

Rites of Spring: Extenders, Budget Resolutions, and Tax Reform

Capitol Hill was a hotbed of activity last week, with hearings on steroid abuse in Major League Baseball and the use of filibusters to prevent votes on President Bush's judicial picks taking center stage. There also was plenty of discussion of tax and budget policy as lawmakers debated extenders, budget resolutions, and tax reform.

In a ritual of spring in Washington that is as regular as the blooming of the cherry blossoms, the Senate Finance Committee gathered to consider one-year extensions of a collection of business tax breaks such as the research credit. Few witnesses at the hearing had anything critical to say about the credit, although its chances of becoming permanent, which Bush wants, are doubtful. Other extenders, such as some energy incentives, may have overstayed their welcome, some senators suggested. The research credit, tuition deduction, and expiring provisions originally enacted in major tax bills passed in 2001 and 2003 are expected to be included in the fiscal 2006 budget resolutions.

Elsewhere on the legislative front, estate tax repeal may be picking up strength, although perhaps not enough. Technical corrections to the Jobs Act also are in the works (p. 1343).

Last week the House and Senate each passed budget resolutions that contain billions in tax relief. The road ahead may be rocky, with some lawmakers predicting that differences in spending levels could make a conference agreement on the budget resolution difficult to achieve.

During the Senate budget resolution debate, a Democratic amendment that would have subjected tax cuts to "pay as you go" budget rules was defeated. There also were several votes on amendments regarding Social Security (p. 1346).

Speaking of Social Security, lawmakers are discussing options for paying for private accounts within the system. Ideas include closing loopholes in the tax code and going after delinquent taxpayers (p. 1356).

Cracking down on tax cheats might be easier if the IRS had more money. The IRS Oversight Board wants \$11.6 billion for the Service next year, far more than Bush has asked for. But IRS Commissioner Mark Everson says he's just fine with the amount proposed by the administration (p. 1348).

There were a couple of IRS reg hearings last week. At a hearing on proposed regulations on electronic filing requirements for large corporations and exempt organizations, speakers said implementation of the regs should be delayed until software programs are able to handle e-filing (p. 1375). At another hearing, several employer plan groups and lawyers said proposed rules on phased retirement plans are too restrictive (p. 1377).

FBA Conference

There was a full agenda last week at the Federal Bar Association tax law conference. At one session, an official said the IRS Office of Professional Responsibility may use provisions in Circular 230 in the cases involving roughly three dozen practitioners and their roles in abusive shelter transactions (p. 1357). At another session, the IRS chief counsel indicated that the Service's next settlement initiative may focus on exempt organizations abuses, although he didn't provide details (p. 1350).

Other topics included accounting guidance (p. 1359), disguised sales of partnership interests (p. 1360), and guidance on nonqualified deferred compensation arrangements (p. 1361).

Tax Reform

The vice chair of Bush's tax reform panel thinks the group's proposals should be scored using a dynamic model rather than a static model, the approach used by the Joint Committee on Taxation. Finance Committee leaders want the JCT to score the proposals (p. 1351).

Martin Sullivan analyzes a Treasury Department memo from 2002 that presents several tax reform options. Sullivan says that some of the ideas presented in the memo will resurface in the reform panel's final recommendations (p. 1353).

OECD Draft

How is an OECD proposal like actress Morgan Fairchild? Lee Sheppard explains how in her analysis of a discussion draft produced by the OECD on the attribution of profits to a permanent establishment (p. 1362).

Lots of Commentary

In a practice article, Burgess and Bill Raby point out the problems of ignoring the differences between preparing tax returns and preparing refund claims (p. 1407).

WEEK IN REVIEW

In special reports, Stephen Bates, Chris Bowers, and Jeffrey Cowan examine tax planning to defer tax on income from the provision of cross-border services (p. 1411), and Jerred Blanchard Jr. discusses whether a taxpayer's own note or stock should be considered property for purposes of section 351 (p. 1431).

Paul Streckfus asks why the IRS thought it was a good idea to go after the NAACP for political activity (p. 1445), and Mark Hoffenberg analyzes a recent letter ruling on the value of different classes of stock and measuring owner shifts under section 382 (p. 1446). In K Rations (p. 1453), Prof. Darryl Jones offers a simple partnership merger/mixing bowl regulation (as well as some thoughts on the glamorous life of *Tax Notes* editors).

James Peaslee has written the IRS asking it to make room in Circular 230 for informal written advice; his letter is in Current and Quotable on p. 1457.

In our letters, Prof. Erik Jensen responds to criticism about his article on taxing recoveries for nonphysical injuries, Tom Daley takes issue with David Cay Johnston's income statistics, and Robert Wood comments on the tax treatment of interest. Letters begin on p. 1463.

Finally

While we were lounging in our sumptuous offices sipping champagne (just as Prof. Jones imagines), we received, via e-mail, a guide to tax opinion standards (p. 1469). It appears to be from Canada, but U.S. practitioners will probably find it useful. Well, at least as tax humor (and *Tax Notes* readers know that's not an oxymoron). ■

tax notes®

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Printed in the U.S.A.
ISSN 0270-5494

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Correspondence regarding editorial matters and submissions should be sent to the Editor, *Tax Notes*, 6830 North Fairfax Dr., Arlington, VA 22213, or e-mailed to taxnotes@tax.org.

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Tax Notes is published 51 weeks of the year. The annual subscription rate is \$1,999.

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Four permanent binders for convenient storage of the issues received during the year are \$79.

Delivery

Tax Notes is delivered by first-class mail, hand delivery, or international airmail, without additional charge. The magazine is mailed nationwide each Saturday for Monday delivery.

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Form of Citation

Articles appearing in *Tax Notes* may be cited by reference to the date of the publication and page, thus: *Tax Notes*, Jan. 12, 1998, p. 142.

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