Camp Presents Tax Reform Ideas

Proposals Draw Mixed Reactions

A comprehensive tax reform plan released on February 26 by House Ways and Means Committee Chairman Dave Camp (R-Mich.) caused sighs of relief by some tax credit advocates and dismay by others. Yet the document, while keeping the topic of tax reform alive, faces an uncertain fate in the weeks and months ahead and may be preempted by action in the Senate on extenders legislation.

Camp's "discussion draft" – specific proposed tax law changes to reduce individual and corporate tax rates and drop or modify many current federal tax incentives – is meant to spur feedback from other lawmakers, special interests, and the public.

The measure hasn't been formally introduced as a bill, and it is unclear whether it will be. Also uncertain is whether the Ways and Means Committee will mark up a tax reform bill. Meanwhile, the Senate Finance Committee, now chaired by Sen. Ron Wyden (D-Ore.), expects to mark up a tax extenders bill this spring, said a committee spokeswoman. Wyden recently identified an extenders bill as one of his priorities.

Proposed Changes to LIHTC

The discussion draft proposed to retain the federal low-income housing tax credit (LIHTC) program but modify it by:

- Eliminating the 4% (30% present value) housing tax tax credit, but retaining the 9% credit for new construction and substantial rehabilitation expenditures. The draft would also repeal the current tax exemption for interest on new private activity bonds, including those that now finance affordable rental housing projects;
- Extending from 10 to 15 years the period over which housing credits are claimed;
- Keeping the 9% credit rate as a floating percentage that is adjusted monthly;
- Providing for states to allocate dollar amounts of qualified basis rather than tax credits as they do now. The maximum amount of qualified basis allocated annually in each state would be the greater of $31.20 times the state's population or $36.3 million, plus certain unused/returned credits. The national pool would be eliminated;
- Ending the 30% basis boost for projects in high-cost areas;
- Repealing the allowed occupancy preference for individuals involved in artistic and literary activities. The only preferences allowed would be for veterans and persons with special needs; and,
- Eliminating the required selection criteria for the energy efficiency and historic nature of projects.

The changes would be effective for basis amounts and allocations made after 2014.

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Historic, New Markets Credits Dropped

In addition, the discussion draft would repeal the federal historic rehabilitation tax credit (both 20% and 10%) and effectively terminate the federal new markets tax credit program, which lapsed at year-end 2013.

The draft would also repeal or modify certain energy tax credits, eliminate the Section 179D tax deduction for expenditures for energy efficient commercial buildings, and repeal the alternative minimum tax.

(Plan details: http://tinyurl.com/p4g4r8o)

Reaction to Proposals

Affordable Rental Housing ACTION, an umbrella group of more than 650 organizations and businesses, issued a statement commending Chairman Camp for preserving the low-income housing tax credit in his discussion draft and for soliciting feedback. But the group said that some proposed changes in some cases will "make building and preserving affordable housing more difficult or impossible to achieve." It also voiced concern about the proposed elimination of the ability of states and localities to issue tax-exempt private activity bonds to finance affordable housing.

The discussion draft would repeal the federal historic rehabilitation tax credit and effectively terminate the federal new markets tax credit program.

The National Council of State Housing Agencies (NCSHA), a member of Affordable Rental Housing ACTION, also had a mixed reaction.

"We are pleased that the chairman recognized the importance of the low-income housing tax credit, the value of it, and its great success, and has retained it in the draft. So many other credits and other types of benefits were eliminated," said Barbara Thompson, executive director of NCSHA, which represents state agencies that allocate housing tax credits and issue tax-exempt housing bonds.

Thompson, though, said NCSHA was disappointed by the proposed elimination of the tax-exempt private activity bond program. "Housing bonds play a huge role in the ability of states to deliver not only rental housing but affordable homeownership as well," she said. "We estimate that the program is responsible for about 40% of housing credit production annually."

NCSHA and other advocates expected to meet in the near future with Ways and Means staff to get details and clarification about the proposed LIHTC changes and provide feedback, including through an industry working group.

Robert Moss, national director of governmental affairs at CohnReznick LLP, believed, as did others, that the discussion draft is just the latest albeit noteworthy step in an ongoing process and dialogue and that the proposed changes in the draft plan shouldn't be viewed as actual legislation that is certain to be passed.

At the same time, Moss felt that Chairman Camp "has the full intention to move forward with it."

"I think this [draft plan] focuses the discussion a little bit, and moves the discussion about tax reform forward," said Garth Rieman of NCSHA.

Thompson doubted Congress will pass comprehensive tax reform legislation in 2014, an election year. But she added NCSHA takes the Camp discussion draft "very seriously," noting lawmakers could refer to the plan in the future when they get around to writing a tax reform bill or might consider pieces of it when they look for revenue-raising measures in crafting other legislation.

Advocates for the federal historic tax credit said this incentive must be retained as part of any successful tax code overhaul and asked that the Ways Means Committee, as it develops tax reform legislation, identify improvements to the program rather than eliminate it. The message was expressed in a letter to Camp and Ranking Member Sander Levin (D-Mich.) that was crafted by the Historic Tax Credit Coalition, National Trust for Historic Preservation, Preservation Action, and National Conference of State Historic Preservation Officers and signed by these groups and hundreds of other organizations, businesses, cities, and states.

Similarly, more than 1,400 businesses, investors, nonprofits, and community leaders sent a letter to leaders of the House and Senate tax-writing committees urging them to keep and extend the new markets tax credit. TCA