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Senate Democrats to pursue narrower ‘Build Back Better’ bill without significant tax title

Following the recent news that Sen. Joe Manchin, D-W.Va., would not support efforts by Senate Democrats to advance a “Build Back Better” package addressing climate change, health care, deficit reduction, and taxes using fast-track budget reconciliation before the August recess, party leaders this week appeared poised to advance a much narrower reconciliation bill with no clean energy tax provisions or significant tax increases.

While some Democrats still hold out hope that they can pass another bill including energy tax provisions and revenue raisers before November’s election, most signs point to their ambitious Build Back Better plans being dashed—along with the administration’s hopes for timely US implementation of changes to the treatment of global intangible low-taxed income to comply with Pillar 2 of the multilateral tax agreement signed last year.

After a lengthy period of negotiations on a potential bill that would include robust clean energy tax provisions, Medicare prescription drug pricing reforms, and substantial tax increases on corporations and wealthy individuals—items that Manchin had identified earlier this year as priorities in a reconciliation agreement—the West Virginia Democrat told Majority Leader Charles Schumer, D-N.Y., and other party leaders on July 14 that at the present time he could support only a far more limited bill focused on health care.

Manchin has consistently raised concerns about rising inflation, and after the latest consumer price index report showed that prices were 9.1 percent higher in June as compared to the same month last year, he indicated that he was going to be “very, very cautious” about any action that could be further inflationary. The result of that caution was to nix any significant corporate or high-wealth tax hikes for now and agree only to a product that includes certain Medicare prescription drug pricing reforms—including an excise tax on pharmaceuticals manufacturers that do not participate in mandatory price-setting negotiations with the government—and a two-year extension of certain enhanced Affordable Care Act premium assistance credits that are scheduled to expire at the end of this year. (For prior coverage, see *Tax News & Views*, Vol. 23, No. 23, July 15, 2022.)
URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/TNV/220715_1.html

Go small or go home

As a budget reconciliation measure, Build Back Better legislation can clear the Senate with a simple majority rather than the three-fifths supermajority—typically 60 votes—often required to avoid procedural hurdles in that chamber. But in the evenly divided Senate (with Vice President Kamala Harris as a tie-breaker), and with no support expected from any Republicans, Democrats need to keep all 50 of their members united to retain a working majority.

Given the choice between advancing a much smaller package now or waiting until Congress reconvenes in September in hopes that inflation will fall and Manchin will consider a broader package, Democratic leaders—at the urging of President Biden—have indicated they will move quickly to wrap up the health-focused passage in the next two weeks.

Some of Manchin’s Senate colleagues have publicly aired their anger with him for prolonging a process they thought would be wrapped up in 2021, only to leave them without any of the clean energy tax provisions and revenue raisers they targeted.

“[I]t’s not fair to string people along for a year and not come to a conclusion,” Sen. Martin Heinrich, D-N.M., told reporters July 19 outside the hearing room of the Energy Committee Manchin chairs. “That’s just not an appropriate way to negotiate.”

Sen. Bernie Sanders, D-Vt., the Budget Committee chair who helped craft the original reconciliation outline, described his own feeling about the drawn-out negotiations with Manchin to reporters July 19: "My ending point was six months ago."

A September surprise unlikely

Manchin insisted during a July 15 radio interview in West Virginia he still wants to address climate change through energy legislation and to ensure large corporations and wealthy individuals are paying their "fair share" in taxes, but that he will not support tax increases without being certain they won't harm the US economy. He also suggested that he would be open to revisiting the reconciliation package in September if the July inflation report (which will be released August 10) and the Federal Reserve's next move on monetary policy (expected at its July 25-26 meeting) suggest that economic conditions are improving.

President Biden, however, in a July 15 statement issued in response Manchin's decision to withhold support for a broader package in the near term, noted his disappointment that the Senate is unable to take action on climate change and clean energy and urged Democrats to take the deal on offer and "give Medicare the power to negotiate lower drug prices and to prevent an increase in health insurance premiums for millions of families with coverage under the Affordable Care Act" before the August recess.
URL: https://www.whitehouse.gov/briefing-room/statements-releases/2022/07/15/statement-by-president-joe-biden-5/

There seems to be general acceptance now among the caucus that this is the course they will take over the next two weeks. But some in the party are still holding on to the slim hope that they will find a way to address pass clean energy tax provisions after Labor Day.

"We'd be crazy not to keep working on it. . . . As long as Joe Manchin is at the table, I'm at the table," said Sen. John Hickenlooper, D-Colo., referring to Manchin's statement that he might consider revisiting additional legislative provisions if he thinks the economic outlook warrants.

The only way Democrats would be able to pass a bill including the climate provisions they envision would be through party-line reconciliation legislation as a climate change package would have no GOP support; however, the legislative calendar suggests that such an approach would face long odds.

The fiscal year 2022 budget resolution that includes the currently available reconciliation instructions expires at the end of September, so as a practical matter, waiting until Congress returns after Labor Day would give Democrats little time to use that authority to advance significant party-line legislation in the fall work period. The only other option available to Democrats would be to quickly pass a fiscal year 2023 budget resolution that includes a new set of reconciliation instructions, but that process would be extremely challenging and time-consuming as lawmakers look ahead to the fall election season, making the chances of success highly unlikely.

What's next for the global tax agreement?

Key among the tax provisions that will be left aside if the Senate passes the health-only reconciliation bill are changes necessary for US law to come closer to a 15 percent global minimum tax, Pillar 2 of an agreement the US joined 140 other countries in signing last October. The Build Back Better legislation that was passed by the House last November and the potential agreement that until recently was under negotiation in the Senate included an increase in the tax rate on global intangible low-taxed income (GILTI) to 15 percent and a shift to calculating GILTI on a country-by-country basis.

In his July 15 radio interview, however, Manchin specifically cited the GILTI changes as among the provisions he opposes right now because other countries have not yet adopted the global minimum tax and he doesn't want to put American companies at a competitive disadvantage.

"Can't do that, so we took that off the table," said Manchin, referring to what he told Senate Majority Leader Schumer in their recent conversation that led to the breakdown in negotiations.

Treasury Secretary Janet Yellen tried to continue projecting optimism this week. As she left a meeting in Bali of the G-20's finance ministers, she told reporters July 16 that there is still strong support among the group for the global deal.

"I think there's huge political momentum to move forward, and other countries are moving forward," Yellen said. "Whether we go first or second or later, the incentive exists for the United States to join this agreement, and we will push forward with every opportunity we have."

Yellen acknowledged in a July 19 radio interview that it could take "years" for the US to implement the deal but insisted it is too important to abandon. She also said she believes implementation of Pillar 2 by other nations will have the effect of putting pressure on the US to follow suit.

"They will levy this tax on American companies doing business in their jurisdictions, and America will just lose out on tax revenues that we could use to invest in the strength of our economy, in the middle class," Yellen told National Public Radio. "So there will be incentives over time to adopt this in the United States."

The EU has faced its own political obstacles in implementing Pillar 2, but Yellen also said she expects that the trading bloc will be able "in the not-very-distant future" to circumvent Hungary's recent veto of a directive to implement the 15 percent minimum tax across the 27 EU countries. That action by Hungary prompted the US Treasury Department to announce its intention to terminate the tax treaty with Hungary that has been in place for decades. (For prior coverage, see *Tax News & Views*, Vol. 23, No. 23, July 15, 2022.)
URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/TNV/220715_2.html

Several senior Republicans on the House Ways and Means Committee who oppose the global tax pact met with Hungarian Foreign Minister Peter Szijjarto and Ambassador Szabolcs Takacs in Washington on July 21 to reiterate their support for Hungary's position.

In a statement released after the meeting, Ways and Means ranking member Kevin Brady of Texas, along with taxwriters Adrian Smith of Nebraska (the top Republican on the Trade Subcommittee) and Mike Kelly of Pennsylvania (the top Republican on the Select Revenue Measures Subcommittee), said that they "share concerns over the global minimum tax harming our countries' job creation and economic growth, as well as the Biden administration's unilateral termination of the longstanding US-Hungary tax treaty."
URL: https://gop-waysandmeans.house.gov/ways-means-gop-meets-with-hungarian-delegation-biden-global-tax-deal-harms-our-countries-job-creation-and-economic-growth/

"The United States will not surrender economically to foreign countries by increasing our global minimum tax based on an agreement that is not complete, nor enforceable, nor in our interest. Congress will not ratify an agreement that cedes its constitutional taxwriting authority or fails to protect key US tax incentives," the statement said.

— Storme Sixeas
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Senate set to clear pared-down 'CHIPs' bill with tax break for US semiconductor makers

After Democratic Sen. Joe Manchin of West Virginia recently blocked his party's efforts to pass expansive "Build Back Better" legislation before Congress adjourns for its August recess, the Senate this week shifted gears and appears poised in the coming days to clear bipartisan legislation designed to boost domestic semiconductor manufacturing and encourage US research activities. However, while the measure includes an investment tax credit intended to promote domestic production of semiconductors, it appears unlikely that lawmakers will add a provision that would retroactively permit expensing for research expenditures under section 174.

CHIPS Act of 2022

Senate consideration of the CHIPS Act of 2022 (H.R. 4346: text; section-by-section summary) came relatively swiftly after Sen. Manchin pointedly withdrew—at least for now—his support for Democrats' broader effort to, among other things, raise taxes on corporations and high-income individuals, address climate change, and reduce the budget deficit as part of their Build Back Better initiative. (See related coverage in this issue for details on Manchin's decision and the more limited Build Back Better legislation that Democrats now appear poised to move instead.)
URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/TNV/220722_2_suppA.pdf
URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/TNV/220722_2_suppB.pdf

Importantly, the iteration of CHIPS legislation currently moving through Congress is actually the offspring of a much more expansive "China competition" package that Democrats and Republicans had been attempting to hash out in a 107-member, House-Senate conference committee. However, the two chambers were struggling to resolve key differences between their respective bills, which led to the late-stage effort to pass a narrower bill focused primarily on boosting domestic semiconductor production.

"We worked very hard to get a bill out of the Senate. We got overwhelming votes for it, and then when we got to the House, we hit a brick wall," said Senate Foreign Relations Committee Chairman Bob Menendez, D-N.J., whose committee's entire contribution to the Senate's original China competition package was struck for the narrower bill.

"It's a shame," Menendez continued. "Because it's [now] a chips bill, not a China bill."

25 percent investment tax credit *plus* funding for domestic chip makers: The new package, which the nonpartisan Congressional Budget Office (CBO) estimates will cost roughly $80 billion over 10 years, leans heavily on direct funding aimed at building, expanding, and modernizing domestic semiconductor facilities, along with boosting funding for research and development programs administered by the Department of Commerce.
URL: https://www.cbo.gov/system/files?file=2022-07/hr4346_chip.pdf

On the tax side, the bill would create a 25 percent investment tax credit (under new tax code section 48D) for "qualified property"—generally, tangible and depreciable or amortizable property—that is constructed or acquired new by the taxpayer and is integral to the operation of a facility for which the primary purpose is the manufacture of semiconductors or equipment used in semiconductor manufacturing. The provision would also allow taxpayers, including partnerships and S corporations, to receive the credit under a direct-pay option (similar to the direct-pay provisions for delivering certain clean energy tax incentives in the House-approved version of the Build Back Better Act).

The credit, which carries a 10-year cost of roughly $25 billion according to the CBO, generally would be available for property placed in service after December 31, 2022, and for which construction begins before January 1, 2027.

Extension of research expensing still on the sidelines: Though the policy maintains broad bipartisan support, the CHIPS legislation being considered in the Senate does not include language aimed at reversing a change within tax code section 174—originally enacted as part of the Tax Cuts and Jobs Act of 2017 (P.L. 115-97)—that, as of January 1 of this year, requires certain research expenditures to be amortized over a number of years rather than deducted currently.

For his part, Senate Finance Committee member Todd Young, R-Ind., blamed Democrats for insisting that any section 174 relief be provided alongside an extension of enhancements to the Child Tax Credit that were enacted last year as part of Democrats' American Rescue Plan and also expired at the start of 2022.

"For whatever reason, it is in their mind attached, and our nation's innovation is frankly being held hostage to their insistence on a particular type of child tax [credit]," Young said.

If any section 174 change remains left out of the CHIPS bill—as seems likely—advocates will likely have to wait until the post-election lame duck session later this year, when that and a number of other revenue policies (related to retirement tax policy and expired and expiring provisions collectively known as "tax extenders") will also likely be in play as part of a potential year-end tax-and-appropriations package.

CHIPS enactment appears likely

Senate Minority Leader Mitch McConnell, R-Ky, had indicated in no uncertain terms earlier this month that Republicans would withhold support for any CHIPs-related legislation so long as Democrats were pursuing a larger-scale Build Back Better bill under the budget reconciliation process; however, after Sen. Manchin said he could not back Democrats' Build Back Better effort, the legislative gears on CHIPS began moving once again.

In fact, 16 GOP senators joined nearly all Democrats July 19 in a 64-34 procedural vote on a so-called "shell" bill designed to kick off debate on semiconductor-related legislation. Then, on July 20—after filing a substitute amendment to that bill in the form of the 1,054-page CHIPS Act of 2022—Senate Majority Leader Charles Schumer, D-N.Y., filed cloture on the underlying legislative package. That new legislative text is expected to come up for another procedural vote as early as July 25, with final approval expected as soon as July 27.

Although votes are still being rounded up, and notwithstanding potential amendments that may be incorporated into the legislation, reports currently suggest that the House—aided by what is expected to be continuing strong bipartisan Senate support—is likely to take up and pass the CHIPS bill and send it to President Biden's desk before lawmakers in that chamber adjourn for their summer recess, which is scheduled to begin on July 29.

— Alex Brosseau
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House OKs FY 2023 budget bump for IRS

The House of Representatives on July 20 approved legislation that, among other things, calls for a $13.6 billion allocation for the Internal Revenue Service for fiscal year 2023—an increase of $1 billion over the level enacted for FY 2022, but less than the $14.1 billion the Biden administration requested for the agency in its FY 2023 budget blueprint.

The IRS funding provisions are part of a Financial Services and General Government spending bill that was included in a larger "minibus" (H.R. 8294) carrying six discrete appropriations measures that cover funding for a broad swath of federal departments and agencies. H.R. 8294 cleared the chamber by a party-line vote of 220-207. (Democrats provided all the "aye" votes; Republicans were all aligned in the "nay" column.)
URL: https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-117HR8294RH-RCP117-55.pdf

Here’s how the proposed $13.6 billion in IRS funding in the House-approved measure would be allocated across the agency’s four program areas:

- Enforcement: $6.1 billion (FY 2022 enacted: $5.4 billion; FY 2023 White House request: $6.3 billion);
- Taxpayer Services: $3.4 billion (FY 2022 enacted: $2.8 billion; FY 2023 White House request: $3.7 billion);
- Operations Support: $3.8 billion (FY 2022 enacted: $4.1 billion; FY 2023 White House request: $3.8 billion); and
- Business Systems Modernization: $310 million (FY 2022 enacted: $275 million; FY 2023 White House request: $310 million).

Next steps

The House’s proposed allocations for the IRS and other departments and agencies funded under the Financial Services and General Government umbrella will eventually need to be reconciled with a separate proposal from the Senate.

Senate appropriators have not yet released their versions of the 12 spending bills necessary to fund the federal government, although a spokesperson for Senate Appropriations Committee Chairman Patrick Leahy, D-Vt., recently indicated that the Democratic chairs of the Appropriations subcommittees likely will release their respective proposals later this month. A timetable for subcommittee mark-ups has not yet been announced.

Sen. Richard Shelby, R-Ala., the ranking member of the Appropriations Committee, has indicated that Republicans would prefer to wait on mark-ups until after Democrats and Republicans on the panel reach an agreement on a top-line spending number for the coming fiscal year.

IRS releases five-year strategic plan

The House vote on the appropriations vehicle carrying the IRS budget came the same day that the Service released a five-year strategic plan (covering FY 2022 through FY 2026) in which it outlines its goals for enhancing taxpayer service and protecting taxpayer privacy, enforcing the nation’s tax laws, developing an inclusive and diverse workforce, and transforming its technology and organizational design.
URL: https://www.irs.gov/pub/irs-pdf/p3744.pdf

The plan touts the Service’s efforts during the previous five years to improve customer service and administer the nation’s tax laws despite COVID-related shutdowns and staffing shortages and an increased workload as it implemented emergency tax code changes (such as recovery rebate payments and monthly child tax credit payments) enacted to address the economic impact of the pandemic. Those pandemic-related challenges also resulted in a backlog of millions of unprocessed paper income tax returns from tax year 2020 as well as significant delays in response times for taxpayers calling the agency’s telephone assistance line—issues that have prompted criticism from some congressional taxwriters and the National Taxpayer Advocate.

According to the plan, the Service expects over the next five years to "develop and increase the availability of services and tax products that are easy to use and support the needs of all communities" as well as "continuously enhance taxpayer service by improving access to phone and face-to-face assistance, reducing paper inventory, and expanding online options for taxpayers to meet their service needs."

On the enforcement front, the plan states that the Service will continue its efforts to improve voluntary compliance and narrow the "tax gap" (the difference between the amount of taxes owed to the federal government and the amount paid on a timely basis) by "strengthen[ing] enforcement capabilities, improv[ing] outreach, and proactively work[ing] to analyze new tax requirements and understand taxpayer behaviors and trends."

The Service also intends to "leverage new technology and data analytics to detect and combat sophisticated evasion techniques and facilitate timely audits and collection investigations. These efforts [will] enable [it] to fairly enforce tax law and stop those who abuse the system, such as malicious actors that take advantage of taxpayers or those who underreport or fail to file a return," the plan states.

— Michael DeHoff
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Low-income housing credit enhancements, neighborhood homes credit win bipartisan support from Senate taxwriters

Democrats and Republicans on the Senate Finance Committee this week generally agreed that several proposed enhancements to the current-law low-income tax housing credit and a proposed new credit to rehabilitate residential properties in certain economically distressed areas would be effective in expanding the nation's affordable housing stock.

The discussion arose during a July 20 Finance Committee hearing to consider the role of tax incentives in affordable housing. (House taxwriters held a similar hearing on July 13. For prior coverage, see *Tax News & Views*, Vol. 23, No. 23, July 15, 2022.)
URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/TNV/220715_3.html

Building on the low-income housing tax credit

Finance Committee members and witnesses who appeared at the hearing uniformly cited the low-income housing tax credit (LIHTC) as a highly effective incentive to promote public-private partnerships for building affordable housing developments and they expressed support for several measures aimed at expanding it.

The Affordable Housing Credit Improvement Act (S. 1136), sponsored by Finance Committee member Maria Cantwell, D-Wash., and taxwriter Todd Young, R-Ind., along with Chairman Ron Wyden, D-Ore., and Sen. Rob

Portman, R-Ohio, would, among other provisions, increase the amount of LIHTCs allocated to each state; increase the number of affordable housing projects that can be built using private activity bonds; and make a number of improvements to the program to better serve targeted populations such as veterans, victims of domestic violence, formerly homeless students, Native American communities, and rural Americans.
URL: https://www.congress.gov/117/bills/s1136/BILLS-117s1136is.pdf

In response to a question from Sen. Young, all of the witnesses on the panel agreed that the proposal should be enacted into law. One of the witnesses—Benson Roberts of the National Association of Affordable Housing Lenders—commented that the proposal promotes "private market discipline" since the LIHTC is available only after a project is completed.

The Decent, Affordable, and Safe Housing for All (DASH) Act (S. 2820), sponsored by Chairman Wyden, would expand the current-law credit to make it more widely available and to allocate a larger portion of available funds to projects serving extremely low-income households. It also would create a refundable tax credit for participating owners of rental buildings who reduce rents for their low-income tenants, create a tax credit similar to the LIHTC for the development of housing for middle-income households, and provide a tax credit of up to $15,000 for first-time homebuyers.
URL: https://www.congress.gov/117/bills/s2820/BILLS-117s2820is.pdf

In an exchange with Wyden, witness Jerry Konter of the National Association of Homebuilders noted that there is "strong support" among home builders for the DASH Act's proposed credit for the development of middle-income housing projects. He agreed with Wyden that the provision would make it more affordable for individuals such as teachers and health care professionals to live in the communities where they work. Konter explained that these individuals are often squeezed out of home ownership opportunities—particularly in large urban areas—because they spend a disproportionate share of their income on rent and have difficulty saving for the necessary down payment to purchase a home.

The LIFELINE Act (S. 4181), whose sponsors include Finance Committee member Catherine Cortez Masto, D-Nev., and Chairman Wyden, as well as lawmakers not on the taxwriting panel such as Republican Sen. Susan Collins of Maine, would permit states, territories, or tribal governments to use state and local fiscal recovery funds to finance qualified low-income housing projects with loans obligated by December 31, 2024, and having maturities of 30 or more years.
URL: https://www.congress.gov/117/bills/s4181/BILLS-117s4181is.pdf

Wyden commented at the hearing that the proposal would "create more flexibility for states, local governments and tribes to use existing funds to get more affordable housing built."

"With costs where they are today, the alternative is a whole lot of unfinished construction and plans that stall out before they ever get going," he said.

Neighborhood homes credit

Also winning plaudits on both sides of the aisle was the Neighborhood Homes Investment Act (S. 98), a proposal sponsored by Democratic taxwriter Ben Cardin of Maryland and Ohio Republican Rob Portman, among others, that would provide tax credits to cover the gap between the cost of rehabilitating abandoned or deteriorating homes in economically distressed areas and their post-rehabilitation sales prices.
URL: https://www.congress.gov/117/bills/s98/BILLS-117s98is.pdf

The credit would be available subject to certain limits, including a cap of up to 35 percent of eligible development costs. Abandoned homes that have been rehabilitated must be sold to an owner-occupant for investors to receive the credits and home owners must be below certain income limitations. Sales prices are capped and qualifying neighborhoods must have elevated poverty rates, lower incomes, and modest home values. Special rules would apply to the rehabilitation of homes that are owner-occupied before and during the rehabilitation process.

Witness Andrea Bell of Oregon Housing & Community Services commented in response to a question from Sen. Cardin that the proposal would help to address the "persistent racial wealth gap" in the US by making housing credits more widely available in communities of color.

Witness Benson Roberts also noted in his exchange with Indiana Republican Sen. Todd Young that the neighborhood homes credit and the low-income housing tax credit "share common DNA" in that the incentives are delivered only when a project is completed. Under both programs, the government is "paying for success," he said.

Young called on Congress to pass the measure.

Factors affecting housing prices

Although there appeared to be bipartisan consensus on the merits of various tax incentives to promote affordable housing, Chairman Wyden and Finance Committee ranking member Mike Crapo, R-Idaho, offered diverging views on some of the factors that are driving up housing costs.

Impact of private equity: In his opening statement at the hearing, Wyden contended that large private equity companies are buying up properties nationwide and creating a demand/supply gap that has led to a spike in rents and in the prices of homes available for purchase.

"They're jacking up rents. They're using algorithms to outbid aspiring American homeowners. Why do these big guys want to get into the American housing market? Because there are upward of 330 million people in this country, and there aren't nearly enough homes for all of them. Huge demand, limited supply—typical people on a budget are going to come out on the losing end of that deal every time," Wyden said.

Later in the hearing, Wyden argued that some private equity investors are taking advantage of a provision in the "qualified contract" exception under the low-income housing tax credit rules that, in certain cases, permits developers to sell an LIHTC-financed project at market value after 15 years. (Ordinarily, developers who receive a credit under the LIHTC program are required to rent their properties to qualifying low-income residents at reduced rents for a period of 30 years.)

Witness Benson Roberts of the National Association of Affordable Housing Lenders commented in an exchange with Wyden that the formula in the LIHTC rules that determines whether the qualified contract exception is applicable was developed in 1989 and has become outdated. Revising that formula and closing the qualified contract exception "loophole" is "critically important," Roberts said.

Net investment income tax and inflation: Crapo, for his part, singled out efforts by House and Senate Democrats to expand the current-law 3.8 percent net investment income tax to apply to active trade or business income of certain taxpayers as something that would exacerbate inflation generally and drive up housing prices, particularly in the rental market.

Witness Jerry Konter of the National Association of Homebuilders indicated in response to a question from Crapo that taxing active trade or business income would represent a new cost to developers that would be passed on to consumers. The impact of such a change would be "especially acute" for renters, he said.

The Build Back Better Act—the roughly $1.75 trillion tax-and-spending package that cleared the House last November—includes a provision that would expand that tax to include, in addition to all investment income, all trade or business income for individuals with more than $500,000 in modified adjusted gross income (for joint filers), $250,000 (married filing separately), or $400,000 (all other individual taxpayers). A similar provision reportedly was slated for inclusion in a potential Senate Build Back Better bill that was being negotiated by Senate Majority Leader Charles Schumer, D-N.Y., and Sen. Joe Manchin, D-W. Va., but discussions over that emerging package abruptly broke down on July 14 when Manchin indicated that he was reluctant to support significant new tax increases or proposals to address climate change because of their potential inflationary impact. (For prior coverage, see *Tax News & Views*, Vol. 23, No. 23, July 15, 2022. See separate coverage in this issue for additional details on the current status of Build Back Better legislation in the Senate.)
URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/TNV/220715_1.html

In an exchange with Crapo on the impact of inflation on housing prices generally, Dana Wade of Walker & Dunlop, a Bethesda, Md.-based firm that provides financing for affordable housing projects, commented that "persistently high inflation" would lead to "persistently high rent prices" and would decrease the value of available housing tax incentives.

Revamping incentives for individuals

Witness Jerry Konter also urged Congress in his opening statement to consider modifications to several incentives for home ownership that currently are available to individuals under the tax code. (A description of

all the current-law incentives for residential real estate is available from the Joint Committee on Taxation staff.)
URL: https://www.jct.gov/publications/2022/jcx-16-22/

Konter noted that the expansion of the standard deduction under the Tax Cuts and Jobs Act of 2017 (TCJA, P.L. 115-97) has led to a drop in the number of taxpayers taking advantage of the deduction for mortgage interest paid. Moreover, he said, the mortgage interest deduction itself is outdated and should be replaced with a 15 percent credit for mortgage interest and real estate taxes paid.

He also called on Congress to consider indexing for inflation the cap on the capital gains exclusion that applies when a taxpayer sells a primary residence and removing the $10,000 cap on the deduction for state and local income and property taxes enacted in the TCJA.

Taxwriters did not comment on Konter's recommendations.

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