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What Obama Didn't Mention in the State of the Union

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While there were no real surprises in the State of the Union speech, it did flesh out some tax proposals that will be acted on in the days ahead, according to observers.

"He mentioned a credit for new hires," said Tom Ochsenschlager, vice president of taxation at the AICPA. "While he wasn't specific in his speech, I understood the proposal to allow the employer hiring a new individual not to have to pay the employer's portion of Social Security taxes.

"He also talked about eliminating the long-term capital gain for certain investments in small business," Ochsenschlager added. "Right now there's a limited provision that would exclude up to 75 percent of gain on non-corporate investors who purchase original issue stock in a small C corporation. If he's going to bump it up to 100 percent, he'll need legislative action on that."He also talked about the 10-year credit for four years for college education. That's in the current law, but it would expire at the end of 2010 so he was talking about extending it," said Ochsenschlager.

"The child tax credit is anther one of the major initiatives he announced," Ochsenschlager noted. "This will also require legislative activity because he's increasing not only the percentage that is available for the credit but also the income level at which families would be eligible. So there are a fair amount of legislative changes that would be required."

Dean Zerbe, alliantgroup's national managing director and former tax counsel and senior counsel on the Senate Finance Committee, believes the proposed hiring credit has some real possibilities, but will end up looking more like the Schumer and Hatch proposals. "I'm worried it has too many restrictions," he said. "Every time they make it more complicated, it raises the compliance burden for small businesses."

The estate tax is a topic that was glaring in its omission from the President's speech, according to Zerbe. "There was no mention of the estate tax. It's the dog that didn't bark," he said. "We now have two camps in Congress, and both think they're in the driver's seat. The fact that the President didn't mention it tells me that the Administration doesn't have a strong interest in this issue. When there are two camps thinking they have the better hand, it's not conducive to a lot of give and take."

“The President noted that there should be tax incentives that encourage investments by all businesses in plants and equipment,” observed Lewis Taub, tax director at the New York office of RSM McGladrey. “He is clearly speaking about extending the liberal write-offs of capital equipment that expired at the end of last year. These provisions allowed for a complete deduction in the year of acquisition for certain amounts (in lieu of depreciation over many years) and a 50 percent write-off in the year of acquisition for other capital investments.”

And where the President called for ending tax cuts for the wealthy, he defined the wealthy as those with total income over $250,000, Taub noted. This refers to “the Administration’s desire to both reinstate the 36 percent and 39.6 percent tax brackets on income that were taken out of the tax rules in 2001, and to increase the tax on capital gains and dividends from 15 percent to 20 percent,” he said.