



August Recess and the State of Play on Tax Reform

On July 27, 2017, in the wake of the failure of any legislative changes to health care policy, Speaker Paul Ryan, Majority Leader Mitch McConnell, Treasury Secretary Steven Mnuchin, National Economic Council Director Gary Cohn, Senate Finance Chair Orrin Hatch, and House Ways and Means Chair Kevin Brady issued a joint statement on tax reform. While stressing the need for tax reform, the Congressional leaders called on the two tax writing committees to “develop and draft legislation that will result in the first comprehensive tax reform in a generation,” while urging a bipartisan effort. In their statement, the leaders set aside what they referred to as the “pro-growth benefits of border adjustability,” a controversial proposal that was estimated to raise over \$1 trillion.¹

On August 1, 2017, The Hill reported that, upon return from its August break, the Senate will use the budget reconciliation process to move forward a tax package.² Through reconciliation, the Senate would need only a simple majority to pass such legislation; however, the impact of any deficit increase (e.g., tax cuts), would be limited to the 10-year budget window, just as was the case with the Economic Growth and Tax Relief Reconciliation Act of 2001. To consider a permanent tax cut, under current Senate rules, 60 members would be needed to overcome any filibuster, which means significant democratic support likely would be needed.

The procedural options chosen with which to pursue tax legislation may impact not only the duration of any new tax law, but also the substantive provisions of any package. Consider, for example, the comments of Office of Management and Budget Director Mick Mulvaney on August 2, 2017, during an interview on “Fox & Friends.”

Apparently referring to the contents of a tax bill, Director Mulvaney stated that “a tax bill looks a lot weaker – a lot less likely to get us to 3 percent economic growth – if we’ve got 8, 10, 12, 14 Democrats on it.”³ National Economic Council Director Cohn on August 4, 2017, opined that a temporary cut will not suffice. Director Cohn advocates ensuring that a permanent package be balanced over 10 years so it can be moved through the Senate with a simple majority.⁴

In an August 1, 2017, public letter, 45 of the 48 Senate Democrats urged the GOP not to use the budget reconciliation process to pass tax reform on a party line. (Democratic Senators Donnelly (IN), Heitkamp (ND), and Manchin (WV), who did not sign the letter, are each up for reelection in red states.) Politico observes that Senate Democrats could be gearing up for a tax bill with temporary 10-year provisions.⁵

So where does this leave the current state of play on tax reform? The Daily Signal finds that July 2017’s strong job growth numbers might add momentum to tax legislation.⁶ While strong economic data can often bolster the outlook of tax legislation, this legislative session has been anything but predictable. Signs from the House leadership push the tax timetable to end of 2017. Senate leadership is ready to go into high gear after Labor Day. While early fall will be the time to watch, it would be little surprise if a watered down tax cut was on the table in early 2018.

¹ The White House, Office of the Press Secretary, “Joint Statement on Tax Reform,” July 27, 2017

² The Hill, “Senate pivots to tax reform fight,” August 1, 2017

³ The Hill, “OMB director: Tax reform looks weaker with Democrats on it,” August 2, 2017

⁴ Washington Examiner, “Gary Cohn: Tax reform must be permanent and balanced,” August 4, 2017

⁵ Politico, “Senate Democrats reach for message on tax reform,” August 2, 2017

⁶ The Daily Signal, “Strong Jobs Report for July Gives Trump Momentum for Tax Reform,” August 4, 2017