Trump Administration, Republican Congressional leaders release statement on tax reform goals

July 27, 2017

In brief

The Trump Administration and Congressional Republican leaders today released a joint statement outlining key principles and goals for comprehensive tax reform. The brief statement is the product of tax reform discussions by a working group, known as the "Big 6," that includes Treasury Secretary Steven Mnuchin, White House National Economic Council Director Gary Cohn, House Speaker Paul Ryan (R-WI), Senate Majority Leader Mitch McConnell (R-KY), House Ways and Means Committee Chairman Kevin Brady (R-TX), and Senate Finance Committee Chairman Orrin Hatch (R-UT). Members of the Big 6 and their staffs have been meeting regularly since early May and also have been seeking input on tax reform from Members of Congress, business groups, and other interested parties.

The statement calls for tax reform that makes taxes "simpler, fairer, and lower" for American families, and provides "lower rates for all American businesses." The statement sets a goal for the House Ways and Means Committee and the Senate Finance Committee to produce tax reform legislation that "reduces rates as much as possible, allows unprecedented capital expensing, places a priority on permanence, and creates a system that encourages American companies to bring back jobs and profits trapped overseas."

The most significant element of today's joint statement is the announcement that the House Republican Blueprint proposal from June 2016 for a border adjusted tax ("BAT") has been dropped from further consideration. The statement cites debate both over the "pro-growth benefits" of border adjustability and the "many unknowns" associated with the proposal. As a result, a decision was made to "set this policy aside in order to advance tax reform."

The statement calls for Congress to begin moving tax reform legislation through the House and Senate tax committees "under regular order" this fall, to be followed by consideration on the House and Senate floors. Congress this fall also is expected to vote on an FY 2018 budget resolution and to address key fiscal deadlines, including funding for the federal government and an increase in the statutory federal debt limit.

Meanwhile, the Senate this week is working to complete work on its version of legislation to repeal parts of the Affordable Care Act (ACA). House leaders today indicated that the House might delay the start of their August recess to respond to Senate action on ACA repeal legislation.

In detail

The "Big 6" statement on tax reform released today notes a "shared commitment to fixing America's broken tax code," and indicates that President Trump "fully supports these principles and is committed to this approach." The statement expresses support for lowering tax rates "as much as possible," but offers few specifics on key tax reform goals and does not set specific targets for rate reductions.

In April, the Trump Administration released a one-page statement of tax reform principles renewing President Trump's support for lowering business tax rates to 15 percent, and proposing a 35-percent top individual rate. The June 2016 House Republican Blueprint proposed lowering the corporate income tax rate to 20 percent, providing a 25-percent rate for pass-through businesses, and lowering the top individual tax rate to 33 percent.

Today's statement "places a priority on permanence," but notably does not make this a requirement and avoids calling for tax reform to be revenue neutral. House and Senate leaders previously have stated that tax reform legislation is likely to be considered under budget reconciliation procedures that allow for the Senate to approve a bill with a simple majority, instead of the 60 votes generally required in the Senate. However, budget reconciliation cannot be used to enact a measure that increases long run deficits, potentially forcing legislators to sunset some of the proposed tax relief.

The statement expresses support for "unprecedented capital expensing," but does not address the tax treatment of interest. The House Republican Blueprint coupled a proposal for full expensing with a proposal to eliminate the deduction for net business interest expense.

It remains unclear how the House and Senate tax committees may seek to offset the cost of lower business tax rates. While the border adjustment tax had been estimated to raise roughly $1 trillion over 10 years to offset part of the cost of lowering tax rates, the statement affirms that there is a "viable approach" to lowering rates, promoting economic growth, and protecting the US tax base "without transitioning to a new domestic consumption-based tax system." Speaker Ryan recently expressed confidence that there are ways to lower the corporate tax rate to 20 percent without the revenue associated with the BAT.

The statement's reference to creating "a system that encourages American companies to bring back jobs and profits trapped overseas" is consistent with previous expressions of support for moving the United States from its current worldwide system of international taxation to a dividend exemption "territorial" tax system. The United States is one of the few OECD nations with a worldwide tax system.

The statement does not make any reference to deemed repatriation of the accumulated foreign earnings of US companies. Both President Trump and the House Republican Blueprint have called for a one-time mandatory repatriation tax.

The statement also does not address specific individual tax issues beyond proposing to make taxes "simpler, fairer, and lower for hard-working American families." Both President Trump and the House Republican Blueprint have called for preserving certain individual tax deductions such as incentives for home ownership, charitable donations, and retirement savings, while proposing to eliminate federal deductions for state and local taxes.

While House and Senate Republican leaders previously have stated that they expect their approach to tax reform will likely need to rely solely on Republican votes, the statement expresses a hope that Democrats will participate in the reform effort as legislation advances through the tax committees and the House and Senate. In response, Senate Finance Committee Ranking Member Ron Wyden (D-OR) today issued a statement objecting to the Big 6 group not including Democrats from the beginning in their discussions on tax reform goals, and also said that "Republicans are dripping tax ideas out like a leaky faucet with no specifics to back them up."

For more on the Trump Administration's April 26, 2017 tax reform principles, see our WNTS Insight "Trump Administration officials announce tax reform principles."

For more on the House Republican's June 2016 tax reform Blueprint, see our WNTS Insight "House Republican Blueprint: A destination based cash-flow tax."

The "tax reform budget"

When the House returns from its August recess, it is expected to vote on a fiscal year (FY) 2018 budget resolution that includes budget reconciliation instructions for tax reform. Budget reconciliation procedures allow the Senate to pass tax reform legislation with a simple majority, instead of the 60 votes generally required. Senate Republicans currently have a 52-seat majority.

The FY 2018 budget resolution, which was approved by the House Budget Committee on July 19, also calls for $203 billion in savings from mandatory spending programs. The Ways and Means Committee and other House committees are directed to approve budget reconciliation legislation by a (non-binding) deadline of October 6, 2017.

Highlighting the importance of the budget measure to advancing tax reform, Ways and Means Committee Chairman Brady said, “This is the tax reform budget. It’s critical that our party in the House comes together to pass this budget.”

The House and Senate cannot adopt a new FY 2018 budget resolution until final action is taken on ACA repeal and replacement legislation – adoption of an FY18 resolution would extinguish the FY17 instruction that the House and Senate are relying on to advance ACA repeal-and-replacement legislation.

Health care legislation

Continuing efforts by Congressional Republicans to repeal and replace the ACA could impact the substance of tax reform legislation. The Senate is expected on Friday to consider a “skinny repeal” bill that would eliminate the ACA individual mandate and partially repeal the employer mandate, while leaving in place ACA tax provisions, although further revisions could be made to the bill before it is considered.

Earlier this week the Senate voted 43 to 57 against legislation (the Better Care Reconciliation Act) to repeal and replace the ACA and 45 to 55 against legislation (the Obamacare Repeal Reconciliation Act of 2017) that would repeal the ACA with a two-year delay. If the Senate passes a health care bill, the House and Senate may then appoint conferees to reconcile differences between the House and Senate legislation.

The House-passed American Health Care Act (AHCA) would partially repeal and replace the ACA. The AHCA would eliminate, retroactive to the beginning of 2017, most of the ACA tax provisions, including the 3.8 percent net investment income tax and the medical device excise tax. Implementation of the 40 percent excise tax on certain high-cost health insurance plans (“Cadillac” tax) would be delayed until 2026 and the 0.9 percent Medicare surtax on high-income earners would be repealed beginning in 2023. The staff of the Joint Committee on Taxation has estimated that the tax provisions in the AHCA would reduce revenues by about $663 billion over ten years.

If Congress fails to pass health care legislation, the tax-writing committees would have to consider whether to address the net investment tax and other ACA taxes in tax reform legislation.

The takeaway

Today’s “Big 6” statement reaffirms that pro-growth tax reform remains a top priority for President Trump and Congressional Republicans. Despite this commitment to tax reform, there are many difficult policy issues to resolve if Congress is to enact a sustainable reform of the US tax laws that provide a more competitive tax system for business taxpayers.

Let's talk

For a deeper discussion of how this might affect your business, please contact:

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