Taxwriters preview 'Build Back Better' debate at Ways and Means subcommittee hearing

A March 11 House Ways and Means Select Revenue Measures Subcommittee hearing on "tax tools to help local governments" provided a possible table-setter for the upcoming congressional debate over President Biden's yet-to-be-released COVID-19 economic recovery package known as the "Build Back Better" plan.

Although specifics of the Build Back Better plan are scarce, the president has indicated that it will emphasize infrastructure investments, health care spending, and climate change mitigation, and may also include incentives for research and development and domestic manufacturing.

Economic growth through infrastructure investment

Subcommittee Chairman Mike Thompson, D-Calif., noted in his opening statement at the hearing that the COVID-19 pandemic has left many US cities and counties facing the twin threats of declining revenues and an increased demand for services, which can be addressed through "substantial" federal investments in infrastructure projects.

To that end, Thompson said he hopes to expand on the Moving Forward Act, a $1.5 trillion package approved in the House last year that called for a five-year reauthorization of highway and mass transit spending, as well as large outlays related to upgrading schools and child care facilities, expanding the nation's stock of affordable housing, delivering broadband Internet access to underserved communities, upgrading drinking water and wastewater infrastructure, modernizing the electric grid to accommodate more renewable energy sources, investing in health care- and postal service-related upgrades, and boosting Amtrak funding to accommodate upgrades and expansions of passenger rail service.

On the tax side, that legislation included a number of proposals intended to spur private investment in infrastructure, housing, and low-income neighborhoods, such as reinstating tax credit bonds similar to the now-expired Build America Bonds program; reinstating the tax-exempt status of interest on advance refunding bonds, which was repealed as part of 2017's Tax Cuts and Jobs Act (TCJA, P.L. 115-97); and permanently extending the new markets tax credit and enhancing the low-income housing tax credit. It also proposed a long list of tax incentives aimed at encouraging renewable energy and energy efficiency. Notably, the Moving Forward Act did not call for an increase in fuel excise taxes or other significant tax or spending offsets to cover the anticipated reduction in federal receipts resulting from the new and expanded tax incentives. (For additional details, see *Tax News & Views*, Vol. 21, No. 33, June 26, 2020.)
URL: https://newsletters.usdbriefs.com/2020/Tax/TNV/200626_1.html

At the hearing, witnesses speaking on behalf of state and county governments – including Stephen K. Benjamin (representing the US Conference of Mayors), Kevin Boyce (representing the National Association of Counties), Elizabeth Reich (chief financial officer for the City of Dallas), and Randy Howard (of the Northern California Power Agency), all of whom were invited by the panel's Democrats – agreed that bringing back tax credit bonds and restoring the tax exemption for advance refunding bonds would make it easier for localities to secure affordable funding for infrastructure projects.

"Keeping infrastructure costs low is critical to job creation and infrastructure investments that are the backbone of our economy," Benjamin noted in his written statement.

They also uniformly called for permanently extending the new markets tax credit and repealing the current-law cap on the deduction for state and local taxes (SALT).

Possible areas of bipartisan agreement

Subcommittee ranking member Adrian Smith, R-Neb., agreed that the tax code can be "a valuable tool" to support infrastructure investments and noted that the Tax Cuts and Jobs Act "intentionally" retained the tax-exempt status of municipal bonds "because of their importance in helping communities meet their basic infrastructure needs."

Smith added that although the TCJA repealed the tax exemption for interest on advance refunding bonds, he would be open to considering "a smarter approach that avoids the stacking of loans and trims the cost to the federal taxpayer."

There is also bipartisan support, Smith said, for economic development incentives such as a permanent extension of the new markets tax credit and an expansion of the TCJA's Qualified Opportunity Zone program – although he cautioned that Congress should not enhance these incentives without first ensuring that they are working as intended.

One issue unlikely to attract Republican support would be repealing the cap on the SALT deduction, Smith said.

Smith also noted that the witnesses at the hearing generally reflected the interests of larger suburban and urban areas and suggested that the subcommittee consider holding a separate hearing focused on the infrastructure needs of smaller communities and rural areas.

The sole witness invited by the Republicans – Michael Hendrix of the Manhattan Institute – agreed that Congress has a unique opportunity to rebuild infrastructure and restore distressed communities, but he noted that the economic impact of the pandemic has been uneven, with some localities seeing an increase in revenues rather than a decline. He urged lawmakers to "avoid quick fixes that result in waste and federal micromanagement."

Hendrix also told the panel to remember the potential role of the private sector in addressing infrastructure issues.

"With interest rates at historic lows, the private market has been eager to back state and local bond issuances on favorable terms, all without the need for overly generous federal subsidies," he said.

Finance Committee to look at tax code and domestic manufacturing

We could get a glimpse of the future debate over another possible component of the president's Build Back Better agenda at an upcoming Senate Finance Committee hearing to consider the "effect of the US tax code on domestic manufacturing."

The hearing is scheduled for March 16. The witness list as of press time includes George S. Davis of the Intel Corporation, Jonathan Jennings of the Ford Motor Company, Jay Timmons of the National Association of Manufacturers, and Michelle Hanlon of the Massachusetts Institute of Technology.

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