

BEPS And International Tax Reform, Highway Funding In Focus For Tax-Writers

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Legislative Activity

Congress Concerned with BEPS, International Tax Reform Moves Forward

Last week, G-7 leaders (i.e., finance ministers and central bank governors from Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States) met in Germany to renew their commitment to coming together on a “feasible” proposal to address base erosion and profit shifting (BEPS). While the Administration has signed on to pursuing a BEPS solution, Senate Finance Committee Chairman Orrin Hatch (R-UT) and House Ways and Means Committee Chairman Paul Ryan (R-WI) have sent a letter to Treasury Secretary Jack Lew requesting “that, before finalizing any decisions, the Treasury Department and IRS provide the tax-writing committees with a legal memorandum detailing its authority for requesting and collecting this [country-by-country] information from certain U.S. multinationals and master file information from U.S. subsidiaries of foreign multinationals.” U.S. tax-writers have also indicated that they plan to hold hearings on the OECD’s BEPS efforts in the near future.

Relatedly, as tax-writers continue to debate the best way to reform the U.S. Tax Code, it is becoming clearer by the day that the best opportunity of any significant reform will be achieved by overhauling international tax rules. According to House Ways and Means Committee Chairman Paul Ryan (R-WI), lawmakers may be able to “take a couple of steps in the right direction, particularly with international tax laws and international tax rules.” Moreover, senior House Ways and Means Committee member and Subcommittee on Human Resources Chairman Charles Boustany (R-LA) – who is presently drafting an international tax reform proposal – recently suggested that comprehensive tax reform is most achievable through a two-phase approach: international tax reform now, with more comprehensive reforms to corporate and individual tax provisions to be addressed later.

On the Senate side, Chairman Hatch has set a new deadline of June 26 for the Tax Reform Working Groups to submit their tax reform proposals to the full Committee for consideration. According to Senator Chuck Schumer (D-NY), who co-chairs the group with Senator Rob Portman (R-OH), the International Tax Working Group is “making good progress,” causing him to be “more hopeful than [he’s] ever been [that Congress] can get something done on the international side.”

Tax-Writers Set Hearings on Highway Funding

With highway funding set to expire on July 31, tax-writers in both the House and Senate have noticed hearings this week to examine “long-term financing” options. The House Ways and Means Committee will move first, with a hearing titled “Long-Term Financing of the Highway Trust Fund” scheduled for Wednesday, June 17. The Senate Finance Committee will follow suit the next day with a hearing titled “Dead End, No Turn Around, Danger Ahead: Challenges to the Future of Highway Funding.” It is important to note that in addition to the July 31 highway funding deadline, tax-writers also face a July 24 deadline to finalize a reconciliation package (called for in the Budget Resolution) to repeal parts of the Affordable Care Act. Although there are no repercussions for missing the July 24 deadline, Chairman Hatch noted that “[w]e’re going to try to meet whatever deadline is set. We take these responsibilities very seriously.” While Senator John Thune (R-SD) has suggested that, given the tight deadline, lawmakers may try and pass a reconciliation bill with highway funding language attached to it, Chairman Hatch noted that he is “not planning on doing that.”

House Votes to Permanently Extend Ban on State and Local Taxation of Internet Access

On Tuesday, June 9, the House by voice vote passed the Permanent Internet Tax Freedom Act ([H.R. 235](#)) to permanently extend the ban on state and local taxation of Internet access, which is set to expire on October 1. According to House Judiciary Committee Chairman Bob Goodlatte (R-VA), “[t]his legislation prevents a surprise tax hike on Americans’ critical services this fall...[and] maintains unfettered access to one of the most unique gateways to knowledge, and engines of self-improvement in all of human history.” The path forward for extending the ban in the Senate remains uncertain.

This Week’s Hearings:

- Wednesday, June 17: The House Ways and Means Committee will hold a hearing titled “Long-Term Financing of the Highway Trust Fund.”
- Thursday, June 18: The Senate Finance Committee will hold a hearing titled “Dead End, No Turn Around, Danger Ahead: Challenges to the Future of Highway Funding.”

Regulatory Activity

IRS Proposes Rules Addressing “Circular Basis Problem”

On Thursday, June 11, the Internal Revenue Service (IRS) [proposed amendments](#) seeking to revise the rules concerning the use of a consolidated group’s losses in a consolidated return year in which stock of a subsidiary is disposed of. The regulations would affect corporations filing consolidated returns. According to the IRS, the so-called “circular basis problem” is created by iterative computations that “may completely eliminate the benefit of the disposed of member’s losses.” The IRS notes that its proposal “would provide relief and certainty to cases in which the circular basis problem persists, yet adhere to underlying consolidated return concepts without undue complexity.” As part of its proposal, the IRS is asking for comments on whether there are other approaches that would eliminate the problem, while also preserving the general rule for absorption of capital and ordinary losses. Comments are due by September 9.

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