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Getting Ready for the Main Course: Senate Finance Committee Leaders Outline “Blank Slate” Approach to Tax Reform

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The momentum toward comprehensive tax reform accelerated significantly on June 27th, 2013, when the bipartisan leaders of the Senate Finance Committee, Chairman Max Baucus (D-MT) and Ranking Member Orrin Hatch (R-UT), sent their Senate colleagues a joint letter requesting Senators to submit their tax reform proposals by July 26th, 2013.¹ In doing so, Senators Baucus and Hatch are beginning to set the table for the Finance Committee to consider tax reform in the coming months. As discussed in our [previous alert](#), the time to weigh in on tax reform is now.

The letter is significant in several respects. Perhaps most importantly, it asks Senators to start from a “blank slate”—that is, to assume that all tax credits, deductions, and other tax expenditures are repealed. From here, Senators are asked to propose which expenditures should remain in the Tax Code, and make other recommendations on tax provisions that should be added, repealed, or reformed during tax reform. Thus, the Finance Committee has effectively put every tax expenditure,² and potentially an even wider array of issues, on the table while also acknowledging that some tax expenditures should be retained.

In addition, the letter emphasizes that the Committee is considering non-income tax issues, such as excise taxes, employment taxes, and transfer taxes. Finally, the letter indicates that the Finance Committee intends to move forward with this part of the tax reform process on a bipartisan basis.

The letter raises numerous questions for stakeholders interested in the outcome of specific tax expenditures and other provisions during comprehensive tax reform. This alert describes the process outlined in the letter and what stakeholders can do to participate.

Who can submit proposals? Only members of the U.S. Senate can submit proposals. This aspect of the Finance Committee’s process differs substantially from the House Ways and Means Committee’s Working Group process, which actively sought direct input from businesses, trade organizations, and members of the general public.

How will Senators submit their proposals? Senators are asked to submit “legislative language or detailed proposals.” In other words, the letter discourages Senators from submitting high-level concepts for tax reform. Instead, Senators are asked to provide the rationale for retaining existing tax expenditures or making other changes to the Tax Code.

However, the letter does not prescribe a specific format for providing input. In other words, Chairman Baucus and Ranking Member Hatch have not asked each Senator to submit merely a list of provisions they support. Instead, Senators have flexibility in this aspect of the process. For example, some Senators might submit individual proposals, while other Senators might submit proposals jointly. Indeed, it would be entirely possible for a Senator to do some of both.



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What is the Finance Committee looking for? The letter states that tax expenditures should be retained only if they “(1) help grow the economy, (2) make the tax code fairer, or (3) effectively promote other important policy objectives.” Further, the Finance Committee will give “special attention to proposals that are bipartisan.” Thus, the Committee is looking for Senators to justify why their proposals would advance the objectives of tax reform, and will prefer to see joint submissions from Members on both sides of the aisle.

More broadly, the Finance Committee is seeking a robust response, with broad bipartisan Member input.

Will the submissions be made public? Although this issue is not addressed in the letter, the Committee does not intend to make the submissions public. That said, individual Senators may decide to make their submissions public, either by releasing them to outside parties or posting them online.

What’s the deadline? Senators must submit their tax reform priorities and proposals to the leaders of the Senate Finance Committee by July 26th, 2013.

What happens after July 26? After the submission process is complete, the Finance Committee intends to begin drafting a comprehensive tax reform bill, with the goal of completing the bill by early fall 2013. The Committee would then proceed to schedule a mark up of the legislation before the end of the year. The proposals that the Finance Committee receives before July 26 are likely to play a key role in the Committee’s development of this legislation.

How does this process affect you? The letter clearly demonstrates that comprehensive tax reform is picking up momentum in the Senate. As a result, now is the time to weigh in with supporters on Capitol Hill.

- **Everything is on the table.** The Committee’s “blank slate” approach means that no industry should assume that the provisions they value will be safe. Businesses and industries should educate members now to ensure that their interests are represented in submissions to the Finance Committee.
- **Don’t wait until it’s cooked.** Even if comprehensive tax reform is not enacted into law this Congress, the Finance Committee’s tax reform bill will remain “on the shelf” for years to come. Thus, in the future, Members are likely to come back to provisions that the Finance Committee’s bill would eliminate in an effort to raise revenue.
- **Are you on the menu?** The confidential nature of submissions to the Finance Committee means that each Senator is likely to voice their support for a limited set of tax provisions. This aspect of the process is already causing competition among interest groups, who are flocking to Capitol Hill to ensure that their champions highlight specific provisions to the Finance Committee. Organizations that fail to get involved are likely to be left behind as this process unfolds.

If you have any questions, please do not hesitate to reach out to one of the authors. Additionally, visit our Tax Reform Resources page at <http://www.klgates.com/taxreform/> for tax reform documents from the Senate Finance Committee, House Ways and Means Committee, the Administration, and others, as well as our previous tax reform alerts.

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¹ The letter, along with the Finance Committee’s press release, can be found at the following link: <http://www.finance.senate.gov/newsroom/chairman/release/?id=160ff0ee-af36-4d1d-b71b-4dfef9321a1e>.

² See JOINT COMM. ON TAXATION, ESTIMATES OF FEDERAL TAX EXPENDITURES FOR FISCAL YEARS 2012-2017, JCS-1-13 (2013), available at <https://www.ict.gov/publications.html?func=startdown&id=4503> (listing all federal tax expenditures).