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HOW WILL TAX CUTS BE HANDLED UNDER THE 2004 BUDGET RESOLUTION?

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Summary

The House and Senate approved on April 11 a conference agreement on a budget plan, under which they will consider tax-cut legislation in May using a special fast-track procedure known as “reconciliation,” which precludes Senate filibusters. The budget plan allows \$550 billion in tax cuts through 2013 to be enacted through the fast-track reconciliation process. However, Senator Charles Grassley, Chairman of the Senate Finance Committee, announced on April 11 that he had made a commitment to limit the tax cuts in the reconciliation bill to \$350 billion.

- The budget plan includes an unprecedented provision that imposes different tax-cut limits on the House and Senate, but only when they are *first* considering the reconciliation tax-cut legislation. When first considered, the tax-cut legislation is limited to \$550 billion through 2013 in the House but to \$350 billion in the Senate.
- When the House and Senate negotiate the *final* version of the reconciliation legislation in conference, however, only one limit — the higher, \$550 billion limit — will apply. If a conference agreement that costs up to \$550 billion is brought back to the Senate floor, it will be in compliance with the new budget plan and will retain its protection against filibusters. In other words, a conference agreement with a \$550 billion tax cut ultimately could pass the Senate with the vote of 51 Senators (or 50 and the Vice-President).
- During consideration of the budget resolution in the Senate, Senator Grassley announced that to secure the votes needed to pass the budget in the Senate, he had made a commitment that he would not return from the House-Senate conference on the reconciliation legislation with a bill that contains more than \$350 billion in tax cuts. Although Senator Grassley indicated that this agreement had the support of Senate Republican leaders, House Republican leaders quickly denounced Grassley’s statement and made known their intentions to push for \$550 billion in conference.

The budget resolution that emerged from last week’s conference, by allowing a \$550 billion fast-track tax cut, initially appeared to have dealt a strong, and likely fatal, blow to efforts to limit the cost of the reconciliation legislation to \$350 billion. Senate Finance Committee Chairman Grassley’s pledge to limit the revenue reductions in the package to \$350 billion, however, substantially increases the chances that the final version of the reconciliation legislation will not contain more than \$350 billion in tax cuts. The ultimate size of the reconciliation tax-cut bill nevertheless remains in doubt. Furthermore, the budget resolution allows for large additional tax cuts outside of the reconciliation process, which could be considered and enacted through separate legislation later in the year.

How the Budget Plan Was Designed to Pave the Way for a \$550 Billion Fast-track Tax-cut Bill

The congressional budget plan that House and Senate budget conferees adopted has been described by some commentators as establishing different tax-cut targets for the House and the Senate. There is less to this difference, however, than may initially meet the eye.

- Under the budget plan, a single figure of nearly \$1.3 trillion is established as the *total* amount of tax cuts allowed for the period from 2003 through 2013; this includes tax cuts that are passed *separately* from the fast-track procedure known as “reconciliation.” This figure of nearly \$1.3 trillion applies in both the Senate and the House. It is much closer to the \$1.4 trillion in overall tax cuts contained in the original House budget resolution than to the \$850 billion in the Senate budget.
- The House and Senate agreed in the conference on the budget plan that of this nearly \$1.3 trillion in tax cuts, \$726 billion can be considered through the normal legislative process, while the remainder — up to \$550 billion — will be considered through the fast-track procedure of reconciliation. (The amount of the tax cut that can be placed in a reconciliation bill is significant; as noted, reconciliation bills cannot be filibustered in the Senate, while other legislation can be subject to a filibuster that can be shut off only if 60 of the 100 Senators vote to do so.)
- The budget resolution also includes a unique provision that sets different tax-cut limits on the House and Senate, but only when they *first* consider the reconciliation measure. Under the budget plan, when the House *first* considers its tax-cut reconciliation bill, that measure can cost up to \$550 billion through 2013, whereas when the Senate *first* considers its tax-cut reconciliation bill, that measure cannot cost more than \$350 billion. These restrictions — which can be set aside only if 60 Senators vote to do so — should effectively preclude consideration on the Senate floor *at that time* of a measure costing more than \$350 billion.
- The lower tax-cut limit placed on the Senate, however, will disappear once the measure goes to conference, when members of the House Ways and Means Committee and the Senate Finance Committee meet to resolve differences between the House and Senate tax-cut measures. The budget resolution states that the higher limit of \$550 billion is the sole limit that will apply when the House and the Senate consider the conference agreement.

As a result, a conference agreement of \$550 billion could be brought back to the Senate floor and would require 51 votes, rather than 60, to pass. For this reason, an initial reading of the budget approved April 11 would suggest that the higher \$550 billion level would be likely ultimately to prevail.

Senator Grassley's Announcement

This initial conclusion was altered, however, by a statement by Senator Charles Grassley on the Senate floor. Senator Grassley declared that to secure the votes needed in the Senate to pass the budget deal on April 11, he and Senate Republican leaders had made a commitment to Senators Olympia Snowe and George Voinovich that Grassley will not bring back from the House-Senate conference a measure that includes more than \$350 billion in tax cuts. Senator Grassley stated:

“In order to get the necessary support we made an agreement with Senators Snowe and Voinovich. Let me be clear, without this agreement, the budget resolution conference report would not pass the Senate today. There would be no budget and no growth package without our agreement. That’s why the Leadership supports my efforts. The agreement is simple. It relates to the revenue number for the growth package. I agreed that I would not return from the conference on the growth package with a number greater than \$350 billion in revenue reductions. This means that, at the end of the day, the tax cut side of the growth package will not exceed \$350 billion over the period of the reconciliation instruction.”

The final outcome on the size of the reconciliation tax cut thus remains unsettled. The House Republican leadership has sharply criticized the agreement that Senator Grassley made.¹ But the \$350 billion figure now appears to be the more likely figure to emerge from conference and become law.

Total Tax Cut May be Considerably Larger

It should be remembered that regardless of whether the reconciliation bill includes \$350 billion or \$550 billion in tax cuts, the *total* amount of tax cuts permitted under the new budget will remain nearly \$1.3 trillion. If the reconciliation bill includes \$350 billion in tax cuts, about another \$900 billion in tax cuts could still be approved.

Measures that include portions of this \$900 billion in additional tax cuts will be subject to filibuster in the Senate if opponents choose to mount such filibusters. It seems likely that a number of such tax-cut measures will indeed be filibustered. Some tax cut measures, however, may command sufficient support to overcome a filibuster or to discourage a filibuster in the first place. Even if the cost of the tax cuts included in the fast-track reconciliation bill is held to \$350 billion, the total amount of tax cuts enacted this year is likely to be higher, perhaps by a substantial amount.

¹ House Speaker Hastert released the following statement on April 11, 2003: “Earlier this week, the House and Senate agreed to a unique budget that allowed for the Congress to postpone a decision on the size of job-creating tax cuts until a later time. The secret agreement that was supposedly reached by Senator Grassley and Senator Snowe violates the spirit of this budget compromise. With all due respect to Senator Grassley, he is ultimately irrelevant because our agreement was made with the Senate Leadership and they have the power to keep it.”