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Senate’s Alternative Minimum Tax Creates Friction With House

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The U.S. Chamber of Commerce and other groups are rallying to scrap the corporate alternative minimum tax provision in the Senate’s version of the tax bill.

The AMT, a much-hated provision of the tax code, requires corporations and individuals to recalculate their tax liability if they took too many credits or deductions.

Republicans swore they would do away with the alternative minimum tax in tax reform, but the corporate and individual AMT resurfaced at the last minute as senators needed revenue Dec. 1 to convince GOP holdouts to vote for the bill. The House bill (H.R. 1), passed Nov. 16, would repeal the AMT for corporations and individuals.

The Senate-amended version of H.R. 1, as introduced Dec. 1, would retain the corporate AMT and increase the exemption limits for the individual version. In 2017, the exemption threshold is $187,800 for joint filers. The relatively low exemption has been criticized by both Democrats and Republicans as hitting too many middle-class families.

Even with higher exemption limits, the new provisions are going to be a significant problem for the House, a Republican aide familiar with House-Senate negotiations said. The change will dominate the negotiations when the two chambers meet in conference on the bill in the coming weeks, the aide said.

Opponents want to kill the corporate AMT because it could make it harder for companies to use popular tax breaks, such as the research and development credit and full expensing of business investments.

“If we’re trying to have a pro-growth plan that fosters innovation, and investing in the future, why have an alternative tax system that makes it more complicated?” said Joseph Perry, tax and business leader at Marcum LLP.

Many hope the AMT will be completely squashed, a tax lobbyist, who didn’t have authorization to speak publicly, told Bloomberg Tax.

Trade-Offs

Senate Republicans retained the corporate AMT as a way to raise revenue to pay for an expanded pass-through deduction and a tax break for state and local property taxes. The AMT requires some businesses to pay a 20 percent rate if they are eligible for too many tax breaks.

The Senate-amended version of H.R. 1 keeps the AMT rate at 20 percent, equal with the 20 percent statutory corporate rate in the plan.

The House is going to push to keep it out of the bill entirely, but the Senate is looking to make some fixes, such as lowering the AMT rate or allowing companies to use more tax breaks in the AMT system, the Republican aide said.

One idea business groups could push, if it becomes clear that the AMT will stay in a final bill, is to seek a lower AMT rate of 11.4 percent, which is proportional to the 20 percent AMT rate and 35 percent corporate rate difference under current law, the lobbyist said.

The individual AMT operates alongside the tax code and hits taxpayers eligible for multiple tax breaks, like the corporate AMT. The individual version of the tax requires filers at certain income levels to calculate their tax liability twice and pay the higher of the two amounts. One calculation is under regular income tax rules and one is under the AMT rules, which levy a 28 percent tax rate on the filer.

Interaction With SALT?

The Urban-Brookings Tax Policy Center says the AMT “primarily affects well-off households, but not those with the very highest incomes. It is also more likely to hit taxpayers with large families, those who are married, and those who live in high-tax states.” About 5.2 million people will pay the AMT in 2017, according to the TPC.

Measures to maintain the individual AMT would create more tax obstacles, said Brian Riedl, senior fellow at the Manhattan Institute for Policy Research Inc. “The AMT is a complexity nightmare, and should be fully eliminated.”

The individual AMT wouldn’t be as powerful under the Senate plan, Riedl said, but would be “significantly defanged by the limits on state and local tax deduction.”

Curbing the state and local tax deduction while keeping the AMT creates an interesting interaction because many AMT payers are the same people who could have large SALT write-offs. SALT isn’t deductible under the AMT, but lawmakers had used the argument that repealing the AMT would lessen the pain of restricting SALT deductions, said Liam Donovan, a tax lobbyist at Bracewell LLP in Washington.

“This makes it harder for the medicine to go down,” he said.

Retaining the corporate AMT would raise about $40 billion over a decade, according to a Dec. 1 estimate from the Joint Committee on Taxation (JCX-62-17). The individual AMT would raise about $133 billion in that time frame.