’t raise any revenue.”

Audit and enforcement

Several of the panel’s Democrats argued that congressionally mandated cuts to the Internal Revenue Service’s budget over the past decade have eroded the agency’s enforcement resources and made it more attractive for the Service to audit lower-income taxpayers, whose returns are relatively simple, rather than wealthy individuals, who often employ sophisticated tax strategies and can afford expensive legal resources to prolong litigation. The resulting drop in audit rates among affluent taxpayers, Democrats contended, has led to an
increase in tax-avoidance strategies and contributed to the widening “tax gap” – the difference between the amount of tax owed to the government and the amount actually collected.

Chairman Thompson noted that audit and enforcement issues will be “closely examined” by the Select Revenue Measures Subcommittee and the Ways and Means Oversight Subcommittee in June.

Biden’s American Families Plan proposes to boost the IRS’s enforcement budget by $80 billion over 10 years to expand its audits of high-income individual taxpayers and corporations, an effort that the administration suggests would net the fisc an additional $700 billion over that period.

Witness Chye-Ching Huang, executive director of the New York University Tax Law Center, said in reply to a question from Thompson that audits of higher-income taxpayers require a greater commitment of enforcement personnel with expertise in examining complex financial arrangements. Huang later told Rep. Suzan DelBene, D-Wash., that increased, sustained funding for IRS enforcement efforts would make it easier for the Service to rebalance its audit priorities. And in an exchange with Rep. Linda Sanchez, D-Calif., Huang commented that although the size of the tax gap is difficult to estimate precisely, an audit program that recovers even a fraction of unpaid taxes would “raise revenue in a very equitable way.”

(See separate coverage in this issue for details on a Senate Finance Subcommittee on Taxation and IRS Oversight hearing this week that focused on taxpayer compliance issues and the tax gap.)

Expanded family tax credits

Several Democrats on the subcommittee, along with their invited witnesses, focused on the economic benefits of the president’s proposals to extend – and in some cases make permanent – enhancements to the child tax credit and the earned income tax credit that were recently enacted under the American Rescue Plan (P.L. 117-2).

Among other things, the president has called for extending the increased child tax credit amount through 2025 and making full refundability of the credit permanent, as well as permanently extending provisions that expanded eligibility for and increased the amount of the earned income tax credit for taxpayers with no qualifying children. Without further action by Congress, these changes will expire at the end of this year. (Speaker Pelosi and Ways and Means Chairman Neal have expressed support for making all of the family tax credit enhancements in the American Rescue Plan permanent.)

In an exchange with California Democrat Linda Sanchez, witness Jason Oh said that Biden’s family tax proposals (as well as his spending proposals to expand access to affordable child care and make pre-kindergarten programs universal) promote economic opportunity by addressing the issue of “how expensive it is to work when you have a family.”

Responding to a question from Rep. Terri Sewell, D-Ala., Oh also noted that expanding the earned income tax credit encourages workforce participation by providing a wage subsidy.
Chye-Ching Huang commented to Washington Democrat Suzan DelBene that the president’s proposed changes – particularly his proposal to make full refundability of the child tax credit permanent – would be a significant step forward in reducing childhood poverty and “increasing opportunities for the next generation to become productive workers.”

— Michael DeHoff
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**Senate taxwriters wrestle with tax gap, audit and enforcement issues**

A recent statement by IRS Commissioner Charles Rettig that the annual tax gap – revenue owed to government but not collected – could be more than twice as high as the most recent official estimate of $441 billion was the focus of much discussion at a Senate Finance subcommittee hearing May 11 as lawmakers sought to understand the IRS’s enforcement goals and funding needs and the feasibility of identifying and addressing taxpayer noncompliance.

**Estimate or guesstimate?**

Rettig made headlines April 13 when he told Senate taxwriters that the tax gap could equal or even exceed $1 trillion a year. He said the IRS’s official estimate – which is based on data from tax years 2011-2013 – does not account for cryptocurrency holdings or reflect the full extent of underreporting by taxpayers on foreign-source income, passthrough income, offshore income, and illegal-source income. (For prior coverage, see Tax News & Views, Vol. 21, No. 20, Apr. 16, 2021.)

URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/TNV/210416_3.html

At this week’s hearing, Barry Johnson, the acting chief of research and analytics at the IRS, told the Subcommittee on Taxation and IRS Oversight that a current estimate of the gap would also take into account the gig economy, abusive conservation easements, microcaptive insurance transactions, and other factors.

However, Nina Olson, who served for 18 years as the National Taxpayer Advocate, told the senators she is “very disturbed about guesstimates about the tax gap,” saying this sends a message to IRS employees that “there are lots of people out there cheating and so whomever they see they may view as doing that.” (Finance Committee ranking member Mike Crapo, R-Idaho, also asked for clarifications about the size of the tax gap and how it is calculated in a recent letter to Rettig.)

URL: https://www.finance.senate.gov/ranking-members-news/crapo-calls-for-clarity-on-irs-tax-gap-estimates

**How much bang for the enforcement buck?**

Sen. John Thune of South Dakota, the subcommittee’s ranking Republican, emphasized that Republicans agree with their Democratic colleagues that the tax gap must be addressed.
“No one at any income level should believe they are safe in cheating on their taxes,” Thune said.

However, Thune also pushed back on the size of the funding increase President Biden has requested for the IRS as part of the American Families Plan, saying he believes $80 billion over 10 years – which the White House estimates will bring in $700 billion in additional tax revenue over the same period – is too much. The administration’s estimate differs significantly from Congressional Budget Office figures published last July, which estimated that increasing IRS funding for examinations and collections by $40 billion over 10 years would increase revenues $103 billion.

url: https://www.cbo.gov/publication/56467

Recommendations

A number of witnesses at the hearing advocated for increased funding and improved technology at the IRS and more focused auditing, in line with the goals President Biden has laid out in his preliminary budget request and his American Families Plan. (For details on the president’s preliminary budget request, see Tax News & Views, Vol. 21, No. 19, Apr. 9, 2021. For details on the American Families Plan, see Tax News & Views, Vol. 22, No. 23, Apr. 30, 2021.) Several emphasized the need for long-term funding stability for the agency, noting that a one-year appropriations boost will not be sufficient.

url: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/TNV/210409_5.html
url: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/TNV/210430_1.html

Olson warned that a short-term improvement is unlikely and laid out the IRS’s challenges in her testimony, saying that addressing the tax gap will require a “transformational change” at the agency.

“That change will...require significant investment in new technology, leadership, employees, training, procurement skills, and funding. It requires a massive redesign of IRS systems, phased in over all IRS systems, so that they can process information and talk to one another in real time in order to keep up with current and trending issues. It requires upgrading the input systems – those that receive data and complete error processing, and it requires all systems to update quickly and be flexible. ‘Flexible’ is not a word often applied to IRS systems today,” Olson stated.

Charles Rossotti, who served as IRS commissioner from 1997 to 2002 and now collaborates with two other former IRS leaders on a project called Shrink the Tax Gap, recommended an additional Form 1099 information report on the business income of taxpayers in the top income quartile and their passthrough businesses, which would provide a summary of deposits and withdrawals from the taxpayer’s bank accounts. In his testimony, Rossotti stated that compliance is as low as 50 percent where there is no reporting and that the addition of this Form 1099 would make this “low visibility income” more similar to that reported on W-2s and current 1099s.

In response to Rossotti’s proposal, Olson argued that while additional reporting might be helpful in shrinking the tax gap, “the IRS today lacks the expertise and systems to achieve this level of sophisticated tax administration” and requiring the new Form 1099 only for taxpayers in the top quartile of income would imply a presumption that these individuals are evading taxes. Instead, Olson recommended that Congress require
financial institutions to report deposits and withdrawals on all accounts designated by the taxpayer as used for business, regardless of their income level, and prohibit the IRS from using this data in the Automated Underreporter Program.

— Storme Sixeas
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House panel OKs proposal to require country-by-country financial reporting

The House Financial Services Committee voted along party lines May 12 to approve legislation that would direct the Securities and Exchange Commission to require publicly traded corporations with annual revenues of $850 million or more to disclose certain tax and nontax information on a country-by-country basis. These reports would include basic information from a corporation on each of its subsidiaries, and country-by-country financial information that aggregates all of its subsidiaries in each country — including profits, taxes, employees, and tangible assets.

The Disclosure of Tax Havens and Offshoring Act (H.R. 3007) was introduced in the House by Financial Services Committee member Cindy Axne, D-Iowa, on May 11. A Senate companion bill was introduced by Maryland Democratic Sen. Chris Van Hollen the same day.

In a joint release, Axne and Van Hollen explained that requiring corporations to disclose this information would allow the public to “see the extent to which [these companies] are abusing tax havens or offshoring jobs.” The corporations that would be subject to the legislation’s disclosure requirement already report this information to the IRS under an international OECD framework, Axne and Van Hollen said. Their proposal would “provide data on how international tax laws are working and where corporations are locating their business activities and taxes.”

Many congressional Democrats view the legislation as complementing a proposal in President Biden’s Made in America Tax Plan (the funding component of his American Jobs Plan) to require US multinational corporations to calculate their global intangible low-taxed income on a country-by-country basis. (For additional details on the Made in America Tax Plan, see Tax News & Views, Vol. 22, No. 19, Apr. 9, 2021.)
URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/TNV/210409_1.html

It is unclear when the House proposal will be brought to the floor for a vote by the entire chamber or if it will be considered as a stand-alone measure or as part of a larger tax package. Also unclear is when — or whether — the Senate version will be taken up in the Committee on Banking, Housing, and Urban Affairs.
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