Yellen, Adeyemo weigh in on Treasury's tax policy priorities

For those looking to read the tea leaves of the Biden Treasury Department, Secretary Janet Yellen and Deputy Secretary-nominee Adewale "Wally" Adeyemo provided some signals over the past week regarding the president's views, tax changes the administration will be contemplating, and the direction of international tax negotiations.

Yellen: Tax hikes likely in infrastructure package

In in an interview with CNBC February 18, Yellen reiterated the White House's intention later this year to roll out an economic recovery package – in contrast with President Biden's American Rescue Plan, which the administration characterizes as economic *relief* – that will include long-term investments in infrastructure, renewable energy, education, and job training. The exact contours, size, and timing of the proposal have not yet been worked out, but Yellen expects the bill to include revenue-offsetting tax increases on corporations and wealthy individuals, phased in over time.

"Part of the package – the parts that are permanent – will be paid for in order to not raise long-term deficits," she said, "but we're still working on the details of the package."

In line with Biden's campaign season proposal, Yellen said during a forum hosted by *The New York Times* February 22 that the administration is targeting a corporate tax rate of 28 percent, up sharply from the 21 percent rate implemented by the GOP's 2017 law known informally as the Tax Cuts and Jobs Act. (While both House Ways and Means Committee Chairman Richard Neal, D-Mass., and Senate Finance Committee Chairman Ron Wyden, D-Ore., have said they believe the current rate allows corporations to avoid paying their fair share of taxes, neither has proposed a specific replacement rate or committed to Biden's target.)

In discussing potential tax law changes affecting higher-income individual taxpayers at the forum, Yellen also said that an increase in the capital gains tax, something that then-candidate Joe Biden expressly endorsed on the campaign trail last year, might be "worth considering" but noted that a wealth tax "is not something President Biden" favors. Sen. Elizabeth Warren, D-Mass., a former 2020 Democratic presidential candidate and now one of the newest members of the Senate's taxwriting panel, has made a tax on what she calls ultra-millionaires – 2 percent on household net wealth above $50 million and 3 percent on wealth above $1 billion, assessed annually – one of her signature issues, but Yellen said such a provision would have "very difficult implementation problems."

However, the Treasury secretary suggested that she is more open to other changes Biden proposed in his campaign that could impact wealthier individuals, including those affecting the treatment of inherited assets and certain investment income. Yellen said she plans to look at the possibility of repealing the provision known as stepped-up basis, which allows a beneficiary to inherit assets at their current value without having to pay taxes on any gains accrued during the period the decedent held them. Separately, she indicated she will examine the tax treatment of income from carried interests.

Another investment-related proposal that some Democrats have suggested should get a look during this congressional session is a financial transactions tax (FTT) – a levy of a fraction of a percent on every securities trade – but Yellen this week was noncommittal, saying, "It could deter speculation, but it might also have negative impacts."

(Back in December 2019, Biden said in a CNBC interview that he thought an FTT should be implemented, but he did not include a proposal for one in any of his campaign documents or speeches. Vice President Kamala Harris did have an FTT in her campaign platform when she was seeking the 2020 Democratic presidential nomination.)

Adeyemo looks at digital issues, global minimum tax

At his confirmation hearing for the deputy secretary post before the Finance Committee February 23, Wally Adeyemo addressed another topic that is of intense interest to many US multinational companies: ongoing talks through the OECD/G20 Inclusive Framework on BEPS (IF) on how to tax profits in the digital economy and a proposed global minimum tax. IF stakeholders have targeted this summer for a political agreement on a new framework for international taxation, which – although already pushed back more than once – is considered an ambitious deadline.

Because the majority of large corporations in the sectors being cited as examples of the need to reallocate taxing rights are US-based, key elements of the proposals from other nations have been viewed by both Democrats and Republicans as targeting US revenues, but Adeyemo said that Treasury will "engage in a multilateral negotiation that does not unfairly burden US companies." This stance is not dissimilar to the position taken during the Trump administration.

"Our goal would be to ensure that we protect America's tax revenues and make sure that American companies can compete on a level playing field," Adeyemo said, adding that he expects the multilateral talks also to address unfair global tax competition.

"We need to end what has seemed like a race to the bottom in terms of international taxation, where companies are competing against each other, and create [an environment] in which we're working together to make sure that we're maintaining our tax base," he said.

No more 'safe harbor' provision

Treasury Secretary Yellen has previously signaled that the US is ready to resume negotiations, and on February 26 she told G20 finance ministers that the Biden administration will drop a contentious component of the Trump-era proposal for reform that was one roadblock to a multilateral consensus. More than a year ago, then-Secretary Steven Mnuchin told his European counterparts that the US would require a "safe harbor provision," which he never fully explained but which was interpreted as a mechanism that would allow companies to abide by the agreement on a voluntary basis. According to the *Financial Times*, Yellen now says the US is no longer advocating implementation of a safe harbor.

The US “will engage robustly to address both pillars of the OECD project, the tax challenges of digitalization, and a robust global minimum tax,” a Treasury official told the *Financial Times*.

The IF, through which nearly 140 countries and jurisdictions have been negotiating international tax rule changes, released its most recent blueprints last October but recognized that discussions would slow until after the US presidential election. Pillar One would establish new rules on where tax should be paid and a fundamentally new way of allocating taxing rights between countries. According to the IF, the aim is to ensure that digitally intensive or consumer-facing multinational corporations pay taxes where they conduct sustained and significant business, even when they do not have a physical presence, as is currently required under existing tax rules. Pillar Two would introduce a global minimum tax that would, according to the IF, help countries around the world address remaining issues linked to base erosion and profit shifting. (For additional discussion, see *Tax News & Views*, Vol. 21, No. 46, Oct. 16, 2020.)
URL: https://newsletters.usdbriefs.com/2020/Tax/TNV/201016_2.html

Itai Grinberg, who has been appointed deputy assistant secretary for multilateral tax in Treasury’s Office of Tax Policy, is expected to be a key staff negotiator for the administration. Any agreement reached through the OECD process will almost certainly need congressional approval, as well, adding yet another challenging step to the process.

— Storme Sixeas
Tax Policy Group
Deloitte Tax LLP