



Tax

Tax News & Views

November 21, 2014

In this issue:

Ryan tapped as top House taxwriter..... 1

Ryan tapped as top House taxwriter

The leadership roster for the incoming 114th Congress continued to take shape this week as the House Republican Conference elected Rep. Paul Ryan, R-Wis., to chair the House Ways and Means Committee.

Ways and Means developments

House Republicans officially elected Ryan on November 19, one day after the Republican Steering Committee recommended him to fill the vacancy that will be created when current Ways and Means Chairman Dave Camp, R-Mich., retires at the end of this Congress. Ways and Means Committee member Kevin Brady, R-Texas, who was Ryan's only announced rival for the committee gavel, withdrew his name from consideration before the steering committee made its recommendation.

Ryan joined the Ways and Means Committee in 2001, has chaired the House Budget Committee since 2011, and was the Republican vice presidential nominee in 2012. In remarks to reporters on November 18, Ryan noted that “[w]e have a lot of work to do to get our economy back on track, and the Ways and Means Committee will be at the forefront of reform. We will work together to fix the tax code, hold the IRS accountable, strengthen Medicare and Social Security, repair the safety net, promote job-creating trade agreements, and determine how best to repeal and replace Obamacare with patient-centered solutions.”

Ryan's tax reform priorities: Although Ryan has not offered a tax reform proposal of his own to date, some clues to his tax reform priorities can be found in the fiscal year 2015 budget blueprint that he moved through the House Budget Committee earlier this year. That budget blueprint calls in general terms for revenue-neutral tax reform that would:

- Cut the top corporate and individual tax rates (with a goal of 25 percent on the individual side);
- Reduce the number of individual income tax brackets to two;
- Eliminate the alternative minimum tax; and
- Move toward a more competitive system for taxing the income of U.S. multinationals.

Significantly, however, it stops short of explicitly calling for enactment of the tax reform discussion draft that Ways and Means Chairman Camp released in February of this year. Instead, Ryan's budget blueprint urges Congress to consider "the full myriad of pro-growth plans" as it contemplates tax reform. While this is by no means a repudiation of Camp's tax reform package, it opens the door for Ryan to put his own stamp on tax reform in the future. Ryan has recently staked out some specific policy positions, expressing support for limiting the mortgage interest deduction and expanding the child tax credit but rejecting a cap on the deduction for charitable giving.

In remarks delivered at a Financial Services Roundtable conference in September, Ryan stated that "tax reform is going to happen. The question is, is it one year or three years away...." Ryan reiterated this timetable in press interviews on November 19 and remarked that the fate of tax reform may depend on President Obama's willingness to "nurture a working relationship with Congress that's conducive to finding common ground."

Budget reconciliation a possibility?: Ryan also noted in his conversations with the press that Republicans, who will control both chambers in the upcoming 114th Congress, would "clearly consider using" budget reconciliation as a tool for moving tax reform legislation. Although he said he would prefer a bipartisan approach to tax reform, reconciliation remained "an option" the GOP would "obviously weigh at the time."

Budget reconciliation instructions would provide a fast-track procedure that would limit debate in the Senate and allow for passage of legislation in that chamber by a simple majority vote, as opposed to the 60 votes normally required to clear procedural hurdles. It is also important to remember, however, that while reconciliation can simplify the process for moving difficult tax legislation through the Senate, it presents policymakers with other challenges, such as a restriction preventing the inclusion of provisions that have no direct impact on revenues and a restriction on an overall plan that would increase the deficit in future years. Because of that, even many of those who are eager to see tax reform passed and are hopeful for ways to prevent such a package from getting bogged down in the Senate may not feel that reconciliation is the best way to achieve that goal.

Two other factors lessen the appeal of reconciliation. First, a reconciliation bill – which would allow the Republican Senate to avoid a Democratic-led filibuster – is only available if both houses of Congress have first agreed on a joint budget blueprint for the coming year. That is much easier said than done. Second, even if congressional Republicans are able to clear a tax reform bill with just a simple majority in the Senate, the president still wields a veto pen and is especially apt to use it on what he is likely to see as a partisan product.

New GOP members added: It was reported November 21 that four House Republicans will join the Ways and Means Committee next year to reflect the GOP's increased majority in the 114th Congress. The new Republican taxwriters include Reps. Pat Meehan of Pennsylvania, Kristi Noem of South Dakota, Jason Smith of Missouri, and George Holding of North Carolina.

The panel's Democratic roster has not yet been finalized, although it has been confirmed that Rep. Sander Levin, D-Mich., will continue as ranking minority member.

House Dems re-elect leadership team

In other news, House Democrats re-elected Rep. Nancy Pelosi of California on November 18 to serve another term as minority leader. Although some caucus members had privately expressed concerns about returning her to that post, Pelosi ran unopposed.

Current Democratic Whip Steny Hoyer of Maryland, Assistant Democratic Leader James Clyburn of South Carolina, and Democratic Caucus Chairman Xavier Becerra of California were all re-elected to their leadership positions.

(House and Senate Republicans held their leadership elections last week. For details, see *Tax News & News & Views*, Vol. 15, No. 34, Nov. 14, 2014.)

URL: http://newsletters.usdbriefs.com/2014/Tax/TNV/141114_1.html

Hatch backs dynamic scoring – with caveats

Across the Capitol, Senate Republican leaders have not yet announced a timetable for selecting committee chairs; however, Finance Committee ranking Republican Orrin Hatch of Utah is generally expected to take over as chairman of that panel in the 114th Congress and current Finance Committee Chairman Ron Wyden, D-Ore., is expected to become ranking member.

Like incoming Ways and Means Committee Chairman Ryan, Hatch has not advanced a tax reform plan of his own and observers will be watching intently in the coming weeks and months for clues on his specific tax reform priorities.

In a speech sponsored by the American Action Forum and the Tax Foundation November 17, Hatch argued that so-called “dynamic scoring” should be used more consistently as a tool to help lawmakers evaluate major tax legislation – including tax reform proposals.

Dynamic scoring uses models to predict and incorporate the broader economic response to changes in tax and spending policy. Critics of traditional “static” revenue scoring argue it does not provide lawmakers with accurate data, as it fails to account for the macroeconomic effects of tax and spending proposals. The Joint Committee on Taxation (JCT) staff and the Congressional Budget Office (CBO) have performed both static and dynamic analysis of legislative proposals. The JCT staff, for example, provided static and dynamic estimates of the tax reform discussion draft that Ways and Means Committee Chairman Camp put forward last February. Although their static estimate found that the plan would be revenue neutral over 10 years, their dynamic estimate provided a range of possible outcomes, finding that enactment of the plan would result in increased economic activity that would boost federal revenues over 10

years by between \$50 billion and \$700 billion, depending on which modeling assumptions are used.

URL: http://waysandmeans.house.gov/uploadedfiles/jct_revenue_estimate_jcx_20_14_022614.pdf

URL: http://waysandmeans.house.gov/uploadedfiles/jct_macroeconomic_analysis_jcx_22_14_022614.pdf

According to Hatch, static scoring is acceptable “for proposals that do not have large-scale effects on spending, tax rates, labor markets, or technology”; however, “for large proposed changes to government spending, provisions in the tax code or policies with significant labor force or technology effects, static scoring is downright dumb.” Hatch also stated that some congressional Democrats have rejected the notion of dynamic scoring for tax-cut legislation but have embraced it to bolster the case for spending legislation such as last year’s Senate-passed immigration bill, which the CBO estimated would contribute substantially to economic growth. Hatch called such selective support for dynamic scoring “intellectually dishonest.”

But Hatch cautioned that while dynamic scoring can provide a more complete picture of the economic impact of a tax legislative proposal, it “is not a magic elixir that solves all of our problems when it comes to tax policy.” Citing Camp’s tax reform discussion draft as an example, Hatch said that the potential revenue gain under the JCT’s dynamic estimate of the plan “would be real change with real impact on Americans,” but “it would hardly be the supercharged supply-side miracle that many, including some on my side of the political spectrum, have argued we would see.”

For his part, Paul Ryan, the next Ways and Means Committee chairman, likewise stated in an interview November 19 that macroeconomic analysis is a necessary tool, but is “not a magic wand. It is just getting accuracy, and so I agree with the fact that if you could just improve your scorekeeping [it] doesn’t mean you get to have everything you want.”

Extenders

In other developments, negotiations continued behind the scenes this week on a bicameral agreement to address the 55 temporary tax deductions, credits, and incentives that expired at the end of 2013.

The Senate Finance Committee in April approved legislation that would retroactively extend most of these provisions for two years (through December 31, 2015). The House, for its part, has approved a series of bills that would permanently extend the research credit, bonus depreciation and the election to accelerate AMT credits in lieu of first-year bonus depreciation, increased section 179 expensing limits, the reduced recognition period for S corporation built-in gains tax, the above-the-line deduction for qualified tuition and related expenses, tax-free distributions from individual retirement plans by individuals age 70-1/2 and older for charitable purposes, special rules for contributions of capital gain real property made for conservation purposes, the enhanced deduction for charitable contributions of food inventory, and the basis adjustment to stock of S corporations making charitable contributions of property. Proposals to permanently extend two other provisions – the subpart F exemption for active financing income and the lookthrough rule for payments between related controlled foreign corporations – have been approved in the Ways and Means Committee but have not received a vote on the House floor. Dozens of other expired provisions remain unaddressed in the House. (For additional discussion, see *Policy, politics, and the prospects for tax extenders* from Deloitte Tax LLP.)

URL: <http://www2.deloitte.com/us/en/pages/tax/articles/policy-politics-and-the-prospects-for-tax-extend.html?id=us:em:na:tnv:eng:tax:112114>

House Ways and Means Committee Chairman Camp has stated that negotiators in the two chambers are looking for “common ground” and that his goal remains getting “as much policy permanent as possible.”

Senate Finance Committee Chairman Wyden has indicated that he could be open to an extenders package that includes a mix of temporary and permanent provisions. Majority Leader Harry Reid, D-Nev., told reporters on November 19 that he, too, would consider making some extenders permanent in exchange for certain unspecified concessions from Republicans.

“We’ll see what kind of deal they want to offer us,” Reid said.

Another option reportedly being advanced by some House Republicans calls for Congress to retroactively extend all the expired provisions for only one year (through December 31, 2014) during the lame duck session and address the issue for the long term in 2015 when the GOP controls both sides of the Capitol and would have greater leverage in crafting a deal.

The path forward for extenders is not expected to become clear until sometime after lawmakers return from the Thanksgiving recess on December 1.

— Victoria Glover & Michael DeHoff
Tax Policy Group
Deloitte Tax LLP

Have a question?

If you have needs specifically related to this newsletter’s content, send us an email at clientsandmarketsdeloittetax@deloitte.com to have a Deloitte Tax professional contact you.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms. Please see www.deloitte.com/about for a detailed description of the legal structure of Deloitte LLP and its subsidiaries. Certain services may not be available to attest clients under the rules and regulations of public accounting.

Disclaimer

This publication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or its and their affiliates are, by means of this publication, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This publication is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your finances or your business. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. None of Deloitte Touche Tohmatsu Limited, its member firms, or its and their respective affiliates shall be responsible for any loss whatsoever sustained by any person who relies on this publication.