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Finance Committee forms tax reform working groups

Senate Finance Committee Chairman Orrin Hatch, R-Utah, and ranking Democrat Ron Wyden of Oregon announced this week that the panel has formed five bipartisan working groups to examine specific issues in tax reform as part of the process for developing a legislative proposal for a tax code overhaul.

Hatch and Wyden explained in a January 15 press release that each group will be led by a bipartisan team of co-chairs. Group topics and co-chairs include:
URL: http://www.finance.senate.gov/newsroom/chairman/release/?id=2ea8c8e5-c892-4230-9d1a-db7522a920be

- Individual income tax (Sens. Charles Grassley, R-Iowa and Mike Enzi, R-Wyo.; Sen. Debbie Stabenow, D-Mich);
- Business Income Tax (Sen. John Thune, R-S.D.; Sen. Ben Cardin, D-Md.);
- Savings and Investment (Sen. Mike Crapo, R-Idaho; Sen. Sherrod Brown, D-Ohio);
- International Tax (Sen. Rob Portman, R-Ohio; Sen. Charles Schumer, D-N.Y.); and
- Community Development and Infrastructure (Sen. Dean Heller, R-Nev.; Sen. Michael Bennet, D-Colo.).

According to the release, each group will "analyze current law and examine policy trade-offs and available reform options within [its] designated topic area" and "will work directly with the nonpartisan Joint Committee on Taxation (JCT) to produce an in-depth analysis of potential legislative solutions." The findings and recommendations of each group will be compiled into a comprehensive report that is expected to be completed by the end of May. The report will be presented to Hatch and Wyden and "will serve as a foundation for the development of bipartisan tax reform legislation," the release said.

Ways & Means: No working groups, but a 'pretty aggressive' tax reform timeline

The Finance Committee process resembles an effort undertaken by the House Ways and Means Committee under then-Chairman Dave Camp, R-Mich., and ranking member Sander Levin, D-Mich., in 2013, which involved 11 bipartisan working groups whose findings were made public in a report prepared by the JCT staff. The Ways and Means groups were not charged with developing specific policy recommendations, however. (For details on the Ways and Means working groups, see *Tax News & Views*, Vol. 14, No. 9, Feb. 15, 2013; for details on the JCT report, see *Tax News & Views*, Vol. 14, No. 20, May 6, 2013.)
URL: http://newsletters.usdbriefs.com/2013/Tax/TNV/130215_4.html
URL: http://newsletters.usdbriefs.com/2013/Tax/TNV/130506_1.html

But current Ways and Means Committee Chairman Paul Ryan, R-Wis., has indicated that his panel is unlikely to revisit that approach as it develops its own tax reform legislation. After Hatch informally discussed his plans to launch working groups in comments to the press earlier in the week, Ryan told reporters on January 13 that "we did them already here. They haven't yet done them in the Senate, so that's new for them and not for us."

Ryan also stated that House taxwriters may adopt a "pretty aggressive" timeline for moving a tax reform proposal this year.

Ways and Means Republicans are likely to start fleshing out their tax reform agenda during a retreat scheduled for January 28-30. Although the upcoming Ways and Means retreat will not include Democratic taxwriters, ranking member Levin has indicated that he and Ryan have held discussions on how to incorporate minority views into the committee's tax reform process.

Discussions with White House

Off of Capitol Hill, congressional Republican leaders told reporters at a joint House-Senate GOP retreat in Hershey, Pa., January 15 that they have held some discussions with the White House to determine if they can find common ground on tax reform.

President Obama told an audience at a Business Roundtable event last month that many of the principles laid out in the corporate tax framework he released in 2012 align with those in the tax reform discussion draft put forward by then-Ways and Means Committee Chairman Camp last February and that "there is definitely a deal to be done" between the White House and congressional Republicans to overhaul the corporate tax rules in 2015. (For prior coverage, see *Tax News & Views*, Vol. 15, No. 38, Dec. 5, 2014.) The president made similar comments at his year-end press conference on December 19. (For prior coverage, see *Tax News & Views*, Vol. 15, No. 41, Dec. 19, 2014.)
URL: http://newsletters.usdbriefs.com/2014/Tax/TNV/141205_2.html
URL: http://newsletters.usdbriefs.com/2014/Tax/TNV/141219_2.html

At the retreat, Senate Majority Leader Mitch McConnell, R-Ky., remarked that the president and congressional Republicans agree on the need for revenue-neutral corporate tax reform, but it remains unclear whether the administration would accept Republican calls for a broader business tax overhaul that includes passthrough entities.

Ways and Means Committee Chairman Paul Ryan offered a similar assessment: “For us, you can’t forget the small businesses, the passthroughs. It’s really important.” Ryan also noted, however, that House Republican taxwriters have not officially decided if they would accept business-only tax reform or would insist on a comprehensive overhaul that addresses tax rules for individuals as well as businesses.

For his part, Senate Republican Conference Chairman John Thune of South Dakota stated that progress on reforming the tax code “will depend entirely on whether the White House wants to engage and really lean into it and put their shoulder into it.” Thune said that although President Obama has “expressed an interest rhetorically on the issue of tax reform…when push comes to shove, really engaging with Congress, we have not seen that.”

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Ways and Means hearing addresses economic growth

House taxwriters debated policies to stimulate economic growth, including tax reform, at a January 13 Ways and Means Committee hearing. The hearing was Wisconsin Republican Rep. Paul Ryan’s first as committee chairman.

How to remedy sluggish growth

In his opening statement, Ryan said the Ways and Means Committee’s mission is “building a healthy economy.” He observed that while there has been good economic news in the last year, the recovery since the 2008 financial crisis has been too sluggish, especially when compared with previous recoveries. The fact that the U.S. economy is doing better than those of its major trading partners, he said, is a distinction akin to being “the nicest car in the junkyard.”

Ryan outlined several actions he thought would boost the economy, such as repealing and replacing the Patient Protection and Affordable Care Act (PPACA), and controlling government spending, which he fears will lead to a debt crisis in the future. He specifically noted the need for tax reform, saying that the tax code is broken and needs to be fairer and flatter.

Ways and Means Committee ranking member Sander Levin, D-Mich., called Ryan’s “junkyard” reference misguided and said that the economy was back on its feet and beginning to move forward thanks to stimulus policies. However, he was concerned about the flat wage growth for those who are not in the top 10 percent. He cited a list of policies – such as a hike in the federal minimum wage, and equal pay and overtime legislation – that would help lower- and middle-income Americans. Levin said he understands the need for tax reform, but he stressed that it cannot be centered on rate cuts for the wealthy and must ensure that taxpayers “pay their fair share.”

Among the witnesses who spoke at the hearing, Douglas Holtz-Eakin, president of the American Action Forum and former director of the Congressional Budget Office (CBO), gave an example of why economic growth is important. He noted that the standard of living in the United States doubled about every 30 years in the post-war period. However, he cautioned that the CBO's estimated future average annual growth rate for the U.S. economy of 2.3 percent of gross domestic product would mean a doubling of the standard of living in 90 years. He said Congress must look for ways to increase the rate of growth and that tax reform could spur this growth.

Holtz-Eakin's recommendations were echoed by Martin Feldstein, who is an economics professor at Harvard and chaired the Council of Economic Advisers under President Reagan. Feldstein said tax reform could drive growth and help reduce annual deficits. He strongly recommended eliminating tax expenditures both to reduce rates and increase revenue.

Simon Johnson, a professor at MIT, disagreed, blaming sluggish growth on the lack of consensus on fiscal policy in Congress. He cautioned the committee against gutting or repealing the PPACA or the Dodd-Frank reforms and echoed Levin's recommendations for raising the minimum wage.

Holtz-Eakin and Feldstein noted the high U.S. statutory corporate tax rate and said that it was hindering growth and competitiveness. Ranking member Levin acknowledged that the headline rate is high; but he noted that many companies do not pay at the statutory rate and that the focus should be on their effective tax rates.

Feldstein and Holtz-Eakin also stressed the need to move the United States to a territorial system of international taxation and told the committee any tax reform plan would need to be comprehensive – that is, address both the corporate and individual regimes – because so much business in the United States is conducted in passthrough form.

Dynamic scoring and infrastructure

Numerous Democrats on the committee used their time to urge Republicans to focus on infrastructure spending to spur economic growth. Rep. Earl Blumenauer, D-Ore., pressed for an increase in the gas tax to fund infrastructure projects.

Several other Democrats raised the issue of dynamic scoring and argued that if it is to be used for tax cuts, it should also be used for discretionary spending legislation. (The House rules package for the 114th Congress that was approved on January 6 requires the Joint Committee on Taxation staff and the CBO to use dynamic scoring to measure the budgetary impact of certain "major" revenue and direct spending legislation. For details on how the dynamic scoring requirement would be applied, see *Tax News & Views*, Vol. 16, No. 1, Jan. 9, 2015.)
URL: http://newsletters.usdbriefs.com/2015/Tax/TNV/150109_1.html

Reps. Richard Neal, D-Mass., and John Larson, D-Conn. asked witnesses if dynamic scoring would apply to infrastructure spending bills. Holtz-Eakin replied that if the bill was big enough, or if the Ways and Means Committee chairman requested it, the legislation would receive a dynamic score. He also noted that every administration budget proposal used dynamic scoring and that it was as familiar to policymakers the conventional static scoring model. MIT's

Johnson, however, cautioned that dynamic scoring is complex, and added that the assumptions in the economic models underlying the score were of critical importance.

Van Hollen offers Democratic 'action plan'

In other developments, House Budget Committee ranking member Chris Van Hollen, D-Md., on January 12 laid down markers for a Democratic "action plan" aimed at bolstering the economy by increasing take-home pay and savings rates for middle-class families.

Legislative language for the plan is currently unavailable. But according to a summary provided by Van Hollen, the plan calls for providing a Paycheck Bonus Tax Credit of $1,000 per worker per year ($2,000 for married couples) that would phase out at an income of $100,000 per year for individuals ($200,000 for married couples) indexed for inflation; providing a Savers Bonus of $250 for each year that an individual directs at least $500 of his or her Paycheck Bonus Tax Credit or Earned Income Tax Credit to a tax-preferred retirement savings account; and modifying the Child and Dependent Care Tax Credit by increasing the amount of eligible expenses, indexing the caps for inflation, and making the credit refundable. The plan also would prevent corporations from claiming tax deductions for executive compensation over $1 million if they are laying off employees or do not offer their employees wage increases reflecting increases in worker productivity or the cost of living; provide tax incentives for corporations to offer employee ownership and profit-sharing plans; and provide tax credits for businesses that establish apprenticeships or other job training programs.
URL: http://democrats.budget.house.gov/sites/democrats.budget.house.gov/files/documents/Action%20Plan%20-%20PDF.pdf

According to the summary, the plan would be revenue neutral and would be offset by eliminating certain unspecified tax expenditures benefiting upper-income individuals and by imposing a fee on certain financial market transactions. (The summary provides no specifics on how the fee would operate.)

Once it is formally introduced as legislation, the action plan is unlikely to be taken up in the Republican-controlled Ways and Means Committee; rather, it is expected to serve as a Democratic counterpoint to GOP proposals as the economic policy debate moves forward in the 114th Congress.

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More bills target PPACA employer mandate, medical device excise tax

Efforts by congressional Republicans to dismantle the Patient Protection and Affordable Care Act (PPACA) piece by piece continued this week as the House approved new exceptions to the PPACA's employer mandate and the Senate's top taxwriter unveiled legislation to repeal a provision that imposes an excise tax on medical device manufacturers.

Employer mandate

The House voted 401-0 on January 12 to approve the Protecting Volunteer Firefighters and Emergency Responders Act (H.R. 33), which would allow specified employers to exclude emergency services volunteers from their headcount of full-time employees in determining whether they are subject to the PPACA's employer mandate.

The bill defines "emergency services volunteers" as volunteer firefighters and emergency responders, and "specified employers" as government entities and organizations described in section 501(c)(3) and exempt from taxation under section 501(a). The measure would be effective for months beginning after December 31, 2013. It cleared the House under a streamlined procedure known as "suspension of rules," which requires a two-thirds majority vote for passage.

This is the third House bill aimed at blunting the impact of the employer mandate to clear the House since the 114th Congress kicked off on January 6. Two GOP-sponsored bills approved in the chamber last week would:

- Permit an employer to exclude employees who are covered under a health care program administered by the Department of Veterans Affairs or the Department of Defense in calculating the number of its full-time employees for purposes of the mandate (H.R. 22) and
- Define a full-time employee for purposes of the mandate as one who works on average 40 hours per week (H.R. 30). Section 4980H, which was added to the Internal Revenue Code under the PPACA, defines a full-time employee as an "employee who is employed on average at least 30 hours of service per week."

(For additional details, see *Tax News & Views*, Vol. 16, No. 1, Jan. 9, 2015.)
URL: http://newsletters.usdbriefs.com/2015/Tax/TNV/150109_1.html

All three bills are expected to be considered in the Senate although the timetable is currently unclear.

The employer mandate imposes penalties on employers who have more than 50 full-time employees (including full-time equivalents) and do not offer certain types of health insurance coverage under certain circumstances. The mandate and corresponding penalties originally were scheduled to take effect beginning in 2014, but the White House suspended enforcement of both until 2015 for employers with 100 or more full-time employees and until 2016 for employers with 50-99 full-time employees.

Medical device excise tax

Across the Capitol, Senate Finance Committee Chairman Orrin Hatch, R-Utah, announced January 13 that he has introduced legislation (S. 149) to repeal the 2.3 percent excise tax on medical device manufacturers that was enacted under the PPACA in 2010 and took effect in 2013. The bill would be effective for sales after December 31, 2012.

House Ways and Means Committee member Erik Paulsen, R-Minn., introduced identical legislation (H.R. 160) in that chamber on January 6.

As introduced, neither the House nor the Senate bill is offset.

It is unclear exactly when the two bills will move through their respective chambers; however, neither bill appears to face significant obstacles on the road to passage. Paulsen's bill is co-sponsored by over half of the House membership and Hatch's proposal currently includes five Democratic co-sponsors. (Republicans control 54 seats in the Senate and need to win over 6 Democrats to forge the 60-vote majority required to clear procedural hurdles that can block any sensitive legislation in that chamber.)

The White House has not yet taken an official position on the legislation so it is unclear whether the president would veto it if it reaches his desk. Also unclear is whether supporters of the medical device excise tax repeal have the two-thirds majority needed in both the House and the Senate to override a potential veto.

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Barthold staying on as JCT staff chief

House Ways and Means Committee Chairman Paul Ryan, R-Wis., and Senate Finance Committee Chairman Orrin Hatch, R-Utah, announced January 12 that Thomas Barthold will remain as chief of staff for the Joint Committee on Taxation (JCT).

Ryan and Hatch are the chair and vice chair, respectively, of the JCT for the first session of the 114th Congress and in those roles have the authority to retain or replace the JCT staff director. (The JCT is chaired on a rotating basis by the leaders of the House and Senate taxwriting committees. During the first session of each Congress the House has the chair and the Senate has the vice chair; during the second session the roles are reversed.)

In a joint statement, Ryan and Hatch called Barthold a "strong, nonpartisan leader" and noted that "he and his staff produce quality, objective reports and analyses that help shape the major policy debates that are important to hard-working American taxpayers."

Barthold has been with the JCT since 1987 and became chief of staff in 2009 when he was appointed by then-Ways and Means Committee Chairman Charles Rangel, D-N.Y., and then-Finance Committee Chairman Max Baucus, D-Mont.

The nonpartisan JCT staff supports the tax legislative process, from the development and analysis of tax proposals, to the drafting of tax bills, the preparation of revenue estimates, and investigations into various aspects of the tax system. Under the new House operating rules for the 114th Congress that were approved on January 6, the JCT staff is now responsible for producing "dynamic" scoring estimates to measure the budgetary impact of certain revenue and direct spending legislation in that chamber. (The dynamic scoring requirement under the House rules also applies to revenue estimates produced by the Congressional Budget Office. For prior coverage, see *Tax News & Views*, Vol. 16, No. 1, Jan. 9, 2015.)
URL: http://newsletters.usdbriefs.com/2015/Tax/TNV/150109_1.html

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