# Senate taxwriters look to tax code to battle rising prices

Just days after a hearing with Treasury Secretary Janet Yellen that focused in large measure on currently high inflation levels, a handful of Democrats and Republicans on the Senate Finance Committee outlined separate tax proposals this week that they argue would help tame rising prices. But even though the ideas appear unlikely to advance in the evenly divided Senate, they could be indicative of future policymaking efforts on the panel depending on the outcome of this November's mid-term elections.

**Wyden: forthcoming bill will target 'excess profits' of oil companies**

On the Democratic side of the aisle, Finance Committee Chairman Ron Wyden of Oregon told Politico in a statement on June 14 that he will be rolling out a proposal in the coming weeks that would seek to rein in high gasoline prices by levying a 21 percent tax—that is, effectively doubling the top corporate rate—on the "excess" profits of oil and gas companies with over $1 billion in revenue.

As described, the forthcoming legislation would define "excess profits" as profits over and above a 10 percent return on expenses—an approach that differs from other recent legislative proposals in this arena in that it focuses on margins rather than keying excise tax calculations off of oil prices.

According to Wyden, the proposal also will call for:

- Imposing a 25 percent excise tax on stock repurchases by large oil and gas companies—far above the 1 percent buyback tax included in the House-passed version of Democrats' Build Back Better legislation, which is currently stalled in the Senate—and
- Eliminating the last-in-first-out (LIFO) inventory accounting method, which would trim companies' ability to deduct the cost of their most recently added, and highest-cost, inventory prior to older, and often lower-cost, layers.

According to a Wyden spokesperson, the "excess profits" tax and the stock buyback tax would apply only to large oil and gas companies—again, those with annual revenue over $1 billion. At press time, it remained unclear whether the proposed LIFO elimination would apply generally or only to those same large fossil fuel firms.

In his statement, Wyden said the proposal "would help reverse perverse incentives to price gouge by doubling the corporate tax rate on companies' excess profits, eliminating egregious buybacks, and reducing accounting tricks."

**Republicans unveil Middle-Class Savings and Investment Act**

Across the aisle, a quartet of Finance Committee Republicans—Sens. Charles Grassley of Iowa, John Barrasso of Wyoming, James Lankford of Oklahoma, and Steve Daines of Montana—rolled out the Middle-Class Savings and Investment Act (text, summary), which they said would blunt taxpayer incentives to consume (which push

up demand and, by extension, prices) by making a series of changes to the tax code that they argue would encourage savings instead.
**URL:** https://www.grassley.senate.gov/imo/media/doc/117s_-_middle-class_savings_and_investment_act_textpdf.pdf
**URL:** https://www.grassley.senate.gov/imo/media/doc/117smiddleclasssavingsandinvestmentactsummary.pdf

"With today's high inflation, many in the middle class could see most, or even all, of their savings and investment gains wiped out by inflation," Grassley said June 14 on the Senate floor. "Yet, even though a middle-class saver may be losing money in real terms, they are still taxed on all gains and interest income as if inflation doesn't exist."

"To help counter the current bias in favor of consumption, I propose subjecting most middle-class savings and investment income to zero tax," Grassley said.

**Notable incentives:** Among other provisions, the bill calls for:

- Expanding the income levels below which capital gain and dividend income is not subject to tax such that taxpayers at or below the 22 percent income tax bracket would not be taxed on such forms of income. (In 2022, this would mean that taxpayers with combined wage and investment income below $83,350 for single filers and $178,150 for joint filers would not be subject to tax on capital gain and dividend income. Those thresholds would increase over time as income thresholds for the 22 percent bracket move higher with inflation).
- Eliminating the marriage penalty under the 3.8 percent net investment income tax (NIIT) by increasing the income threshold at which the NIIT applies to the investment income of joint filers to $400,000 (from $250,000). The income threshold applicable to single filers would remain at $200,000, but both of the thresholds would be indexed for inflation going forward (a feature that does not apply currently).
- Excluding the first $300 ($600 for joint filers) of interest income from taxation.
- Expanding the so-called "Saver's Credit" by raising the income limits for single and joint filers below which the maximum 50 percent credit rate applies and by increasing the amount of retirement plan contributions which may be counted as part of the credit's computation.

**Paid for by SALT cap extension:** According to Grassley, the proposed savings incentives would be fully paid for by extending the $10,000 annual cap on the deduction for state and local income and property taxes (the "SALT cap") through 2028. As enacted in the Tax Cuts and Jobs Act of 2017 (P.L. 115-97), the limitation is scheduled to expire after 2025.

## Near-term action unlikely on either proposal

Although both Democrats and Republicans, at least rhetorically, are united in their feeling that lawmakers should act to address the current historically high inflation levels—a dynamic that was clearly on display when Treasury Secretary Janet Yellen recently appeared before the two congressional taxwriting committees to discuss the Biden administration's proposed budget for fiscal year 2023—the parties remain far apart on their

proposed legislative solutions, making near-term action appear unlikely. (For coverage of the two budget-related hearings, see *Tax News & Views*, Vol. 23, No. 20, June 10, 2022.)
**URL:** https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/TNV/220610_1.html

Although congressional Republicans have offered few public comments to Wyden's announcement of his forthcoming windfall profits tax proposal, they have remained steadfastly opposed to proposals that they argue would single out the oil and gas industry as a means of lowering gas prices.

"On one hand you and the president both say gas prices are too high, to which I agree," said Wyoming Republican Sen. John Barrasso during the June 7 Finance Committee hearing with Secretary Yellen. "[B]ut on the other you are targeting American energy with taxes, and that's going to result in higher costs for Americans."

For their part, some congressional Democrats were quick to criticize Sen. Grassley's proposal to pay for his plan by extending the SALT deduction limitation beyond 2025.

"It's like low-hanging fruit," to the GOP, said House Ways and Means Committee member Bill Pascrell, D-N.J.

Fellow House taxwriter Don Beyer, D-Va., contended that the Senate GOP proposals to tamp down consumption by encouraging savings were poorly targeted, and failed to recognize the tendency of lower-income households to spend more of their income, often by necessity.

"Your marginal propensity to spending is much higher" among lower-income households, Beyer said.

**House taxwriters split on how to improve the economy for women**

Across the Rotunda, meanwhile, Democrats and Republicans on the House Ways and Means Committee offered conflicting policy prescriptions during a June 15 hearing to discuss "the burnout epidemic and what working women need for a stronger economy."

Taxwriters in both parties agreed with the invited witnesses—all working women who have faced some combination of childcare and eldercare issues—that increasing access to affordable childcare and paid family and medical leave is critical to helping women remain in the workforce while addressing family caregiving responsibilities.

**Democrats back federal solution:** Democratic Ways and Means Committee members argued that these concerns should be addressed at the federal level through provisions such as the childcare and paid family leave programs included in the House-passed version of the Build Back Better Act. They also contended that another Build Back Better provision that would permanently extend enhancements to the child tax credit that were enacted on a temporary basis in 2021's American Rescue Plan would provide an important cushion to help families meet day-to-day living expenses. (The child tax credit enhancements expired at the end of last year.) These and other provisions in the Build Back Better legislation would be offset through increased taxes falling primarily on large corporations and wealthy individuals.

According to Democrats, families seeking help with their caregiving needs should not have to wade through what taxwriter Earl Blumenauer, D-Ore., characterized as a "patchwork" of benefits offered by individual states, localities, and employers.

**Republicans seek flexibility:** Republicans on the panel were skeptical of what they characterized as a "one-size-fits-all" approach to expanding access to childcare and paid family and medical leave in the Build Back Better Act and argued that Congress should instead find ways to encourage private-sector employers to offer their own programs and provide incentives for families to pursue caregiving options that are best targeted to their needs. They also contended that the proposed tax hikes in the Build Back Better Act would be detrimental to small businesses and exacerbate economic stresses facing families, and they criticized the president's economic policies in general as inflationary.

Several Ways and Means Republicans joined ranking member Kevin Brady, R-Texas, in urging passage of the Protecting Worker Paychecks and Family Choice Act, a discussion draft he unveiled last year that, among other things, would enhance current-law tax incentives for employers offering childcare and paid family leave programs to make it easier for smaller employers to provide these benefits. The proposal also calls creating a new tax-preferred family savings account and enhancing the current-law dependent care flexible spending account rules to help families—particularly those at the lower end of the income scale—pay for caregiving and other expenses.
**URL:** https://gop-waysandmeans.house.gov/wp-content/uploads/2021/05/OMNI_001_xml-003-FINAL.pdf

**Don't forget the Fed**

Another factor worth mentioning in the context of the current economic outlook is the Federal Reserve's role in controlling inflation—something Treasury Secretary Yellen emphasized in her remarks at the taxwriting committee hearings to examine the administration's latest budget blueprint. The Fed this week continued its campaign to address rising prices by announcing that it would increase the Federal Funds Rate by 75 basis points.

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