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## CONGRESS CONSIDERS USING THE “RECONCILIATION” PROCESS AGAIN TO MAKE IT EASIER TO PASS DEFICIT-INCREASING TAX CUTS

by Joel Friedman and James Horney

Congressional leaders are considering standing the congressional budget process on its head once again in pursuit of more tax cuts. They reportedly are considering including in the Congressional budget resolution, which they will begin work on next week, an instruction to the House Ways and Means Committee and the Senate Finance Committee to produce a “reconciliation” bill that cuts taxes by around \$100 billion between 2006 and 2010.<sup>1</sup>

The “reconciliation” process is a fast-track process that originally was used to facilitate the passage of deficit-*reduction* legislation. The process was intended to protect hard-to-pass legislation that would reduce entitlement expenditures or raise taxes from a filibuster in the Senate, and thereby to ensure that such legislation would need 51, rather than 60, votes to pass. In recent years, Congressional leaders have contorted the reconciliation process by using its procedural protections to make it easier to cut taxes — and thereby to *increase* the deficit — the opposite of the way reconciliation was originally used. Now, at a time when there is heightened concern about deficits and the Administration is proposing substantial cuts in a large array of domestic programs, Congressional leaders are considering using reconciliation again to make it easier to pass further tax-cut measures.

- Congressional leaders are reportedly considering using the reconciliation process to facilitate passage of a deficit-financed tax-cut bill that would extend through 2010 the capital gains and dividend tax cuts slated to expire at the end of 2008, and also would extend various tax-cut measures scheduled to expire at the end of 2005, such as the research and experimentation tax credit and relief from the Alternative Minimum Tax.
- These tax cuts would disproportionately benefit the well-off. The Urban Institute-Brookings Institution Tax Policy Center estimates that in 2005, nearly half — 46 percent — of the dividend and capital gains tax cuts will go to the 0.2 percent of households that have incomes in excess of \$1 million. These households will receive an average tax cut of \$35,500 in 2005 from these two provisions. Some 74 percent of the dividend and capital gains tax cuts this year will go to the 3.1 percent of households with incomes exceeding \$200,000 a year. By contrast, the 87 percent of households with incomes of less than \$100,000 will receive only 12 percent of these tax cuts.

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<sup>1</sup> See CongressDailyPM, “GOP Considering Separate Bills for Tax, Entitlement Cuts,” February 25, 2005.

- The roughly \$100 billion “tax cut” reconciliation bill reportedly under consideration would be part of a Congressional budget plan that is expected to include large cuts in domestic programs. The budget plans the House and Senate Budget Committees are developing are expected to adhere closely to the levels that the President’s budget proposes for annually appropriated (i.e., “discretionary”) programs. Under the President’s budget, funding for discretionary programs outside of the Department of Defense, homeland security, and international affairs — i.e., for domestic discretionary programs — would be reduced \$214 billion over five years, compared to the current funding levels for these programs, adjusted only for inflation.

Reductions in entitlement programs such as Medicaid, food stamps, and farm price supports also are expected to be part of the Congressional budget plan, accompanied by reconciliation instructions to “enforce” those cuts. (Such cuts are included in the President’s budget.) Thus, while high-income households would benefit handsomely from an extension of the dividend and capital gains tax cuts protected by the reconciliation process, significant numbers of low-income children, parents, seniors, and people with disabilities would be adversely affected by Medicaid and food stamp cuts.

- If a reconciliation instruction for tax cuts is included in the Congressional budget plan, it apparently will call for a “tax cut” reconciliation bill that is *separate from the reconciliation bill that would contain the reductions in assistance programs*. Congressional leaders reportedly want to keep the two reconciliation bills separate to avoid the appearance that programs that benefit low- and moderate-income families, farmers, and others are being cut to finance tax cuts that primarily benefit those with high incomes.

The reconciliation process was first used in the early 1980s with the explicit goal of facilitating the passage of legislation intended to reduce the deficit. The debate on a reconciliation bill is limited to a certain number of hours and cannot be subject to a filibuster in the Senate, which requires 60 votes to stop. The practical result of this “filibuster protection” is that a reconciliation bill needs only a majority vote to pass in the Senate. In the current Congress, where the majority party in the Senate holds 55 seats, the difference between needing 51 votes rather than 60 to secure passage of a bill can be substantial.

Using the reconciliation process to facilitate the passage of measures that cost money and swell deficits stands the purpose of reconciliation on its head. Reconciliation was used to push through and enact the tax-cut packages in 2001 and 2003; as noted, Congressional leaders are now considering using it to extend those tax cuts and possibly to add new tax-reduction measures. This is a dangerous precedent to continue to build. If this practice continues, it may be used in the future not only to cut taxes further but also to expand popular entitlement programs. Pressure to expand the Medicare prescription drug benefit, for example, is likely to grow once the new drug benefit takes effect and beneficiaries discover the large gaps it contains. Reconciliation could become an obvious vehicle to facilitate such an expansion.

Using reconciliation to make it easier to pass legislation that increases the deficit is unsound fiscal policy. When deficits were high in the past, Congress used the reconciliation rules as a bulwark against irresponsible budgeting. The reconciliation process was originally used to help Congress “do the right thing” — to take steps that are in the nation’s best interest but are hard politically. Now, reconciliation is being used to enhance the chances of fiscally irresponsible legislation. At a time when Congress is looking to cut domestic programs that serve millions of Americans in the name of deficit reduction, it should resist the temptation of using reconciliation’s fast-track protections to ease the passage of tax cuts that will increase the deficit and heavily benefit those on the top rungs of the income scale. Such misguided practices and priorities will make it increasingly difficult for the nation to get its fiscal house in order.