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Tax Hikes Hiding in Budget Resolutions' Treatment of AMT Patch

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The fiscal year 2009 budget resolutions reported out of the House and Senate Budget Committees threaten to raise taxes through a repeat of the 2007 alternative minimum tax (AMT) patch ploy. The House resolution calls for extension of the AMT patch, but only if it is accompanied by a \$70 billion tax hike. If the House language is retained, then only 51 votes will be needed in the Senate to raise taxes. The Senate resolution is somewhat better in that it is at least silent on the AMT, meaning that legislation to extend the patch without raising taxes would require 60 votes.

Passing budgets in all their constituent parts is one of the most important and often most difficult tasks that Congress faces, and it faces the task annually. Recognizing the extent of the labors involved, Members occasionally support preparatory steps, like budget resolutions, and preliminary legislation they would otherwise oppose just to keep the process moving forward. However, Members need to be on guard against allowing the budget process to move forward today in such a way as to make tax hikes easier to enact tomorrow.

The AMT patch should be extended for 2008 and beyond, but its extension should not be used as a ruse to raise taxes. Congress can facilitate this outcome and avoid an unnecessary and purposeless legislative fight by including the appropriate language in the budget resolution to extend the AMT patch without an accompanying tax hike.

This Year's AMT Row: An Echo of 2007. No budget fight in 2007 was more bruising than that to

extend the AMT patch. No fight was more painful to tax increasers to lose, as lose they ultimately did at the 11th hour as Congress was forced to send the President a tax hike-free AMT patch. And no fight was more important to taxpayers to win because it was the precursor to the much bigger fight going into 2009 over the extension of the 2001 and 2003 tax cuts.

The AMT runs parallel to the regular individual income tax, and taxpayers pay whichever tax yields the greater burden. The AMT patch is a significant increase in the exemption amount first legislated in 2001 to ensure that taxpayers would not be denied tax relief from the income tax cuts by falling under the AMT.¹ The patch has protected millions of taxpayers against the AMT bite for seven consecutive years.

Despite their legislative loss in 2007, and despite this being an election year, the House Budget Committee has approved a budget resolution permitting an extension of the AMT patch retroactively for 2008, but only if the revenue cost is offset with \$70 billion in tax increases. The President has issued the same veto threat against this year's tax increase as he did against last year's attempt. There is no reason to suppose this year's fight will have a different

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outcome than last year's—a clean extension of the AMT patch.

Proponents of tax hikes failed last year largely because their argument, once considered, failed the “laugh test.” This year, proponents are trotting out the same argument. They acknowledge that allowing the AMT patch to expire would raise taxes on some 20 million or so taxpayers. Yet they claim that extending existing AMT relief is itself a tax cut.

Extending the AMT patch cannot be both the avoidance of a tax hike and a tax cut. It makes no sense to argue that to avoid a tax hike, one must raise taxes. This is the tax policy analog to the old joke from the Vietnam War that “sometimes you have to destroy a village to save it.”

The AMT and the Broader Tax Cuts. As in previous years, the fight over the AMT patch is crucial to preventing a large, unnecessary, and economically harmful tax hike. It is perhaps even more crucial to setting the stage for the central tax debate over the 2001 and 2003 tax cuts, which are scheduled to lapse in 2010. The AMT patch has been in place since 2001. The Congressional Budget Office revenue baseline may confuse the matter for legislators, but taxpayers would suffer no confusion if they were hit with a tax hike resulting from expiration of the patch.²

Similarly, by 2010, the tax cuts of 2001, such as the increased child tax credit, marriage penalty relief, lower tax rates, and repeal of the death tax, will have been in place for 10 years. The 2003 tax cuts (reduction in the capital gains and dividend tax rates) will have been in place for eight years. These tax provisions are now the norm. They are what individual taxpayers and the economy overall have come to expect. Allowing these tax provisions to expire, snapping back to their pre-2001 levels as the House and Senate budget resolutions anticipate,

would constitute a huge tax hike for the economy and a huge tax shock to taxpayers. Extending the AMT patch today without raising taxes, as has been done repeatedly in recent years, is the model and precedent that Congress should follow when extending the 2001 and 2003 tax relief.

The AMT and the Budget Resolution. The final act on the 2008 AMT patch is many months off, but the budget resolution is the first, and perhaps the decisive, vote on the matter. The House resolution includes special rules that would lower the bar for passage of a tax hike. These rules, known as “reconciliation instructions,” are critical to the Senate debate, as they mean that only 51 votes would be needed to pass a tax hike to pay for the AMT patch. Absent the reconciliation instructions, a 60-vote threshold would have to be met.

The AMT patch should be extended or, preferably, made permanent in the absence of broader reforms. In no case should the act of extending the AMT patch be used as a ruse or excuse to raise taxes. Members of Congress should beware: The budget resolutions in their current forms would bring a big tax hike one giant step closer to reality.

Conclusion. Congress should pass a budget resolution and get on with the business of funding the government for fiscal year 2009, but it should first include language to permit the timely extension of the AMT patch without an accompanying tax hike. There is no justification for raising taxes at this time. Proceeding with the budget process without a budget resolution is far preferable to passing a resolution that makes straighter the road to higher taxes.

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1. For a more complete discussion of the AMT and the AMT patch, see J. D. Foster, “Making Good Policy Out of a Bad AMT,” Heritage Foundation *Background* No. 2082, October 31, 2007, at www.heritage.org/Research/Taxes/bg2082.cfm, and J. D. Foster, “The AMT Patch: A Few Months Late and \$51 Billion Heavy,” Heritage Foundation *WebMemo* No. 1745, December 13, 2007, at www.heritage.org/Research/Taxes/wm1745.cfm.
2. For a discussion of the problems with revenue baselines as they pertain to the AMT debate, see J. D. Foster, “AMT Fix Becomes Massive Tax Hike Via Misleading CBO Baselines,” Heritage Foundation *WebMemo* No. 1695, November 7, 2007, at www.heritage.org/Research/Taxes/wm1695.cfm.