Manchin says 'no deal'—yet—on revamped 'Build Back Better' bill

Although talks continued behind the scenes this week between Senate Majority Leader Charles Schumer, D-N.Y., and Sen. Joe Manchin, D-W.Va., on the potential contours of a revised "Build Back Better" bill, the pair remained unable to agree on a legislative package that could win the support of all 50 members of the Senate Democratic caucus.

As approved in the House last November, the roughly $1.75 trillion Build Back Better Act calls for significant tax increases impacting large corporations and high-income individuals to pay for lower- and middle-class tax relief and fund new spending for White House priorities such as expanded access to pre-kindergarten education, child care and elder care, affordable housing, and programs to mitigate climate change. (A detailed summary of the tax provisions in the House-passed legislation is available from Deloitte Tax LLP.)
URL: https://www2.deloitte.com/us/en/pages/tax/articles/build-back-better-tax-legislation.html?id=us:2em:3na:tnv:awa:tax:061022&sfid=7015Y000003bKPoQAM

But shortly before Christmas, Manchin brought Senate action on the legislation to a halt when he announced that he would not support it in its current form and thus would not provide the crucial fiftieth vote needed to get it through the chamber. Under the budget reconciliation rules that Democrats are relying on to move Build Back Better legislation through Congress, the measure can clear the Senate by a simple majority rather than the three-fifths supermajority—typically, 60 votes—that is normally required to avert a filibuster. Because Democrats control only 50 seats in the Senate and are not expected to receive any Republican support for the bill, they need all of their own votes—plus the tie-breaking vote of Vice President Kamala Harris—to get it across the finish line.

Manchin: Tackling inflation is key

Manchin, who remains key to securing a Democratic majority for a revised Build Back Better package in the Senate, has indicated he supports energy incentives, prescription drug pricing reform, and a rollback of many of the tax cuts enacted in the Tax Cuts and Jobs Act of 2017 (P.L. 115-97). But in remarks to a CNN reporter on June 6, he reiterated that addressing historically high inflation levels is his top priority in any bill moving under the guise of his party's Build Back Better initiative.

"The bottom line is how do we fight inflation," Manchin said. "That's all. If they're not serious about really getting our financial house in order and fighting inflation, paying down debt, then it's all for naught."

In recent weeks, Manchin has argued that roughly half of the revenue and other savings generated by any Build Back Better bill should be dedicated to reducing federal budget deficits—an approach that would, in theory, remove money from the private economy and help tamp down price increases.

Energy and climate policy still in flux?

Although Manchin has long suggested he is amenable to many of the roughly $300 billion worth of tax provisions included in the House-passed version of the Build Back Better Act aimed at mitigating climate change through incentives for renewable energy and energy efficiency, he suggested in his comments to CNN that the climate portion of the bill, writ large, still is not locked down.

"The administration is having a hard time and the climate people are having a hard time coming to agreement on that," Manchin said. (Manchin in the past has cited his own reservations about certain elements of the House-approved energy package, such as enhanced tax credits for electric vehicles.)

"There's no deal," he said, while implying that negotiations would nonetheless continue.

Bipartisan energy talks faltering: In a related development, separate negotiations among a group of Democratic and Republican senators—led by Manchin and Republican Sen. Lisa Murkowski of Alaska—on a possible stand-alone bipartisan tax-and-spending bill to address climate change and energy security appear to have lost momentum.

The group reportedly has met a few times since it was convened in late April, but one Republican participant indicated this week that there are no apparent plans for additional meetings in the immediate future.

"I don't know if we're going to have any more, nor do I see anything on my calendar," North Dakota Republican Sen. Kevin Cramer told reporters June 7 in response to questions about the status of that group's efforts.

Any proposal emerging from those discussions would have to move through Congress without budget reconciliation protections and thus would require a 60-vote supermajority to clear the Senate. (For prior coverage, see *Tax News & Views*, Vol. 23, No. 16, May 6, 2022.)
URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/TNV/220506_1.html

Window for action is closing

The window for Democrats to strike a Build Back Better accord is closing relatively quickly as the November 2022 mid-term elections draw near—and taking difficult votes becomes more politically challenging in the minds of some members of Congress.

It is equally important to note that, from a parliamentary perspective, Democrats' ability to shuttle a Build Back Better package through the Senate on a filibuster-proof basis will expire after September 30 of this year. That is because the Build Back Better-related reconciliation instructions Democrats are operating under were included in a congressionally adopted budget resolution for fiscal year 2022, which closes at the end of September. (The reconciliation instructions in the budget resolution lapse once the current fiscal year is over.)

For his part, Senate Finance Committee Chairman Ron Wyden, D-Ore., told a reporter this week that he hopes a revised Build Back Better package can make it through the Senate by August 1—in advance of Congress's extended summer recess.

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