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Federal Budget

Republicans Seek to Make Bush Tax Cuts Permanent

While Republicans seem to have at least temporarily backed off efforts to pass new and costly tax cuts, including a reduction in the capital gains tax, there is renewed talk about making permanent the Bush tax cut, which is slated to expire at the end of 2010.

Sen. Charles Grassley (R-IA) issued a statement outlining his priorities as the new chairman of the Senate Finance Committee, the position he will reclaim from Sen. Max Baucus (D-MT) in January when Republicans will be the Senate's majority party. Grassley, quoted in BNA, said that he intends to work to make last year's $1.35 trillion tax cut permanent because tax cuts "help taxpayers across the board with child care, rate cuts, education incentives, and retirement savings incentives [and they] help to create jobs."

On the other hand, this report from Citizens for Tax Justice reveals the Bush tax cut to be much less evenly distributed across income levels, primarily benefiting the very wealthy. Potential new tax cuts could make matters worse, and have negative effects for decades to come, resulting in:

- Insufficient resources to address national priorities, including security, education, health care, human needs, and the wide range of quality of life issues that are important to everyone, as well as public health, safety, and the environment.
- Increased income and asset inequality. Paul Krugman, in an Oct. 20 article in the New York Times Magazine, warns of a new plutocracy, quoting Kevin Phillips' conclusion in Wealth and Democracy that, "Either democracy must be renewed, with politics brought back to life, or wealth is likely to cement a new and less democratic regime—plutocracy by some other means." More tax cuts to the wealthy are a giant step in this direction.
- A weakened federal government that is unable to provide the services the market cannot supply; assist the states in difficult economic times; address big issues that require federal solutions; respond to national emergencies; promote safe and livable communities; maintain our national parks and public libraries; and ensure that all children, not just those of wealthy parents, receive a quality education.

So what do the election results mean for future tax cuts?

While Congress and the executive branch are now under Republican "control," that is an overstatement. It will still be difficult to advance tax cuts, and they are far from a foregone conclusion. This is especially true in the Senate, where the power of the filibuster and the budget rule (recently extended until April 2003) requiring a 60-vote supermajority to pass tax cuts remain powerful protections. As one example, our analysis of the post-election prospects for estate tax repeal shows that the new Senate will still lack from one to three votes to pass permanent repeal of the estate tax. Moreover, Congress passed the Bush tax cuts when the federal government was running a budget surplus, the economy was strong, and we were at peace abroad. This situation, key to securing congressional support, has changed considerably:

- The economy continues to struggle, with the unemployment rate up to 5.7 percent at last count. Both parties agree that we need economic stimulus. Granted, the right kind of stimulus is still in dispute, but there should be room for compromise. To do any real good, stimulus efforts need to be fast, putting money in the hands of people who will spend it. Tax cuts that mostly benefit the wealthy (who are less likely to spend) or permanent long-term tax cuts down the road won't accomplish this goal. A mix of short-term measures to stimulate the economy, with some goodies for each side, could benefit the economy and the people who most need some help.
- Most states are struggling with deficits that must be balanced. This will likely result in cuts in services, especially to their most vulnerable residents. Also, state cutbacks also have a big negative effect on the ability of the national economy to recover from the economic slow down. The failure of the federal government to provide some revenue to assist states not only means cuts in services to people but also inhibits our economic recovery.
- With the predicted deficits, fiscal conservatives on both sides of the aisle should find some common cause in refusing to further increase the deficit with more tax cuts. At the same time that the president and his team in Congress are pushing to accelerate the

phase-in of last year's tax cut and making it permanent, Bush is also warning that "Congress must show fiscal discipline" as it reconvenes this week to complete work on the remaining 11 FY 2003 appropriations bills. It is not clear how Congress can reconcile these conflicting messages. We can't have it all, as the effect of the Bush tax cut on the once huge federal surplus reminds us.

- The war against terrorism, increased need for domestic security, and costs of the new Homeland Security office all bring huge costs. People are willing to make sacrifices in tough times and tax cuts, especially for the wealthy, make little sense to many people under the circumstances we are facing.
- As the still-unfinished appropriations process for 2003 has made clear, cutting spending to the point where there isn't enough money to fund important government services and programs that have broad public support just leads to a stalemate. Further reductions in available resources when there is not enough money to even adequately fund the services that everyone supports is counterproductive.

Instead of tax cuts for the wealthy, the need for economic stimulus is paramount. A variety of ideas have been raised, including an extension of unemployment benefits, a tax "rebate" for low-income people (who missed out on the last rebate), a temporary lifting of payroll taxes for low-wage workers, emergency revenue sharing for the states, and short-term investment credits for business. Unlike tax cuts for the wealthy, bipartisan cooperation around these issues seems possible.

Additionally, there are steep trade-offs between tax cuts and other national priorities. Besides the importance of adequate resources to meet current needs, addressing future needs through education, job training and employment supports, affordable health care, and improvements in infrastructure lay the necessary foundation for our long-term productivity and economic growth. More tax cuts for the wealthy will make this impossible.

In short, there are good affirmative arguments with which to counter the "more tax cuts no matter what" mantra.

Information Policy

Comments Due this Week on FERC Rule Limiting Public Access

Public comments on the Federal Energy Regulatory Commission's proposal to limit public access to "critical energy infrastructure information" are due this Thursday, Nov. 14.

FERC granted an extension to the original deadline, as reported in a previous issue of the Watcher, in response to a request filed by American Rivers and members of the Hydropower Reform Coalition (HRC). FERC's Notice of Proposed Rulemaking was issued on Sept. 5, 2002, and published in the *Federal Register* on Sept. 13 in Docket Nos. RM02-4-000 and PL02-1-000.

FERC began its rulemaking in response to last year's Sept. 11 terrorist attacks. OMB Watch is preparing comments on the proposed rule that will be made available through our web site upon submission to FERC.

SEC Seeks Comment on Proposal For Mutual-Fund Disclosure

The Securities and Exchange Commission (SEC) is currently seeking comment on a proposed rule (published Sept. 19) that would require mutual fund companies to publicly disclose documents related to proxy voting, in which the company votes as a shareholder on behalf of mutual fund owners.

The Calvert Group, a mutual fund management company with one of the largest families of socially screened funds, has posted a letter on its web site that can be e-mailed to SEC Secretary Jonathan Katz supporting the proposed rule changes, requiring disclosure of both proxy voting guidelines and actual voting records.

Proxy voting disclosure will help ensure that fund managers are supporting corporate governance practices that are consistent with the best interests of their shareholders, and help to eliminate the perception that fund managers may use their proxies to vote in their own business interests instead. It will aid in the continuing effort to make corporate management properly accountable to investors. With disclosure, for example, investors will know how votes are cast on key issues (i.e., executive compensation, stock options, etc.) that directly affect their interests. In addition, disclosure could also encourage mutual funds to become more attentive to the corporate governance of the companies in their portfolios.

If the proposed rule is adopted, mutual fund companies will be required to:

- disclose the policies and procedures they use to determine how to vote proxies of companies in their portfolios;
- disclose procedures the fund uses when a vote presents a conflict of interest for the fund's investment adviser;
- disclose its complete proxy voting record in filings with the SEC;
- disclose in the annual and semi-annual reports to shareholders any proxy votes that are inconsistent with the fund's policies and procedures, along with an explanation for the inconsistency; and
- provide information about its proxy voting policies and procedures and voting record to shareholders upon request.

The SEC will accept public comments on the proposed rule through Dec. 6.

I Want My Digital Government(?)

Despite hard economic times, states are continuing to invest resources to increase government's capacity to deliver services online. But how effectively can digital government engage citizens who are often marginalized from, if not entirely left out of, civic participation, especially young people? Findings from an informative UK study provide useful insights for states to consider in their digital growth. More here…

Nonprofit Issues

Election Results Could Impact CARE Act

If the CARE Act on charitable giving is not passed in the lame duck session, it will have to be re-introduced in the next Congress, and re-considered by the Senate Finance Committee, which as a result of last week's elections, will have a new Republican chairman, Sen. Charles Grassley (IA).

Grassley issued a statement on Nov. 6 stating, “My early priorities will include working for full Senate passage of legislation that passed the Finance Committee but stalled under the Senate’s Democratic leadership.” However, he did not specifically list the CARE Act, which was approved by the Finance Committee last summer.

Four new Republicans will be joining the committee as a result of three retirements -- Sens. Frank Murkowski (R-AK), Phil Gramm (R-TX) and Fred Thompson (R-TN) -- and a seat lost by the Democrats as they become the minority party. Since Sen. Robert Torricelli (D-NJ) did not run for re-election, his seat on the committee will lapse, and current Democratic members are likely to continue.

Controversial charitable choice policies may have a new advocate in Senator-elect Jim Talent (R-MO). Talent co-sponsored legislation during his term in the House of Representatives that would have required states to accept theology training in lieu of medical training for substance abuse programs. That bill did not pass.

OMB Seeks Comments on Grant Applicant ID Numbers

As part of its effort to streamline the federal grants process, the Office of Management and Budget (OMB) has proposed that each nonprofit grant applicant be assigned a single identification number through the Dun and Bradstreet Data Universal Numbering System (DUNS) -- the same system used by for-profit corporations for federal contracts.

OMB published a Proposed Policy on Use of a Universal Identifier by Grant Applicants on Oct. 30. Comments are due by Dec. 30. The proposed policy would require all grant applicants to apply to Dun and Bradstreet for a DUNS number before submitting a grant application, beginning in October 2003. The process is free, and requires about a dozen required data elements. However, most of these do not apply to nonprofits, such as “line of business,” and “name of owner.” The “legal structure” field does not have an option for nonprofit organization. See the Dun and Bradstreet website for the application process for a DUNS number.

An appropriate single identifier for nonprofit grant applicants would help simplify the grants system, make secure electronic transactions with federal agencies possible, and make public information on grants more accessible. The Streamlining Grants Management Project, co-sponsored by OMB Watch, the Urban Institute and GuideStar, is collecting comments and ideas on the best way to establish a single identification number for federal grant applicants. We will submit comments to OMB incorporating that input, and also encourage nonprofits to submit comments directly. OMB is encouraging commentors to send their statements by email to sswab@omb.eop.gov, with “DUNS Comments” in the subject line. For further details see the OMB announcement.

IRS Seeks Comments on Revised Application for Exempt Status

Nonprofits are encouraged to review proposed IRS revisions to Form 1023, the application for recognition of exempt status under Section 501(c)(3), which includes charitable, educational, scientific, religious and other groups.

In Announcement 2002-92, issued Oct. 15, the IRS seeks comments from nonprofits, regulators, practitioners (attorneys and accountants) and others on: “1. Ease of comprehension, 2. Customer burden, 3. Technical accuracy, and 4. Sufficiency of information requested." The draft is based on comments received in a prior public comment period.

The draft Form 1023 is available on the IRS website in pdf format, as are the proposed instructions. Comments are due Dec. 2. They can be sent to the IRS at 1111 Constitution Ave. NW, Washington, DC 20224, Attn. Amy Henchey-Form 1023, Announcement T:EO:CEO, or filed electronically via email to tege.eo2@irs.gov. (Note: This is a change of email address from the original announcement.) The IRS asks all commentors to explain their interest in Form 1023, and provide “any information that will be useful in revising it.”

Regulatory Matters

Report Documents Steep Decline in Environmental Enforcement

The Environmental Protection Agency (EPA) appears to be relaxing its enforcement efforts, with civil penalties declining by half over the Bush administration’s first full fiscal year, according to a new report by the Rockefeller Family Fund's Environmental Integrity Project.

In FY02 -- Oct. 1, 2001 through Sept. 30, 2002 -- EPA recovered only $51 million in civil penalties, compared to $140 million in FY99, $85 million in FY00, and $95 million in FY01. Two-thirds of the civil penalties collected in FY01 -- the last eight months of which were presided over by President Bush -- were a result of complaints lodged during the Clinton administration, according to EIP's analysis of EPA documents.

EPA frequently will reduce penalties for companies that carry out "Supplemental Environmental Projects" (SEPs) designed to benefit local communities -- such as financing the purchase of wetlands or green space -- which could account for a reduction in civil penalties. However, as noted by EIP, the value of SEPs also fell during the first fiscal year of the Bush administration -- from an average of $111 million per year for the past three fiscal years (FY99-FY01) to only about $44 million in FY02.

EIP's report lists the companies that were fined and the amount of civil penalties they paid EPA for FY99-FY02, excluding superfund cases. EIP is headed by Eric Schaeffer, who resigned in

March as director of EPA's Office of Regulatory Enforcement to protest the Bush administration's weakening of environmental enforcement.

Right-to-Know

Report Refutes Industry Right-to-Know 'Reforms'

The Georgetown Environmental Law & Policy Institute (GELPI) recently released a paper that responds to criticisms of environmental right-to-know programs and explains how industry's proposed "procedural" reforms threaten to undermine them.

The report notes that rather than directly challenge the legitimacy or value of information disclosure programs, the industry critics primarily focus on administration, advocating a series of "procedural reforms," such as greater stakeholder involvement and increased opportunities for judicial review. Industry critics also call for limits on the disclosure of certain types of information in the name of protecting business secrets and national security.

The GELPI paper concludes that many of these proposals would weaken right-to-know programs in order to address unwarranted or exaggerated concerns about the possible adverse effects of disclosure. Greater procedural hurdles and more frequent judicial review would delay the disclosure of information, divert agency resources to costly and time-consuming internal reviews, and enhance opportunities for industry to influence decisions about whether and how environmental information should be disclosed.