

INSIGHTS

## Full Slate Means Uncertain Fate for Tax Law Fixes

May 14, 2018

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As the second session of the 115th Congress lurches into summer, legislative prospects for a widely expected technical corrections package remain uncertain. The swift, bipartisan resolution of the so-called “grain glitch” under new Section 199A provided early hope, though it may ultimately be the exception that proves the rule. While the co-op correction was included in the omnibus spending package passed by Congress in mid-March, other consensus fixes like the 15-year recovery period for qualified improvement property (QIP) remain in limbo with few opportunities to move in the near term.

Why won’t Congress act on clear mistakes that could be easily rectify? Beyond endemic gridlock, it’s a question of incentives. Republicans are reluctant to acknowledge any mistakes or oversights in the law as they seek to increase its popularity as the centerpiece of the party’s midterm re-election strategy; for their part, Democrats are not inclined to help clean up what they contend is a partisan mess of the GOP’s own making.

The grain glitch was uniquely equipped to elide these tensions—it involved a sympathetic stakeholder in agricultural co-ops, and a powerful political constituency in farmers, a cohort with particular clout in many of the red states Senate Democrats hope to retain this fall. The fix also benefitted from an early gauntlet of must-pass legislative waypoints ranging from the debt ceiling to a “top-line” budget agreement to the long-term government funding bill itself. Items like QIP, on the other hand, lack a discrete constituency; its impact is more diffuse, both in terms of affected industries, and the geographic footprint thereof. And with little likely to be accomplished in the coming months beyond keeping the federal lights on, there simply isn’t an obvious vehicle for even consensus fixes to move.

Rather than seeking to correct or clarify issues identified in the law, House Republicans intend to vote shortly on what President Trump has deemed “phase two,” making the tax cuts permanent for individuals and families, something the strict procedural limits of budget reconciliation would not allow. With 60 votes almost certainly out of reach in the Senate, the fresh round of cuts will purely be a messaging vote, lending a window into the priorities of the months to come on Capitol Hill. The Senate will spend the vast majority of its time confirming President Trump’s nominees to the federal bench, while the House will seek votes they can tout on the campaign trail as they seek to maintain their majority.

Which is not to say they don’t have a full plate as it is—they do. May is the heat of appropriations season, and both chambers must take up and pass the 12 annual spending bills in the coming months or be faced with another ugly game of shutdown chicken in September.

While House appropriators have approved the first two such bills unanimously, the perennial political hot potatoes lie elsewhere—the appropriations process always goes smoothly until it doesn't. And with the House gearing up to consider a \$15 billion "rescission" package to unwind previously approved spending, slashing a number of Democratic priorities, the partisan dynamics will only intensify. Senate appropriators are slated to consider their own bills in committee over the next six weeks, but again the real challenge is counting to 60 on the floor. Such hurdles abound on both sides of the hill even before you consider the time crunch, the complicated leadership dynamics at play, and the need to resolve the respective differences before the bills can be sent to the President.

Add to that a Farm Bill, federal aviation reauthorization legislation, veterans health funding, water infrastructure, and the National Defense Authorization Act and Congress has their work cut out for them, especially in the midst of a grueling campaign. With just over 30 legislative days remaining until August recess, followed closely by a hotly contested national election, many of these outstanding issues will be punted or otherwise slip to the end of the year. The must-pass FAA bill appears to be the last best hope for one or two of these consensus fixes to hitch a ride in the interim. But with neither side eager to relitigate tax policy at this juncture, all signs point to the lame duck. Whatever the electoral outcome, the political incentives are likely to be reshuffled in a way that encourages Congress to tackle these issues once and for all.