

Tax Update

The Super Committee: Last, Best Chance for Tax Reform?

New tax proposals from President Obama and Senator Majority Leader Reid have dominated the headlines in recent weeks, but the real story in Washington is the work of the Joint Select Committee on Deficit Reduction (JSC), also known as the “Super Committee.” The JSC will consider pro-growth tax reform in its deliberations.

Genesis. As part of the resolution to this summer’s bitter partisan standoff on raising the debt limit, Congress passed the Budget Control Act of 2011. This Act established the JSC and charged this group with reaching a consensus on specific deficit reduction measures within a certain timeline. Failure to reach an agreement that can pass Congress and be signed into law will trigger drastic cuts to defense and other discretionary spending.

The JSC consists of six senators and six House members, chosen by party leadership and evenly split along party lines (Exhibit 1).

The Challenge. Reaching a consensus by the committee’s November 23 deadline will be difficult, and beyond that, the measure will still face an uncertain fate. The JSC, Congress, and the president must accomplish the following — without exception — to avoid triggering the automatic spending cut:

- The JSC must produce a report and corresponding legislation with detailed findings and recommendations to reduce the deficit by \$1.5 trillion over 10 years.
- The committee must vote on the report and legislation, with at least seven members voting in favor.
- These tasks must be completed by November 23 (although the committee may need to reach an agreement weeks earlier to give the Congressional Budget Office enough time to review and confirm the report’s numbers).
- Assuming this is completed on schedule, the entire package must be submitted to the president and Congressional leadership by December 2.
- No amendments by House or Senate Committees are allowed.
- Then the bill must be sent to both the House and Senate by December 9 for a straight up-or-down vote, which must be completed in both houses by December 23.
- Assuming the legislation passes both houses, President Obama must sign the bill into law by January 15, 2012.

Exhibit 1: The Super Committee

Democratic Members

Sen. Patty Murray (Co-Chairman)
 Sen. Max Baucus
 Sen. John Kerry
 Rep. Jim Clyburn
 Rep. Chris Van Hollen
 Rep. Xavier Becerra

Republican Members

Sen. Jon Kyle
 Sen. Rob Portman
 Sen. Pat Toomey
 Rep. Jeb Hensarling (Co-Chairman)
 Rep. Dave Camp
 Rep. Fred Upton

Prospects for Tax Reform. With such a tight time frame, it would seem impossible to develop a consensus on deficit reduction and tax reform if the JSC were starting from square one. Fortunately, there has been a great deal of bipartisan work in this area in the recent past (see this [Tax Update](#) published in May 2011). Committee members have acknowledged the role previous reform committees may play in their work. For example, Representative Chris Van Hollen (D., Md.) recently said, “We don’t have to reinvent the wheel. We have two recent bipartisan commissions, as well as the work from the Gang of Six that have provided a framework for the general approach we should take.”

While such statements are encouraging, the JSC remains unlikely to agree on the approach for tax reform and deficit reduction. Republicans believe that increased revenues should result from greater economic activity, not higher effective tax rates. Democrats favor a balanced approach, with tax increases as part of the solution. For the legislation to move forward, at least one of the JSC members will have to cross the aisle; however, any agreement that is reached will likely be broad enough to attract wide bipartisan support. After all, Congress ultimately has to vote on it.

American Jobs Act/President’s Plan for Economic Growth and Deficit Reduction. The tax provisions in President Obama’s recent proposals and the introduction of a millionaire’s tax by Senator Reid have no binding effect on the work of the JSC, although there may be common ground in some of the job creation proposals. Notwithstanding, the tax provisions are highly unlikely to attract the support of the required majority of JSC members, not to mention the majority of House members.

Last, Best Chance? Assuming the JSC efforts do not bear fruit, the political calendar suggests it will be difficult to achieve any consensus on tax reform until after the 2012 elections. A lame duck session of Congress could be convened to address unresolved tax issues, such as the need for a 2012 Alternative Minimum Tax patch, but major tax reform and deficit reduction would likely be left to the 113th Congress in 2013.

We will continue to keep you up to date on the ever-changing tax legislative landscape in Washington. If you have any questions or would like to discuss this further, please contact your client account manager or one of our senior tax consultants.

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