alliantgroup

accountingTODAY

The Road Ahead for Taxes & Washington

As 2013 recedes in the rearview mirror, it is understandable that tax professionals look to the road ahead regarding taxes and Washington.

BY DEAN ZERBE, former Senior Counsel to the Senate Finance Committee and alliantgroup National Managing Director

The early sense is that when it comes to tax law, 2014 is going to be a docked party boat on New Year's Eve – lots of excitement and noise on deck but the ship isn't going anywhere – until maybe around midnight.

TAX REFORM

The two chairmen of the tax writing committees – Congressman Dave Camp (R-MI), Chair of Ways and Means, and Senator Max Baucus (D-MT), Chair of Finance, have certainly been doing yeoman's work on tax reform.

Chairman Camp has put out detailed and thoughtful policy papers on international tax, financial products and pass-thru entities. Chairman Baucus has matched Chairman Camp's efforts with detailed and considered policy papers on international tax, business tax *(amortization in particular)* and tax administration *(a special hat's off for Chairman Baucus' paper on tax administration looking to address two key issues for CPAs – work compression, thanks to the tight filing season deadlines, and identity theft of taxpayers – which is endemic).*

Credit goes to the two chairmen for seeking to find common ground and for pulling against the prevailing winds and trying to move significant tax reform. Alas, the two chairmen appear to, at times, be the only two at the oars trying to move forward on tax reform. There is little in the way of amens on tax reform coming from the Congressional leadership of either party, and the administration is not providing any substantive support.

Adding to the problems of achieving movement on tax reform, the two parties are deeply divided on key aspects of tax reform – for example, with Democrats generally viewing that reform should raise taxes *(approximately $950 billion over 10 years)* and Republicans wanting reform to be revenue neutral overall *(tax increases used to offset tax cuts).* Even in Washington, $950 billion dollars is quite a difference to overcome.

It would take a significant sea change in outlook *(particularly from the administration)* to jump-start tax reform – and that doesn't appear to be in the offing with the economy's recovery, just good enough to undercut calls for efforts to revamp the tax code as a means of boosting jobs and the economy. However, just because tax reform may not happen this coming year doesn't mean businesses and tax professionals should dismiss or fail to comment on the work of the two chairmen *(who are both retiring at the end of 2014).* The work the committees are doing is certainly setting the stage for discussions down the road – particularly in international tax – when tax reform is on everyone's agenda.

AFFORDABLE CARE ACT (ACA)

The ACA has certainly had one of the most difficult births of any legislation in recent memory – with self-imposed delays by the administration, problems with the website, and daily headlines of some new headache *(as I write today, the stories were that the deductibles for many of the "bronze" plans were going to be extremely high).*

Setting aside whether the law is good, bad or ugly, there is unlikely to be any legislative relief in the near future to "fix" or "mend" the ACA as being proposed in some quarters. Why? Reasons from each camp – for the Republicans, they are focused on "repealing and replacing" the ACA and are unkeen on doing any "tinkering" to eliminate some of the provisions – including those that are widely viewed as egregious. In short, there is not a strong desire from their perspective of taking a bad dish and making it a little more palatable.

For the Democrats, the untold secret is that if the ACA was allowed to be opened up for amendments to revise and rewrite – wow, Katie, bar the door. It would get ugly quick – the number of ACA provisions that would be significantly modified, amended or wholly trashed would be sizeable. Better to keep a lid on any legislative changes to ACA– don't take a lot of horrible votes – and instead play to the home crowd by beating up on the administration to "fix it."

So where does that leave us on ACA? Plenty of nothin' will happen legislatively. However, look for the administration to continue its ad hoc delays and modifications as needed. The strong desire seems to try to ameliorate and temporize problems. That said, there is an outside chance that if the bad headlines continue *(and especially if they grow)* and congressmen and senators start to get nervous about their own elections, you might see a heavy run for the lifeboats – but for now supporters of the legislation seem to be prepared to weather the storm.

Given the importance of this legislation to the White House, it is hard to see that even a strong Republican election night in November 2014 would lead to a major rewrite of the ACA. Look for the ACA to be decided by the 2016 presidential elections *(oh, happy day).*

EXTENDERS

Tax extenders are basically hostage for now to the fortunes of tax reform. The two chairmen don't want to see tax extenders moving forward separate from tax reform as this will take away some of the drive and energy for reform *(and justification for reform as well).* In short, when the Congress starts to consider extenders, it is the official blowing of taps for tax reform. For that reason, I don't expect tax extenders to be addressed until around midnight *(i.e. lame duck session December 2014).*

Look for Congress for sure to extend *(and back date, so no break)* the major business tax extenders *(especially the Research and Development tax credit – everyone's favorite).* The energy tax extenders that have been extended in the past *(such as 179D for energy efficiency buildings – very popular with architects and engineers)* will certainly be strong odds-on for being extended as well.

The question is, will the two chairmen try to use extenders to do any partial or limited tax reform? Hmmmm – I'm skeptical. While there may be a desire, when I was on the Senate Finance Committee in this same scenario, the pressure to do "clean" extenders *(with little to no changes to tax laws)* was high as members wanted to wrap up business and get home. It's hard to jam in even small tax reform in what will be little more than a dozen working days after the elections.

Lastly, is it possible that Congress could find agreement on some small bill to move – like they did with the Small Business Jobs Act of 2010. There are certainly some areas of wide agreement, such as incentives for manufacturing, that could be translated into a smaller bill that might traverse the political minefields – but such a bill would be a body blow to bigger tax reform. However, if there was an outside event – bad employment numbers, a major emergency, etc., that might serve as a vehicle for some small tax changes. At the moment, even something limited in tax seems unlikely for this year. Perhaps it's better to look at the bright side and be happy that once again, we will have a year without any big changes to the tax laws – people always clamor for certainty and now they have it. In short, there is nothing much on the road ahead.

Dean Zerbe is alliantgroup's National Managing Director based in the firm's Washington D.C. office. Prior to joining alliantgroup, Mr. Zerbe was Senior Counsel and Tax Counsel to the U.S. Senate Committee on Finance. He worked closely with then-Chairman and current Ranking Member of the Finance Committee, Senator Charles Grassley (R-IA), on tax legislation. During his tenure on the Finance Committee, Mr. Zerbe was intimately involved with nearly every major piece of tax legislation that was signed into law – including the 2001 and 2003 tax reconciliation bills, the JOBS bill in 2004 (corporate tax reform), and the Pension Protection Act. Mr. Zerbe is a frequent speaker and author on the outlook for short-term and long-term changes in tax policy, as well as ways accounting firms can help their clients lower their tax bill.

SOURCE: www.accountingtoday.com/news/Road-Ahead-Taxes-Washington-68994-1.html