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## Wyden, Crapo still at odds over bipartisan tax package as Finance Committee debates manufacturing tax incentives

The divide between Senate Finance Committee Chairman Ron Wyden, D-Ore., and ranking member Mike Crapo, R-Idaho, over a \$78 billion bipartisan package of business- and family-focused tax relief provisions that was approved in the House but remains stuck in the Senate showed no signs of narrowing as the panel discussed the impact of tax policy on domestic manufacturing during a March 12 hearing.

The Tax Relief for American Families and Workers Act (H.R. 7024), which Wyden negotiated over the course of several months with House Ways and Means Committee Chairman Jason Smith, R-Mo., would, among other

things, temporarily reverse (through 2025) certain business-unfriendly tax provisions related to the treatment of research expenditures, bonus depreciation, and the deduction for business interest expenses that were included in the Tax Cuts and Jobs Act (TCJA, P.L. 115-97) but did not take effect until several years after that measure was enacted. It also would enhance the child tax credit and expand the low-income housing tax credit and would be paid for through new strictures on the pandemic-era employee retention tax credit program.

**URL:** <https://www.congress.gov/118/bills/hr7024/BILLS-118hr7024eh.pdf>

**URL:** <https://www.congress.gov/115/plaws/publ97/PLAW-115publ97.pdf>

The measure cleared the House by a margin of 357-70 on January 31, but currently is languishing in the Senate, where Mike Crapo and a contingent of other Republicans have insisted on an opportunity to propose amendments—for example, in a Finance Committee mark-up or in an eventual floor debate—to address their own specific concerns. Crapo has called for eliminating a lookback provision in the proposed child tax credit enhancements that would allow individuals to claim the credit (for tax years 2024 and 2025) based on their prior-year income, arguing that it would disconnect the incentive from work. Other Republicans reportedly want to add provisions to the bill that, for example, would make technical corrections to the SECURE 2.0 Act (a bipartisan retirement security package enacted in 2022) and renew certain expired tax “extenders.” Recent press reports also indicate that some GOP senators—including Finance Committee member Charles Grassley, R-Iowa—object to allowing the business tax breaks to take effect retroactively. (The measure currently provides that immediate expensing for domestic research expenditures would apply to expenses paid or incurred after December 31, 2021; 100 percent bonus depreciation would be reinstated retroactive to January 1, 2023; and the allowance for depreciation and amortization for the 30 percent limitation on interest deductions would apply retroactive to January 1, 2023, and, if elected by the taxpayer, retroactive to January 1, 2022.)

Crapo and some of his GOP colleagues have also contended that as a matter of general principle the Senate shouldn’t be strong-armed into supporting legislation—even a bill with a bipartisan pedigree—just because it was approved in the House.

### **Lines in the sand**

Both Finance Committee leaders appeared to be entrenched in their respective positions as this week’s hearing unfolded.

**Wyden: ‘Get this done’:** In his opening statement, Wyden cautioned that “this set of policies isn’t going to be on the table in 2025 if this bill stalls out” and emphasized the perils facing businesses and families if Congress doesn’t approve the measure quickly.

Commenting on the bill’s three business-focused provisions, Wyden noted that he has “heard from small business owners that there will be real damage done if the Senate sits on this until 2025,” and that “[a] lot of innovative small businesses will fail if this bill doesn’t pass.”

Witnesses at the hearing—executives and owners of manufacturing companies, along with a leader in a national labor union—shared those concerns when responding to a question from Wyden about the importance of these provisions to their respective business operations.

Mark R. Widmar of First Solar, Inc., in Tempe, Ariz., commented that immediate expensing of research expenditures is “critical” to ensuring that US companies can “out-innovate” foreign competitors—particularly those based in China—and that bonus depreciation is “essential” to ensuring that his company can continue to invest in new equipment and facilities. A delay in reinstating these provisions, he said, would mean the potential loss of “thousands of jobs.”

Courtney Silver of Ketchie, Inc., in Concord, N.C., agreed that inaction on bonus depreciation would make it more difficult for her business to purchase new equipment and create new jobs.

Shannon Janis of Onsemi in Scottsdale, Ariz., told Wyden that if immediate expensing for research and development expenditures isn’t restored, those activities will migrate outside of the US. She also urged Congress to make the expensing provision permanent.

Peter R. Huntsman of the Huntsman Corporation in The Woodlands, Texas, likewise called for a permanent extension of the expensing provision, noting that his company invests over a horizon of 20-30 years and would welcome the certainty of knowing that immediate expensing would be available over the long term.

Turning to the individual side of the tax code, Wyden cautioned against delayed action on the proposed expansion of the child tax credit—a provision that he and many other Democrats have insisted is the key to securing their support for reinstating the more favorable treatment of research expenditures, business interest expenses, and bonus depreciation.

“Sixteen million low-income kids who stand to benefit [from the enhanced credit] shouldn’t be forced to wait,” he said.

In an exchange with Wyden, witness Anna Fendley of United Steelworkers in Pittsburgh called the provision “really critical” for her members and said she was anxious for the Senate to begin debate on the proposal.

Finance Committee member Elizabeth Warren, D-Mass., chided Republicans for supporting the business incentives in the measure—provisions that she contended would primarily benefit large corporations—while opposing the “modest” lookback provision in the child tax credit proposal, which she said would offer financial support for families at a time they need it most. (The lookback would allow taxpayers who have lost a job or suffered a drop in wages to qualify for the credit for the 2024 or 2025 tax year based on the amount of income they earned in the previous year.) She asked Fendley whether it makes sense for lawmakers to eliminate the lookback and, in essence, offer less help to families facing financial hardship.

“When a family is going through a hard time . . . they should not get less help,” Fendley replied. “For our union, the child tax credit is incredibly important and we strongly urge the Senate to do its work here.”

**Crapo: ‘My hope is we can get there’:** Ranking member Crapo, for his part, expressed his support for extending—and even making permanent—the bill’s business-focused tax provisions, but noted, without going into specifics, that objections to the measure among Senate Republicans continue to impede its path forward. (The Senate typically requires a 60-vote supermajority to overcome procedural hurdles and get legislation to the floor, so Democratic leaders will need to secure some GOP support to push the bill through the chamber.)

“My hope is we can get there sooner [rather] than later,” Crapo said. “There are, as everybody knows, some concerns on the Republican Senate side with regard to other provisions in the bill and my hope is the Republican Senate will have its voice [and] we will be able to . . . get something resolved quickly.”

Another Republican taxwriter, Sen. Thom Tillis of North Carolina, called out his objections to the child tax credit provisions and said the Senate would be “making a mistake to move forward [with the bill] in its current form.” He added that the Senate needs to have “a fulsome discussion of the entire slate of provisions that are scheduled to expire in 2025.” (Those expiring provisions include, among other things, the reduced income tax rates for individuals, a higher standard deduction, increased estate and gift tax exemptions, and the 20 percent deduction for passthrough entities enacted in the Tax Cuts and Jobs Act. Some Republicans reportedly would prefer to delay action on the Smith-Wyden tax package until 2025 in the belief that they would be able to strike a better deal if the GOP wins control of the Senate in this November’s elections and Mike Crapo takes the gavel at the Finance Committee.)

Tillis also renewed his objections to a provision in the bill that would raise revenue by accelerating the deadline for making new employee retention tax credit claims. Specifically, he cautioned that proposing offsets for extensions of current law would be setting a risky precedent for Congress as it prepares to face the fiscal cliff of expiring TCJA provisions next year.

“What does [approving offsets for this bill] mean next year when we’re having a debate about \$2 [trillion] or \$3 trillion to extend provisions from [the TCJA]?” he asked. “Do we get opposition from my Democratic colleagues because we don’t have a pay-for?”

Addressing the potential cost of extending those TCJA provisions for the long term, Tillis observed that Republicans, unlike Democrats, “believe dynamic scoring will prove as it did in 2017 that [tax cut legislation will] create economic growth to cover it.” (The nonpartisan Congressional Budget Office has estimated that a permanent extension of the TCJA tax provisions that are set to lapse next year would result in a net increase in the deficit of roughly \$3.5 trillion over 10 years.)

**URL:** <https://www.cbo.gov/system/files/2023-05/59154-Budgetary-Outcomes.pdf>

Tillis in recent weeks also has derided the employee retention tax credit pay-for as “phony” because the credit was not offset when it was originally enacted in the Coronavirus Aid, Relief, and Economic Security Act (CARES) Act (P.L. 116-136) in 2020.

**URL:** <https://www.congress.gov/116/plaws/publ136/PLAW-116publ136.pdf>

**Offers exchanged—and rejected:** Although this was not addressed at the hearing, press reports indicate that Wyden, Crapo, and their respective staffs were working behind the scenes this week on what turned out to be unsuccessful efforts to arrive at a compromise.

Crapo’s team reportedly floated some proposed changes to the child tax credit—an offer Wyden is said to have rejected on the grounds that it would fall flat with Senate and House Democrats alike. (An amended Senate bill would have to go back to the House for another floor vote and both Wyden and Ways and Means Chairman Smith have been wary about making changes that could jeopardize the measure’s prospects in the lower chamber if lawmakers have to take it up a second time.)

Wyden’s team reportedly offered to drop the child tax credit lookback provision in exchange for making the credit refundable—a tradeoff that Crapo dismissed.

It was unclear by week’s end whether further discussions were in the works.

## **Battle of the legacy tax bills**

In a likely preview of the tax policy discussion we can expect to see on the campaign trail ahead of the 2024 presidential and congressional elections, Senate taxwriters also used this week’s hearing as a forum to debate the relative merits of the Inflation Reduction Act of 2022 (P.L. 117-169), President Biden’s marquee tax legislation which includes a host of tax credits for domestic manufacturing and clean energy production that many Republicans would like to pare back or eliminate, and the Tax Cuts and Jobs Act, the Trump administration’s legacy tax package which includes a host of tax relief provisions for corporations, passthrough entities, individuals, and estates that Democrats say are skewed to large businesses and wealthy individuals and should be eliminated or allowed to expire.

**URL:** <https://www.taxnotes.com/research/federal/legislative-documents/public-laws-and-legislative-history/inflation-reduction-act-of-2022-%28p.l.-117-169%29/7dybc>

**Energy independence, lower costs for consumers:** Wyden contended that as a result of the manufacturing and clean energy incentives in the Inflation Reduction Act, the US is “now producing more energy than ever before. We’ve reached a greater level of energy independence than we’ve had since the days when millions of Americans had big piles of coal shoveled into their basements. Consumers are saving money.” He asked witnesses for their views on the potential business impact of repealing these provisions.

Mark Widmar of First Solar Inc., told Wyden that repealing the manufacturing and clean energy credits would bring his business “to a complete stop.”

“We would not have clarity [about] the policy environment and how to continue to operate and grow our business and invest in R&D. We need that long-term vision and understanding to make informed decisions today,” he said.

Anna Fendley of United Steelworkers told Wyden that the Inflation Reduction Act is “part of our industrial policy” and “provides supply-side and demand-side levers” that give manufacturers the “certainty” they need

“to make decisions moving forward.” Repealing it would be “devastating,” she said, adding that her organization “would certainly fight back” against any such effort in Congress.

**Economic strength through lower rates:** Ranking member Crapo countered that the TCJA’s “rate-lowering, base-broadening provisions put a stop to corporate inversions” and “led to one of the strongest economies in generations prior to the pandemic,” arguing that “unemployment dropped to a 50-year low, economic gains flowed to all demographic groups and income levels, and American businesses reported record R&D investment.” He called on Congress to “protect the TCJA’s pro-growth tax policies and seek to make them permanent before they expire in 2025”; moreover, he said, lawmakers should “improve and build on those policies to ensure US companies and workers can continue to compete globally.”

Finance Committee member Marsha Blackburn, R-Tenn., emphasized the TCJA’s importance in promoting domestic competitiveness and asked witnesses to discuss how that legislation helped them grow their business and how proposals to increase taxes—including those in President Biden’s just-released fiscal year 2025 budget blueprint that would raise the corporate tax rate (to 28 percent), the corporate alternative minimum tax rate (to 21 percent), and the top individual income tax rate (to 39.6 percent)—would affect their operations. (For details on the revenue proposals in the administration’s latest budget blueprint, see *Tax News & Views*, Vol. 25, No. 11, Mar. 12, 2024.)

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2024/TNV/240312\\_1.html](https://dhub.deloitte.com/Newsletters/Tax/2024/TNV/240312_1.html)

Courtney Silver of Ketchie, Inc., likened the TCJA to “rocket fuel” that enabled her business to invest in capital equipment, increase employee salaries, and create new jobs. In addition, she said, it provided “liquidity that proved to be critical” for her business during the pandemic-induced economic slowdown.

Peter Huntsman of The Huntsman Group told Blackburn that because of the 2017 law his organization was able to bring \$1 billion in offshore operations back to the US and increase its R&D investments. Overall, he said, the TCJA “made the US one of the most competitive areas where we can invest.”

### **JCT report describes domestic manufacturing incentives**

A new report from the nonpartisan Joint Committee on Taxation staff that was released in conjunction with this week’s Finance Committee hearing describes present-law and prior-law tax incentives for domestic manufacturing and provides economic analysis.

**URL:** <https://www.jct.gov/publications/2024/jcx-8-24/>

— Michael DeHoff  
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## Deloitte Tax looks at new guidance on direct-pay elections

The Treasury Department and the IRS on March 11 published in the Federal Register final regulations (T.D. 9988) under section 6417, which provides that “applicable entities” (or “electing taxpayers”) for credits provided in sections 45V, 45Q, or 45X may elect to treat certain credits (“applicable credits”) as a direct payment made against their federal income tax liabilities, thereby allowing such entities a federal tax refund of the amount of the direct payment in excess of any tax liability (the “direct-pay election”).

**URL:** <https://www.taxnotes.com/research/federal/treasury-decisions/final-regs-published-energy-credit-elective-payment-election/7j8qd>

These regulations finalized, with modifications, proposed regulations (REG-101607-23) under section 6417 and removed the temporary regulations (T.D. 9975) setting forth mandatory information and registration requirements for direct-pay elections released on June 14, 2023.

**URL:** <https://www.taxnotes.com/research/federal/proposed-regulations/proposed-regs-address-energy-credit-elective-payment-election%2%a0/7gw67>

**URL:** <https://www.taxnotes.com/research/federal/treasury-decisions/temporary-regs-provide-prefiling-registration-requirements-for-some-credit-elections/7gw62>

The final regulations would generally apply to taxable years ending on or after March 11, 2024. However, taxpayers and other entities may rely on the final regulations in taxable years ending before March 11, 2024, provided the final regulations are followed in their entirety and in a consistent manner. The IRS also updated the elective payment FAQs based on the final regulations.

**URL:** <https://www.irs.gov/credits-deductions/elective-pay-and-transferability-frequently-asked-questions>

### Subchapter K opt-out for direct pay

In addition to the final regulations, the government has released proposed regulations (REG-101552-24) that would modify the current regulations under section 761 to allow certain unincorporated organizations that are organized exclusively to produce electricity from renewable resources to be excluded from the application of tax rules that prevent partnerships from making a direct-pay election.

**URL:** <https://www.taxnotes.com/research/federal/proposed-regulations/proposed-regs-create-carveout-green-energy-partnerships/7j8pq>

The proposed regulations would apply to taxable years ending on or after March 11, 2024.

### Find out more

New alerts from Deloitte Tax LLP discuss the final regulations on direct pay and the proposed regulations for electing out of subchapter K for purposes of the direct-pay election.

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2024/TNV/240315\\_2\\_suppb.pdf](https://dhub.deloitte.com/Newsletters/Tax/2024/TNV/240315_2_suppb.pdf)

**URL:** [https://dhub.deloitte.com/Newsletters/Tax/2024/TNV/240315\\_2\\_suppa.pdf](https://dhub.deloitte.com/Newsletters/Tax/2024/TNV/240315_2_suppa.pdf)

## Deloitte Tax looks at global information reporting provisions in White House FY 2025 budget blueprint

The fiscal year 2025 budget blueprint that President Biden sent to Congress on March 11 calls for a significant expansion in US financial institution reporting obligations on behalf of non-US account holders, including transactions in digital assets, along with other compliance and reporting provisions intended to “modernize” the tax treatment of digital assets.

Budget proposals carried over from last year would:

- Significantly expand US financial institution reporting obligations on non-US account holders, with the goal of more robust reciprocal tax information exchange between the US and jurisdictions with which it maintains reciprocal income tax treaties or intergovernmental agreements under FATCA;
- Require digital asset exchanges—defined as brokers under the amended section 6045—to report substantial foreign owners of passive entities;
- Require individuals and certain domestic entities to disclose digital assets maintained by a foreign digital asset exchange or other foreign digital asset service provider on Form 8938, Statement of Specified Foreign Financial Assets; and
- Expand the IRS Taxpayer Identification Number (TIN) Matching Program beyond only payments subject to backup withholding.

New proposals for fiscal year 2025 would:

- Require earlier electronic filing deadlines for information returns made under sections 6041 through 6050Z (other than returns and statements required to be filed with respect to nonemployee compensation) and
- Modify the rule that defines 10 percent shareholders for purposes of the exclusion from the exemption for portfolio interest, aligning it with the definition of US shareholders in the controlled foreign corporation context.

### Find out more

A new alert from Deloitte Tax LLP’s Global Information reporting group discusses these provisions. (For an overview of all the administration’s revenue proposals for the coming fiscal year, see *Tax News & Views*, Vol. 25, No. 11, Mar. 12, 2024.)

[URL: https://dhub.deloitte.com/Newsletters/Tax/2024/TNV/240315\\_3\\_supplA.pdf](https://dhub.deloitte.com/Newsletters/Tax/2024/TNV/240315_3_supplA.pdf)



[URL: https://dhub.deloitte.com/Newsletters/Tax/2024/TNV/240312\\_1.html](https://dhub.deloitte.com/Newsletters/Tax/2024/TNV/240312_1.html)

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## Yellen to discuss FY 2025 budget blueprint at Finance Committee hearing

The Senate Finance Committee announced this week that it will hold a hearing on March 21 at 10:00 a.m. to discuss the revenue proposals in President Biden’s fiscal year 2025 budget blueprint.

Treasury Secretary Janet Yellen will be the sole witness.

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