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November 29, 2017

"Trigger" in Senate Tax Bill Flawed and Inadequate

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Some Senate Republicans have raised important concerns that the tax bill on which the Senate is likely to vote this week would significantly increase deficits. In response, Senate Republican leaders are considering adding a "trigger" to the bill that would reportedly activate corporate tax increases if in 2022 the promised positive economic effects of the bill have not materialized.[1] This trigger mechanism, however, is deeply flawed and cannot undo the harmful fiscal impact of the bill's unfinanced tax cuts. Policymakers in 2022 would be highly unlikely to let triggered tax increases take effect. And the reported trigger would offset only about a quarter of the bill's ten-year cost anyway.

The Joint Committee on Taxation estimates that the Senate tax bill would cost $1.4 trillion over the next decade, though these costs are *understated* because the bill includes sunsets of certain tax cuts and delayed increases of other taxes, both of which mask its true costs, in order to comply with Senate rules. Proponents argue that despite these costs, the bill will not actually increase deficits because the tax cuts will spur so much additional economic growth that they will generate large additional federal revenues that offset the costs of the tax cuts. No analysis by any credible source of the actual bill has corroborated that theory, however, and experience at both federal and state levels strongly belies it.[2]

The details about the trigger mechanism are still emerging. Under one reported version, corporate tax increases would take effect if revenues in 2022 are below a "target" — the amount that the tax code is expected to generate that year under the tax laws in effect *today* (that is, before tax cuts take effect), minus the cost of extending a business tax break now in effect that is due to expire under current law. Under another version, the tax increases would be triggered if economic growth fell below a target rate. Regardless of the precise criteria, such a trigger mechanism is unlikely to result in tax increases going into effect.

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[1] See, for example: Paul M. Krawzak, "'Trigger' Proposal Could Hike Corporate Taxes by $350 Billion," CQ, November 27, 2017; and Erica Werner, Damian Paletta, and Mike DeBonis, "Senate Rushes Tax Bill Forward, But Republicans Split Over Key Details," *The Washington Post*, November 29, 2017, https://www.washingtonpost.com/business/economy/senate-rushes-tax-bill-forward-but-republicans-split-over-key-details/2017/11/29/feb8dfb6-d52a-11e7-b62d-d9345ced896d_story.html? .

[2] Chad Stone, "The 'Dynamic Scoring' Sham," *U.S. News and World Report*, November 17, 2017, https://www.usnews.com/opinion/economic-intelligence/articles/2017-11-17/the-gops-dynamic-scoring-tax-reform-sham.

Moreover, the triggered tax increases are limited to $350 billion over a decade, far less than the estimated revenue loss from the pending tax bill. Thus, even if the trigger took effect, the tax cuts still would fall far short of the standard of not increasing the deficit that various Republican senators have argued the tax bill will meet.

Most likely, however, the trigger won't even achieve that. Policymakers can be drawn to trigger-type mechanisms to address concerns about costly legislation because they purport to serve as a backstop to prevent excessive fiscal hemorrhaging, allowing lawmakers to vote for legislation and appear fiscally responsible. But, in 2022, the President and Congress likely won't let any tax increases under the trigger take effect anyway, even if revenues or growth are well below the levels that the bill's proponents hoped for. Policymakers can enact legislation to override the trigger, and they would face enormous pressure from deep-pocketed corporate interests to do so — the same interests that have pushed hard for the tax cuts in the first place (and that have reportedly threatened policymakers with withholding campaign contributions if they're not enacted).[3] Further, if the economy is slowing, policymakers will surely use that as a reason not to raise taxes at that time, since a tax increase would further weaken a struggling economy.

There is ample historical evidence to support the view that the tax increases are unlikely to take effect. To comply with Senate budget rules, President Bush's 2001 tax cuts were all sunset to mask their long-term costs, but Congress extended nearly all of them rather than allow tax increases to go into effect. Similarly, there is currently a "pay-as-you-go" or PAYGO rule that requires automatic entitlement cuts in Medicare and some other entitlement programs if Congress enacts legislation that cuts taxes or increases entitlement spending without offsetting the costs. Yet proponents of the House and Senate tax bills have promised that they will advance legislation to ensure the PAYGO cuts do not take effect.

The design of the trigger that's reportedly under consideration makes it even less likely that the tax increases would ever take effect. The tax cuts would be in place for five years before the determination of whether revenues or growth have met their target, making their partial rollback even more difficult politically. Moreover, because the trigger appears to be a one-time mechanism, if the President and Congress decided to stop the tax increases in 2022, they would never again have to face the question of whether to allow automatic tax increases to go into effect, even if revenues or growth continue to fall well short of target levels in subsequent years.

It should be noted that, whether the trigger criterion is based on revenues or economic growth, neither is a measure of whether the tax bill is paying for itself. Historically, even when there are no changes in policy, economic growth and revenues frequently are higher or lower than the Congressional Budget Office or others forecast, particularly the further into the future the forecast goes. Thus, actual revenues or economic growth may be higher or lower than current projections even if the tax bill were not enacted. Simply having economic growth or revenues above a specified target after the implementation of a set of tax cuts does not mean that the tax cuts generated the growth or revenues or that the tax cuts are not worsening our already challenging fiscal picture. In

[3] See, for example, Cristina Marcos, "GOP lawmaker: Donors are pushing me to get tax reform done," *The Hill,* November 7, 2017, http://thehill.com/homenews/house/359110-gop-lawmaker-donors-are-pushing-me-to-get-tax-reform-done.

fact, if current projections are off, the trigger measure could either overstate or understate any economic impact the tax bill actually did have.

If policymakers are truly concerned about the harmful impact of higher deficits and debt, they should address the problem head on: they should identify the revenues they will raise or the spending they will cut to offset the cost of tax cuts they evidently view as the nation's highest priority. That's how responsible major legislation has been designed in the past. The landmark 1986 tax reform legislation, for example, raised taxes on some businesses and individuals and cut taxes for others to create a more efficient tax code, without the large revenue losses in the current tax bill.

"Trigger" proposals, on the other hand, let policymakers sidestep the hard choices and still try to claim the mantle of fiscal responsibility.

Triggered Tax Increases Unlikely to Take Effect

In many ways, the trigger that's reportedly under consideration is much like the bill's provision to sunset all of the tax cuts for families after 2025. The bill's supporters have made clear that they don't intend for the sunsets to actually take effect — those sunsets are essentially gimmicks[4] to ensure that the bill complies with Senate rules.[5] Without those gimmicks, the $1.4 trillion cost over ten years (or $1.7 trillion counting the additional interest costs associated with higher debt) would actually be $1.9 trillion (or $2.2 trillion counting the additional interest).[6]

History strongly suggests that the President and Congress will stop the triggered tax increases from taking effect. The "pay-as-you-go," or PAYGO, rule has a generally similar trigger concept: under PAYGO, if the multi-year costs of tax cuts or entitlement increases aren't fully offset by tax increases or spending cuts enacted in the same year, automatic cuts are triggered in specified entitlement programs, including Medicare, under a statutory formula. After the 2001 Bush tax cuts were enacted without being paid for, the President and Congress simply enacted legislation to turn off the cuts required under the PAYGO rule before those cuts could start. And despite the nation's looming fiscal challenges, Republican leaders have already announced their plans to follow passage of the current tax-cut bill with legislation in December to turn off the Medicare and other budget cuts that the Senate tax bill would otherwise trigger under PAYGO.[7]

And this political dynamic by which policymakers turn off scheduled trigger-like mechanisms extends beyond PAYGO: Presidents and Congresses have repeatedly evaded restrictions they placed on themselves to be fiscally responsible. For instance, after delaying its implementation numerous

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[4] Kailani Koenig, "Mulvaney: 'Gimmick' will help GOP pass tax reform," NBC News, November 19, 2017, https://www.nbcnews.com/politics/politics-news/mulvaney-gimmick-needed-pass-gop-tax-plan-n822231.

[5] In the Senate, if a bill is being considered under the reconciliation process, it cannot cost more over the coming decade than a certain amount (as specified in the congressional budget resolution in effect at the time), and it can't increase deficits at all in subsequent years. The Senate tax writing committee has sunset various provisions of the pending tax bill to keep the bill's cost estimate down over the 2018-2027 period and to ensure that the bill isn't projected to increase deficits after 2027.

[6] CBPP analysis of Joint Committee on Taxation Table JCX-59-17.

[7] Richard Kogan, "A $1.5 Trillion Tax Cut Could Trigger Entitlement Cuts This Year – or Later," CBPP, October 18, 2017, https://www.cbpp.org/blog/a-15-trillion-tax-cut-could-trigger-entitlement-cuts-this-year-or-later.

times, they ultimately repealed Medicare's "sustainable growth rate" (SGR) formula — which was designed to ratchet down Medicare provider payments — without offsetting the costs. And when the 2001 Bush tax cuts were set to expire, which would have triggered tax increases at the time, Congress instead extended the bulk of them.

Politically, letting an automatic tax increase take effect as part of a budget enforcement mechanism is likely to prove even more challenging than letting spending cuts take effect. Indeed, triggering an automatic tax increase would be unprecedented.

Republicans, in particular, have strongly resisted including tax increases in any package to enforce a budget agreement in the past. During negotiations over the 2011 Budget Control Act, Republicans flatly rejected automatic revenue increases as part of any enforcement regime to ensure that the President and Congress would either enact significant deficit reduction legislation or achieve equivalent savings through automatic measures. Instead, the final legislation called for automatic spending cuts only (mainly in defense and non-defense discretionary funding) through the mechanism known as sequestration.

From a fiscal standpoint, the trigger proposals being discussed are faulty for other reasons, as well. The trigger proposal described in various media reports would call for a one-time-only assessment of whether the revenue or growth target has been met and a one-time decision about whether to allow the triggered tax increases to occur. Thus, if the President and Congress turn off the tax increases when the trigger is about to be pulled, they won't ever need to reevaluate the issue in future years, even if the tax cuts are continuing to swell deficits and debt and worsen the nation's fiscal outlook.

Moreover, in the extremely unlikely event that the tax increases were triggered, they would increase revenues by only up to $350 billion over a decade. That is only about a quarter of the tax bill's $1.4 trillion cost in the first decade, a cost itself likely to be understated as a result of the bill's artificial sunsets of various tax cuts that affect middle-income households. Proponents of the trigger mechanism are likely to claim that no larger revenue increase could possibly be needed because the tax bill will, at a minimum, generate enough economic growth to cover the large majority of its costs. But no credible estimates of the bill suggest that such robust economic and revenue growth should be expected or is likely to occur.

The Trigger Criteria Are Most Likely to Be Met During a Recession

While it's extremely unlikely that policymakers would allow the trigger to go off and taxes to be raised, let's consider for a moment what could happen if they did. For instance, assume the target is missed because the economy is growing less rapidly in 2022 than expected or has fallen into a recession. In fact, an economic slowdown is likely sometime in the next decade, since the current expansion is the third longest in U.S. history and would be the longest ever in another 20 months.

Yet a slowdown is precisely the wrong time to raise taxes. Doing so would pull money out of the economy at a time when the economy needs businesses and individuals to spend more, not less, in order to boost sales and put people back to work. (The same economic logic applies to automatic program cuts; a period of economic slowdown is precisely the wrong time to trigger such cuts, and doing so would further impede economic growth.)

It's possible that when the details of the trigger mechanism are made public, there will be a provision to ensure that tax increases do not go into effect during a recession, as Oklahoma Senator James Lankford has suggested.[8] Such a provision may not capture an economy that is slowing but not yet in recession. Triggering tax cuts when an economy is slowing would also be unwise. Further, if such a recession-related provision is added to the trigger, it will be important to see whether the trigger comes back into effect — and tax increases could potentially be triggered — at a later time, when the economy has recovered, or whether a recession in 2022 would simply kill the trigger for all time.

"Fall-Back" Mechanism for Trigger Won't Likely Be Effective Either

Some budget experts have raised concerns that a trigger mechanism may run afoul of Senate rules that govern the reconciliation process.[9] If the Senate parliamentarian determines that the trigger isn't allowable under Senate rules, then Republican leaders are reportedly considering adding a set of corporate tax increases to the bill to take effect at some point, presumably 2022 or soon thereafter — and leaving the decision of whether to let them actually take effect (or to pass legislation to turn them off) to policymakers of that time.

That fallback suffers from the same flaw as the basic trigger proposal: future policymakers will almost certainly turn off the tax increases, even if the tax cuts clearly aren't paying for themselves. And the bill already includes a series of corporate tax increases that are set to take effect in 2026 but may never take effect for the same reason.[10,11]

The 2001 Bush tax cuts sunset all of their provisions after a decade, under the theory that a future President and Congress would not let the tax cuts expire. And while policymakers modified those tax cuts in some ways as they were due to expire, they eventually made more than 80 percent of them permanent.[12] Today, about one-third of the accumulated $15 trillion national debt is due to the adverse fiscal impact of the Bush tax cuts over the period since they were enacted.[13] Will policymakers learn from this lesson?

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[8] Seung Min Kim, "Senate Republicans round up more votes for tax plan," *Politico,* November 29, 2017, https://www.politico.com/story/2017/11/29/senate-republicans-tax-plan-votes-267923.

[9] Brian Faler, "Corker's Tax Trigger Plan May Violate Senate Rules," *Politico*, November 28, 2017, https://www.politicopro.com/tax/article/2017/11/corkers-tax-trigger-plan-may-violate-senate-rules-194183.

[10] Chye-Ching Huang, "Obscure Provision Tilts Senate Tax Bill Even More to Corporations," CBPP, November 22, 2017, https://www.cbpp.org/blog/obscure-provision-tilts-senate-tax-bill-even-more-to-corporations.

[11] David Kamin, "The Senate's Revenue-Trigger Giveaway to Businesses," Medium, November, 22, 2017, https://medium.com/whatever-source-derived/the-senates-revenue-trigger-giveaway-to-businesses-97b73a624ec1.

[12] Chye-Ching Huang, "Budget Deal Makes Permanent 82 Percent of President Bush's Tax Cuts," CBPP, January 3, 2013, http://www.cbpp.org/research/budget-deal-makes-permanent-82-percent-of-president-bushs-tax-cuts.

[13] Emily Horton, "The Legacy of the 2001 and 2003 'Bush' Tax Cuts," CBPP, October 23, 2017, https://www.cbpp.org/research/federal-tax/the-legacy-of-the-2001-and-2003-bush-tax-cuts.