

House taxwriters report handful of noncontroversial tax bills, including extension of aviation excise taxes

The House Ways and Means Committee on June 7 marked up several bipartisan, noncontroversial tax bills, including assorted health care-related tax measures and an extension of excise taxes dedicated to the Airport and Airway Trust Fund which will likely be folded into forthcoming legislation to reauthorize programs overseen by the Federal Aviation Administration beyond their scheduled expiration on September 30.

A ‘buffer’ markup?

Most of the tax measures taken up by the Ways and Means Committee were introduced by GOP members, but also boasted Democratic cosponsors. That made the mark-up a relatively mundane—but not always friendly—exercise.

The panel’s ranking Democrat, Richard Neal of Massachusetts, took committee Chairman Jason Smith, R-Mo., to task for holding the mark-up less than a week after the resolution of the months-long debt limit stand-off and just before the release of what has been touted as an “economic growth” tax package from Smith and GOP members that is heavy on business-friendly tax code changes. (See related coverage in this issue for details of the just-released tax package, which is expected to be marked up on June 13; for details on the recently enacted bipartisan debt limit deal, which is estimated to trim spending by roughly \$1.5 trillion over the next decade, see *Tax News & Views*, Vol. 24, No. 21, May 31, 2023.)

[URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2023/TNV/230531_1.html](https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2023/TNV/230531_1.html)

“Finally, I’m happy to say . . . the quiet part out loud, [that] this mark-up is a buffer, putting space between the deficit cut argument of last week and the [GOP’s] deficit busting tax [cut] proposal,” Neal said in his opening statement. “It won’t protect Social Security, or give families more breathing room, but it’ll kill time before their tax cuts for the wealthy are ready.”

Aviation, healthcare-related tax bills

In addition to a pair of nontax measures aimed at combatting identity theft in the Social Security system, House taxwriters successfully reported the following tax bills:

- Extension of Airport And Airway Trust Fund Excise Taxes (H.R. 3796; Joint Committee on Taxation staff summary), which would extend for five years—through September 30, 2028—the various excise taxes imposed on amounts paid for commercial air passenger and freight transportation, and on aviation fuels, that fund the Airport and Airway Trust Fund. (As mentioned above, this legislation is likely to form the basis of the tax title included in any forthcoming House legislation to reauthorize the Federal Aviation Administration.)
[URL: https://www.jct.gov/publications/2023/jcx-11-23/](https://www.jct.gov/publications/2023/jcx-11-23/)
- The Telehealth Expansion Act of 2023 (H.R. 1843; summary), which would provide a permanent safe harbor under which a health plan linked to a tax-preferred health savings account would not fail to be treated as a high-deductible health plan (HDHP) by reason of covering telehealth and other remote health care services without satisfaction of the plan’s deductible. (Under current law, that safe harbor

is scheduled to lapse for plan years beginning after 2024.)

URL: <https://www.jct.gov/publications/2023/jcx-12-23/>

- The Chronic Disease Flexible Coverage Act (H.R. 3800; summary), which would essentially codify IRS Notice 2019-45, which expanded the list of preventive care benefits permitted to be provided by an HDHP, before the deductible, to include certain preventive care for specified chronic conditions.
URL: <https://www.jct.gov/publications/2023/jcx-13-23/>
- The Paperwork Burden Reduction Act (H.R. 3797; summary), which would make certain changes with respect to employer reporting of health insurance coverage on Forms 1095-B and 1095-C.
URL: <https://www.jct.gov/publications/2023/jcx-14-23/>
- The Employer Reporting Improvement Act (H.R. 3801; summary) which, among other changes, would allow certain flexibilities with respect to Taxpayer Identification Number (TIN) reporting required under the Patient Protection and Affordable Care Act and codify certain regulations under tax code sections 6055 and 6056 that permit electronic reporting to covered individuals in certain circumstances.
URL: <https://www.jct.gov/publications/2023/jcx-15-23/>
- The Small Business Flexibility Act (H.R. 3798, summary), which would require Secretary of the Treasury to notify employers—with an initial focus on small businesses—of the availability of certain tax-advantaged flexible health insurance benefits such as the small employer health insurance credit under section 45R.
URL: <https://www.jct.gov/publications/2023/jcx-16-23/>
- The Custom Health Option and Individual Care Expense (CHOICE) Arrangement Act (H.R. 3799; summary), which would codify certain rules related to CHOICE arrangements.
URL: <https://www.jct.gov/publications/2023/jcx-17-23/>

The base text of each bill, along with clerical changes offered as substitute amendments at the mark-up, is available on the Ways and Means Committee website.

URL: <https://waysandmeans.house.gov/event/39854204/>

Limited budget impact: With the exception of the Telehealth Expansion Act of 2023 (H.R. 1843), which is estimated to reduce federal receipts by about \$5 billion over the next decade, none of the proposals approved at this week’s mark-up are projected to have more than a negligible impact on federal revenues. That includes the extension of aviation-related taxes because budget scorekeeping conventions generally assume the permanent extension of excise taxes dedicated to government trust funds.

Shells for the Senate?

Perhaps just as notable as the legislation itself is the possibility that if the full House should take up and pass any or all of these measures—particularly the health care-focused bills—the Democratic-controlled Senate would be in a position to use them as so-called “shells” for the purpose of stripping out the House-passed legislative text and advancing its own tax-focused legislation. (Under the US Constitution, revenue measures must originate in the House, but the Senate is free to amend House-approved revenue legislation by deleting the original language and replacing it with its own revenue provisions.)

That said, any such bill would still require 60 votes—and thus, the support of at least nine Senate Republicans—to clear procedural hurdles in the upper chamber. At this time, it remains unclear what tax policy priority—or combination of priorities—could garner that magnitude of bipartisan support.

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