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Year in Review: No Tax Reform . . . Yet.

Although top congressional taxwriters hoped that 2013 would be the year for tax reform, neither the Senate Finance nor House Ways and Means committees marked up tax reform legislation by the end of the year, and the outlook for reform in 2014 remains murky.

Would 2013 be the year for tax reform?

House Ways and Means Committee Chair Dave Camp, R-Mich., and Senate Finance Committee Chair Max Baucus, D-Mont., seemed to think so, as both vowed to mark up tax reform legislation in their committees by the end of the year. But by the fall of 2013, the prospects for tax reform weakened, thanks in part to a government shutdown that torpedoed two weeks of the congressional calendar.

As the calendar turns to 2014, the tax reform outlook couldn't be foggier after the late-year announcement that President Obama has chosen Baucus to become the next U.S. ambassador to China. Even if Baucus is not immediately confirmed to the ambassadorship, both he and Camp face a ticking clock if they hope to leave tax reform as their legacy: Camp because his Ways and Means chairmanship expires at the end of the year, and Baucus because he had already announced his plan to retire from the Senate when his term expires at the end of the 113th Congress.

A Question of Revenue

With a divided Congress that has lately become better known for partisanship than for legislating, tax reform was always going to be a heavy lift in 2013. And one of the biggest partisan divides during the year was whether a tax code overhaul should raise revenue or be revenue neutral.

As the budget season started in early 2013, questions reemerged over whether Democrats and Republicans could find common ground on revenue increases. In his annual State of the Union address in February, Obama called on Congress to work on a tax reform package that would raise revenue. His budget , released in April, largely recycled tax proposals from previous budgets while calling for $1 trillion in new revenue, along with $100 billion from previously proposed corporate tax reforms.

The Democrat-controlled Senate passed a fiscal 2014 budget resolution later in the year that proposed raising $923 billion in new revenue through the reconciliation process, a budget procedure that shields legislation from procedural hurdles such as filibusters. Baucus, who was critical of using reconciliation for tax reform, voted against the budget, putting him at odds with his fellow Senate Democrats.

Meanwhile, Republicans in both chambers pushed for revenue-neutral tax reform, and the House-passed Republican budget included a revenue-neutral framework for tax reform and $4.6 trillion in spending cuts.

As Camp and Baucus continued their tax reform efforts throughout the year, Camp made no secret

that his tax reform plan would be revenue neutral. But there was some question of whether Baucus's plan would raise revenue, especially after Senate Finance Committee ranking minority member Orrin G. Hatch, R-Utah, told reporters in July that Baucus had agreed to keep his bill revenue neutral. Baucus later said he had made no such agreement, and a Hatch spokesperson said that "there was a misunderstanding between the two."

Senate Majority Leader Harry Reid, D-Nev., later told reporters that Baucus should set a revenue target before the committee moved a tax reform bill and that the Senate-passed budget resolution was "a place to start."

Bipartisan Efforts

Despite the revenue differences between the two parties, Camp and Baucus over the summer mounted a public campaign to gain momentum for their legislative tax reform effort. The two launched a website (http://www.taxreform.gov) and a Twitter account (@simplertaxes) asking the public for feedback on tax reform. They also hosted a series of bipartisan, bicameral luncheons on tax reform at Kelly's Irish Times, a Washington bar that former Finance Committee Chair Bob Packwood frequented during his work on the Tax Reform Act of 1986. And as part of their Simpler Taxes for America tour, Camp and Baucus visited businesses in the Twin Cities area, the Philadelphia area, California, and Tennessee to promote their tax reform work.

The bipartisan effort continued on the individual committees as well. In February Camp and Ways and Means ranking minority member Sander M. Levin, D-Mich., announced the creation of 11 bipartisan working groups tasked with taking a closer look at various tax reform topics. The groups, each headed by a Republican and Democratic Ways and Means member, were not asked to propose specific policy changes. Instead, they served as a vehicle to help educate committee members and build relationships across the aisle.

In May the working groups made presentations to the full committee, and the Joint Committee on Taxation released a report (JCS-3-13) summarizing the groups' findings. The working groups' efforts bore some fruit in September, when the heads of the education working group, Reps. Diane Black, R-Tenn., and Danny Davis, D-Ill., introduced a bill to consolidate and simplify higher education tax credits. Camp publicly backed the measure, the Student and Family Tax Simplification Act (H.R. 3393).

In the Senate, Baucus and Hatch held a series of weekly meetings with Finance Committee members at which they released 10 tax reform option papers on topics including simplification, corporate investment, and small businesses. The papers, which did not take a position on revenue or endorse specific policies, instead provided an overview of the issues surrounding a particular topic and outlined policy suggestions from bills in both chambers, from testimony given at Finance hearings, and from other sources.

Baucus and Hatch also attempted to open up the tax reform process to non-taxwriters, sending a letter in June to their Senate colleagues asking them to take part in what they characterized as a "blank slate" approach to tax reform that would assume the repeal of all tax expenditures. As part of the exercise, senators were to argue for whichever provisions they wanted to see returned to the code, justifying a particular tax break's existence. To encourage participation and soothe senators' fears of leaks, Baucus and Hatch promised that all submissions would be sealed until 2064. According to a Baucus spokesperson, more than 60 senators participated in the effort. A survey of offices by Tax Analysts found that only 25 of those participants made their letters public and that of those letters, most outlined only general principles for tax reform.

Markups Called Off

As Congress headed into its August recess, it seemed Baucus and Camp were readying their committees for fall markups. It was rumored that Camp, who briefly considered earlier in the year running for an open Senate seat, could be ready to move his bill in October.

The government shutdown that month, however, helped delay action on tax reform, as lawmakers devoted many of their working days to negotiating a solution to reopen the government. While some floated the idea of including tax reform instructions in legislation to resolve the impasse, the final bill had little impact on tax policy. It set up a budget conference that produced an agreement setting discretionary spending levels for two years, but that agreement did not include tax changes.

Baucus acknowledged in October that his committee would not mark up a tax reform bill and instead would release a set of tax reform discussion drafts. Similarly, Camp began to hint in November that time was running out to release a bill before finally acknowledging in December that his tax reform package was on hold.

Although neither Baucus nor Camp released full-fledged tax reform legislation in 2013, they both helped continue the tax policy conversation by releasing discussion drafts on several tax topics.

Camp, who had already released a discussion draft on international taxation in 2011, released two more in early 2013: one on the taxation of financial products and one on the taxation of passthroughs and small businesses .

Baucus's drafts, released in November and December, covered international taxation , tax administration , cost recovery and tax accounting , and energy taxation . Before his ambassadorship nomination was announced, Baucus said he wanted to release more discussion drafts in 2014.

Better Luck in 2014?

While the discussion drafts that Baucus and Camp have released could help lay the groundwork for tax reform in 2014, Baucus's impending departure from the Senate raises the question whether all his work in 2013 was for naught. Sen. Ron Wyden, D-Ore., who is expected to take over the committee after Baucus's confirmation as ambassador to China, could choose to pick up where Baucus left off on tax reform or begin reform efforts anew.

Wyden, who has introduced several comprehensive tax reform bills, offered little insight into his plans for the committee. "My views on this are pretty well known," he told reporters December 19. "I think it's pretty well understood that I think the tax code is a dysfunctional mess."

In 2011 Wyden introduced the Bipartisan Tax Fairness and Simplification Act of 2011 (S. 727) with Sen. Daniel Coats, R-Ind. The measure would have cut the corporate rate to 24 percent, repealed several individual and corporate tax incentives along with the alternative minimum tax, and streamlined the individual income tax into three brackets at 15 percent, 25 percent, and 35 percent. The proposal did not include a territorial system for international taxation, but it would have eliminated controlled foreign corporations' active income deferral and provided a repatriation tax holiday.

In the House, Budget Committee Chair and Ways and Means member Paul Ryan, R-Wis., predicted that the House taxwriting panel will take up tax reform again in early 2014. "Watch the Ways and Means Committee in the first quarter of next year," he said on NBC's Meet the Press December 15. "We're going to be advancing tax reform legislation because we think that's a key ingredient to getting people back to work, to increasing take-home pay, to grow this economy."

Senate Budget Committee Chair Patty Murray, D-Wash., appearing on the same program, agreed that Congress should move on tax reform, but she again raised the revenue question. “I think where the divide comes is what you would do with any revenue that was generated from that,” she said. “But that doesn’t mean we couldn’t ever find a compromise with that. It would be an intense discussion.”

In his final press conference of 2013, Obama voiced his willingness to work on tax reform despite Baucus’s departure. “If Democrats and Republicans in the House and the Senate are serious about tax reform, then it’s not going to depend on one guy; it’s going to depend on all of us working together,” he said. “My office is ready, willing, and eager to engage both parties and [have] a conversation about how we can simplify the tax code, make it fairer, [and] make it work to create more jobs and do right by middle-class Americans.”

by Meg Shreve

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