

Tax Policy Update

April 24, 2018

NUMBER OF THE WEEK: 243



Photo: Reagan National Airport/Official

That's the [number of amendments](#) that has been submitted for the 2018 Federal Aviation Administration (FAA) reauthorization bill ([H.R. 4](#)) that is coming up for a vote this week in the House. The House Rules Committee is scheduled to meet on April 24 at 5 p.m. to draft a rule for debate.

Among the proposed amendments is a bipartisan tax measure ([Amdt. 104](#)) that would eliminate federal tax-exempt bonds for stadium financing. It remains to be seen how many of the 243 amendments will actually be taken up for consideration.

H.R. 4 would provide a five-year reauthorization of the FAA, and it does *not* contain the controversial proposal to privatize the air traffic control system. Passage in the House is expected, but its fate in the Senate remains up in the air.

LEGISLATIVE LANDSCAPE

Rescission, Rescission, What's Your Decision? The White House remains determined to send Congress its rescissions package for the \$1.3 trillion omnibus spending bill enacted last month.

According to Office of Management and Budget (OMB) Director Mick Mulvaney, the package of proposed cuts could come the first week of May. Mulvaney is aiming to have Congress vote on the package by July.

The rescissions package could include anywhere between \$30 billion to \$60 billion in spending cuts, primarily targeting unused funds and accounts. Once Congress receives the rescissions package, lawmakers will have 45 days to approve the proposed cuts. Otherwise, the appropriations will remain intact.

Senate Majority Leader Mitch McConnell (R-KY) is strongly opposed to using the rescissions maneuver to roll back parts of the omnibus deal. "We had an agreement with the Democrats. You can't make an agreement one month and say, 'OK, we really didn't mean it,'" McConnell said.

It's safe to say that the White House's package of "backsies" is unlikely to pass Congress.

Much Ado About Extenders. The April 18 extenders roundtable at the House Ways and Means Committee has been described as a "dog and pony show" given that nothing substantive came out of the closed-door gathering. Only about a dozen lawmakers showed up to defend their favored tax provisions

The committee is expected to issue its recommendations for extenders in May — for example, which provisions should be made permanent or eliminated. Staffers on both sides of the aisle are working closely with the Joint Committee on Taxation (JCT) to get a score for the provisions.

One thing to keep an eye on is whether lawmakers will offset the extenders that they want to make permanent. The Ways and Means Subcommittee on Tax Policy may also hold another hearing before making any final decisions.

House Passes Bills to Redesign the IRS. For Tax Day, the House celebrated the passage of a series of bills related to IRS reform, including the [Taxpayer First Act](#) (H.R. 5444). A description of the bills can be found [here](#).

The package of bills now moves to the Senate for consideration, though it is unclear as to how the upper chamber will proceed. The Senate Finance Committee is currently reviewing the bills and may craft its own package in the coming weeks.

Acting IRS Commissioner David Kautter has called the House legislation "constructive," but has noted that he would like Congress to go further. IRS commissioner nominee, Chuck Rettig, and

IRS chief counsel nominee, Michael Desmond, have not weighed in on the proposed changes to the agency.

Outside groups have also floated additional changes for the agency. The American Institute of CPAs (AICPA) has suggested that any bill to reform the agency should include provisions on the regulation of tax return preparers, which includes minimum standards for preparers. Additionally, the National Treasury Employees Union (NTEU) would like the IRS to end its private debt collection program.

An Untimely Glitch. The case for reforming the IRS might be stronger than ever, as an 11-hour outage on the last day of filing season created chaos for the agency and taxpayers. IRS officials said the failure occurred on a newer piece of IBM hardware that's a little over a year old. However, software dating back to the 1960s runs on the hardware, affecting other components of the system. The agency maintains that the system failure was not a result of cybercrime. The IRS granted taxpayers an extra day to file returns in order to make up for the outage.

REGULATORY WORLD

Kautter: IRS Will Enforce ACA Employer Mandate. On April 17, Acting IRS Commissioner David Kautter said the agency would continue to enforce the *Affordable Care Act's* (ACA) employer mandate. At a House Oversight Subcommittee hearing, Kautter explained that it is still the law, and the agency is therefore required to implement it. The IRS has sent nearly 10,000 enforcement letters since last fall, though a majority of these cases have been resolved without companies paying anything, after negotiations with the agency.

Several Republicans have argued that President Trump's executive order directing federal agencies to take all actions consistent with the law to minimize the economic and regulatory burdens of the ACA includes ceasing to enforce the mandate.

Democrats and the IRS maintain that, absent repeal, there is a constitutional obligation to enforce the mandate.

Déjà Rule. The SEC voted, 4-1, to [propose two rules and an interpretation](#) related to the standard of conduct for broker-dealers and investment advisers. Under the proposal, registered broker-dealers and investment advisers would be required to provide a brief "client relationship summary" (CRS) to retail investors. Form CRS would include service details, registration status, material conflict disclosures, and a list of key questions that a retail investor should discuss with his or her financial advisor.

Commissioner Kara Stein (D), the sole dissenter, has been most critical of the proposed package, calling it "Regulation Status Quo." In her view, the proposals contain nothing new, as most of the requirements are already in place. She argued that Regulation Best Interest, despite its name, does not actually put the customer's interests first — given that the proposed rules do not even define what "best interest" means. She noted that broker-dealers under this proposal

would only be required to provide “reasonable” disclosure and offer “reasonably” designed policies and procedures to mitigate competing interests/conflicts. In Stein’s view, the proposal is essentially a safe harbor for broker-dealers and does little to actually protect consumers.

Although a majority of the commissioners voted to approve the proposed package of rules and interpretation, they recognized that the proposals are incomplete and will require significant input from the public. The package of proposals is subject to a 90-day comment period after it is published in the *Federal Register*.

LINE ITEMS

1. The Treasury Department issued a [report](#) listing the administration’s regulatory reform accomplishments, including a proposal to eliminate more than 300 regulations.
2. The House Ways and Means Committee announced that Gary Andres is the new majority staff director for the committee. Andres previously worked for both Presidents George H.W. Bush and George W. Bush as deputy assistant to the president for legislative affairs. His private sector experience includes stints at the Biotechnology Innovation Organization and Dutko Worldwide.
3. The JCT has published the following documents for the first meeting of the Joint Select Committee on the Solvency of Multiemployer Pension Plans on April 18: (1) [Present Law Relating to Multiemployer Defined Benefit Plans](#) and (2) [Testimony of the Staff of the JCT Before the Joint Select Committee on the Solvency of Multiemployer Pension Plans](#).
4. The White House announced that the president would soon nominate Richard Clarida to serve as vice chairman of the Federal Reserve Board and Michelle Bowman to serve as a governor of the board. Clarida is the current managing director of PIMCO. Bowman is the state bank commissioner of Kansas.

COMMANDER-IN-TWEET



Donald J. Trump ✓

@realDonaldTrump

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Mexico, whose laws on immigration are very tough, must stop people from going through Mexico and into the U.S. We may make this a condition of the new NAFTA Agreement. Our Country cannot accept what is happening! Also, we must get Wall funding fast.

6:51 AM - 23 Apr 2018

22,923 Retweets 93,174 Likes



19K 23K 93K

IN THE QUEUE

Congressional Activity

Tuesday, 4/24

Senate Finance Committee

Full committee hearing on "Early Impressions of the New Tax Law."

Wednesday, 4/25

House Ways and Means Committee

Subcommittee hearing on "Jobs and Opportunity: Employer Perspectives on the Jobs Gap."

House Financial Services Committee

Subcommittee hearing on the HUD's role in rental insurance and review of legislative proposals on rent reform.

House Appropriations Committee

Subcommittee hearing on FY 2019 budget of the Federal Housing Administration.

House Appropriations Committee

Subcommittee hearing on “FY 2019 Financial Services Member Day.”

Thursday, 4/26

House Financial Services Committee

Subcommittee hearing on oversight of the SEC’s Division of Corporation Finance.

House Energy Committee

Subcommittee hearing on reform of the CFIUS review process.

House Appropriations Committee

Subcommittee hearing on FY 2019 budget of the SEC. Chairman Jay Clayton to testify.

Friday, 4/27

House Financial Services Committee

Subcommittee hearing on FinCEN’s customer due diligence rule.

Other Activity

Tuesday, 4/24

Heritage Foundation

Discussion on “The Myth of Independence: How Congress Governs the Federal Reserve.”

Thursday, 4/26

Heritage Foundation

Discussion on crowdfunding and necessary reforms.

U.S. Chamber of Commerce

12th Annual Capital Markets Summit: Financing the Future of American Business. Speakers will include Rep. Bill Huizenga and House Financial Services Chairman Jeb Hensarling.

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