

Tax Policy Update

June 5, 2018

NUMBER OF THE WEEK: 25%



Source: [Composites Manufacturing](#)

The tariff rate that the Trump administration is imposing on imported steel from the European Union, Canada, and Mexico. The administration's announcement last week, which also included a 10 percent tariff on aluminum imports, surprised and rattled U.S. allies. Conservative advocacy groups like Americans for Prosperity and Freedom Partners issued a [joint statement](#) saying that the tariffs are "a step back from a pro-growth agenda" and [will undermine the benefits of the 2017 tax cuts](#). They urged the administration to reverse course and abandon the tariffs.

Despite the tariff announcement, NAFTA negotiations will continue; but Canada and Mexico are growing increasingly frustrated with the administration's unwillingness to compromise on key issues. On May 31, President Trump said that the U.S. "will agree to a fair deal, or there will be no deal at all." The administration has made it clear that withdrawal is still an option.

Shout-out. A special thanks to [Victoria Marchetti](#) for helping the *Tax Policy Update* team get smart on trade!

Self-Promotion. [Radha Mohan](#) and [Lai King Lam](#), members of the *Tax Policy Update* team, wrote an article for *Law360* titled, “Why IRS Will Struggle to Respond to State SALT Cap Bypass” — read it [here](#).

LEGISLATIVE LANDSCAPE

Where Were We? Congress is back this week from its Memorial Day recess, and there’s a hefty to-do list. Lawmakers are hoping to get as much done as possible before the July 4 recess.

The near-term work agenda includes:

FY 2019 Appropriations. This Thursday, the House is preparing to tackle its first “[minibus](#)” spending bill on the floor. The three-bill bundle covers the FY 2019 Energy-Water, Legislative Branch, and Milcon-VA spending bills — which are traditionally the easiest ones to pass.

FY 2019 Defense Reauthorization. The Senate may take up the FY 2019 defense reauthorization bill this week. Of note, the Senate version of the defense reauthorization bill contains the [Foreign Investment Risk Review Modernization](#) (FIRRMA) that cleared the Senate Banking Committee on May 22.

Farm Bill and Immigration. The Senate Agriculture Committee may introduce its farm bill this week. Meanwhile in the House, lawmakers will have another go at [H.R. 2](#), which failed on the floor last month due to a rebellion by the House Freedom Caucus over an unrelated issue, immigration. House Agriculture Chairman Mike Conaway (R-TX) has expressed confidence that the GOP will secure the necessary votes to pass the farm bill before the end of June. At this writing, the plan is to take up H.R. 2 on or before June 22; leadership will give the House Freedom Caucus a vote on immigration prior to the farm bill vote.

2018 FAA Reauthorization. While the House has passed its [FAA reauthorization bill](#) (H.R. 4), the Senate has yet to make an official move. Senate Commerce, Science, and Transportation Chairman John Thune (R-SD) said that he would like to pass a clean bill before August recess. However, many Capitol Hill watchers suspect that another extension is likely.

2018 Water Infrastructure (H.R. 8 and S. 2800). The House is set to take up consideration of its water infrastructure bill as early as Wednesday. The reauthorization measure covers projects related to flood control, conservation, and waterway improvements, among other things.

Livein’ On a Prater. Speculate no more: PwC announced that it has snagged Mark Prater, former chief tax counsel of the Senate Finance Committee. Prater will serve as the managing director of the tax policy services group. PwC’s acquisition is making a big splash in Washington given that Prater was closely involved in writing the international tax portion of the GOP tax law.

House Appropriations Releases FY 2019 IRS Funding Bill. On May 23, the House Appropriations Committee released the FY 2019 Financial Services spending bill, which provides funding for the Treasury Department, the Judiciary, the Small Business Administration, the Securities and Exchange Commission and other related agencies. The bill totals \$23.4 billion, which is the same as the FY 2018 enacted level.

For FY 2019, House appropriators kept funding steady for the IRS. The bill provides \$11.6 billion for the IRS – an increase of \$186 million above the fiscal year 2018 enacted level. Of the funds, \$77 million are targeted to help the IRS with implementing the new tax law.

In total, the bill provides taxpayer services an additional \$31 million above the fiscal year 2018 enacted level to support funding for fraud prevention and cybersecurity, as well as IRS's customer service — such as phone call and correspondence response times. The legislation also includes provisions to safeguard taxpayer dollars at the IRS.

In the Senate, appropriators will set their FY 2019 funding level for the IRS the week of June 18.

Housekeeping at Senate Finance and House Ways and Means. In June, the congressional tax-writing committees may hold additional hearings on the economic impact of tax reform. Additionally, a House Ways and Means Committee hearing regarding the impact of tariffs on international tax policy could also be on the horizon given the recent trade conflicts with U.S. allies.

Based on chatter that the *Tax Policy Update* team has picked up, Ways and Means may also hold a markup of legislation related to health savings accounts near the end of June.

Senate Finance Chairman Orrin Hatch (R-UT) is expected to schedule a third hearing on pension reform over at the Joint Select Committee on Solvency of Multiemployer Pension Plans. Both Hatch and Ways and Means Chairman Kevin Brady (R-TX) have previously expressed interest in advancing legislation to boost retirement savings.

On June 12, The Senate Finance Committee will consider the nominations of Patrick J. Urda and Elizabeth Ann Copeland to be judges on the U.S. Tax Court.

REGULATORY WORLD

IRS Releases New Strategic Plan. On May 23, the IRS released a new five-year [Fiscal Year 2018-2022 IRS Strategic Plan](#), which includes goals for upgrading information technology (IT) systems, expanding digital platforms and services for taxpayers, and improving tax administration. The new strategic plan comes as Congress considers legislation to modernize IRS operations.

The strategic plan is meant to serve as a roadmap to help guide the agency's programs and operations. Developed with input from external partners as well as IRS employees, the plan specifically focuses on six goals to help improve customer service:

- Empower and enable all taxpayers to meet their tax obligations.
- Protect the integrity of the tax system by encouraging compliance through administering and enforcing the tax code.
- Collaborate with external partners proactively to improve tax administration.
- Cultivate a well-equipped, diverse, flexible and engaged workforce.
- Advance data access, usability and analytics to inform decision-making and improve operational outcomes.
- Drive increased agility, efficiency, effectiveness and security in IRS operations.

Given recent events, the strategic plan also focuses on cybersecurity, promising to develop an early-warning and notification system to detect compliance problems and expand the agency's cybercrimes unit, among other goals.

In a statement accompanying the release of the strategic plan, Acting IRS Commissioner David Kautter said he hopes the plan will result in higher compliance rates and increased taxpayer satisfaction as cases are resolved in a timely manner.

Kautter Remarks at Senate Hearing on Tax Return Preparers. On May 22, at a Senate Appropriations Financial Services and General Government Subcommittee hearing on IRS funding for the 2019 fiscal year, Acting IRS Commissioner David Kautter said he is open to motivating paid tax return preparers to seek a federal certification in exchange for quicker processing.

Kautter has requested legislative authority to mandate minimum competency standards and annual education for paid preparers. Over 400,000 of paid preparers have no professional credentials. Kautter told members of the subcommittee, including Chairman James Lankford (R-OK) that requiring paid preparer licensing would benefit taxpayers and the IRS by improving accuracy. This is the first time Kautter has taken a strong public stance on the issue of paid preparer regulation.

More Opposition to an EU Digital Tax. As the European Union considers a tax on the digital turnover of large corporations, Norway, Sweden, and Denmark have indicated that they are opposed to such a measure. The leaders of these countries have noted that a digital services tax deviates from the fundamental principles of income tax by applying a tax to gross income, disregarding whether the companies are making a profit or not.

France has been leading the push for a new EU digital tax, but the three Nordic countries join nations like Ireland, Luxembourg, and the Netherlands in opposing the measure.

The European Commission recently proposed a 3-percent tax on turnover for companies with EU digital revenues over €50 million and total global revenues over €750 million. Over 50 percent of the affected companies would be American. This is an attempt by the EU to combat base erosion and profit shifting by digital companies that often don't have a physical presence in many jurisdictions.

AICPA: More Guidance Needed on Virtual Currency. In a [May 30 letter](#) to the IRS, the American Institute of CPAs (AICPA) asked for additional guidance on the tax treatment of virtual currency transactions.

The IRS first issued guidance on the topic in 2014 ([Notice 2014-21](#)), which explains the application of existing tax principles to the use of virtual currency. The explanations come in the form of answers to frequently asked questions (FAQs).

The AICPA is now asking the agency to provide supplemental guidance to Notice 2014-21. Specifically, the AICPA recommends that the agency address the following issues:

- Expenses of obtaining virtual currency
- Acceptable valuation and documentation
- Computation of gains and losses
- Need for a *de minimis* election
- Valuation for charitable contribution purposes
- Virtual currency events
- Virtual currency held and used by a dealer
- Traders and dealers of virtual currency
- Treatment under Internal Revenue Code (IRC) section 1031
- Treatment under IRC section 453
- Holding virtual currency in a retirement account
- Foreign reporting requirements for virtual currency

LINE ITEMS

1. The Black Lung Disability Trust Fund is at risk again due to a tax cut that will reduce coal-company contributions to the fund. The fund currently provides medical coverage and monthly payments for over 15,000 ex-miners. Congress must decide whether to extend the current tax rate to avoid insolvency.
2. On June 4, the IRS [announced](#) that it will waive certain late-payment penalties related to the repatriation tax under Sec. 965.
3. According to Chip Harter, the Treasury Department's deputy assistant secretary for international tax affairs, the department is aiming to issue regulations on the Sec. 965 transition rule in July 2018.
4. The FDIC welcomed its new chairman, Jelena McWilliams, on June 5. McWilliams replaced Martin Gruenberg who will stay on as a board member. Gruenberg's term on the board does not expire until the end of 2018.
5. Elad Roisman, a staffer of the Senate Banking Committee, is expected to be nominated to replace outgoing SEC Commissioner Michael Piwowar.

- Shahira Knight, the president's top economic adviser, will join the Clearing House as executive vice president and head of public affairs.

COMMANDER-IN-TWEET



Donald J. Trump ✓

@realDonaldTrump

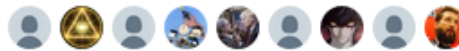
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IN THE QUEUE

Congressional Activity

Wednesday, 6/6

House Ways and Means Committee

Subcommittee hearing on "Lowering Costs and Expanding Access to Health Care through Consumer-Directed Health Plans."

House Small Business Committee

Hearing on "Millennials and the Gig Economy."

House Financial Services Committee

Subcommittee hearing on "Homeless Children and Youth Act of 2017."

House Financial Services Committee

Subcommittee hearing on "Improving Transparency and Accountability at the Bureau of Consumer Financial Protection."

Thursday, 6/7

House Ways and Means Committee

Subcommittee hearing on “Examining Social Security’s Solvency Challenge: The Status of Social Security’s Trust Funds.”

Agency Activity

Tuesday, 6/5

SEC

Open meeting to consider a proposal to revamp the Volcker Rule. The SEC will also consider whether to adopt a new rule to provide certain registered investment companies with an optional method to transmit shareholder reports; and whether to issue a release requesting comment about processing fees for delivering shareholder reports to fund investors; among other things. See full agenda [here](#).

Other Activity

Tuesday, 6/5

New America

Discussion on “Making the Case for Transparent Financial Aid Offers.”

Thursday, 6/7

Washington International Trade Association

Armchair [discussion](#) with Under Secretary of Commerce for International Trade Gilbert Kaplan.

Friday, 6/8

Bipartisan Policy Center

Discussion on “Healthy Homes Equal Healthier Lives” with HUD Secretary Ben Carson.

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