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Tax Activity in the 108th Congress: An Overview

Pamela J. Jackson
Analyst in Public Sector Economics
Government and Finance Division

Summary

This report provides an overview of federal tax proposals considered, including those approved, by the 108th Congress to date. Thus far in this Congress three proposals have been enacted. H.R. 2, the Jobs and Growth Tax Relief and Reconciliation Act (JGTRRA) was signed into law (P.L. 108-27) in May 2003; tax reductions for armed services personnel (H.R. 1307, H.R. 1664, H.R. 878, S. 351, H.R. 3365) became law, P.L. 108-121; and the Medicare Prescription Drug and Modernization Act (H.R. 1, H.R. 2596, H.R. 2351) became law, P.L. 108-173. Other targeted proposals discussed in this report include tax incentives for charitable giving (H.R. 7, S. 476), child tax credit (H.R. 1308), energy (H.R. 6, S. 1149), estate tax repeal (H.R. 8), expiring tax provisions, (H.R. 3521, S. 1896), export provisions and related taxation of corporations (H.R. 1769, H.R. 2896, S. 970, S. 1475, S. 1637, S. 1688), Internet taxation (H.R. 49, S. 150), and pension tax policy (H.R. 743, H.R. 1000, H.R. 1776, H.R. 3108).

This report will be regularly updated to reflect legislative developments.

Economic Growth Package

On May 23, 2003, the House and Senate agreed to the conference report for H.R. 2, the Jobs and Growth Tax Relief Reconciliation Act (JGTRRA), and on May 28, the President signed the bill into law as P.L. 108-27. The Joint Committee on Taxation (JCT) estimated the package will result in $350 billion in reduced revenues (and increased outlays) from FY2003 through FY2013 .[1] In contrast to the Senate-passed version, which would have had the same net cost, the final bill did not include revenue raising measures, or "offsets." Further, the total cost is significantly less than the initial package of $726

[1] U.S. Congress, Joint Committee on Taxation estimates posted on the Joint Committee on Taxation's Web site: [http://www.house.gov/jct/x-15-03.pdf]. All estimated revenue impacts in this report are those prepared by the staff of the JCT.

billion proposed by the President.[2] The principal outlay in the package established a $20 billion fund to provide relief to state governments. The principal tax provisions include acceleration of individual income tax rate reductions, a temporary expansion of the 10% individual income tax bracket, a temporary acceleration in marriage tax relief provisions, a temporary increase in the child tax credit from $600 to $1,000, a temporary increase in the alternative minimum tax exemption amounts, an increase in the "bonus" depreciation allowance, a temporary increase in small business allowable expensing, and a temporary reduction in individual capital gains and dividend taxes through 2008.

President's Proposal.[3] In January, the President proposed an economic growth package with an estimated revenue decrease of $40 billion in FY2003 and $726 billion over FY2003-FY2013. The largest component was a dividend exclusion proposal that accounts for $7.6 billion in FY2003 and $396 billion, or 54.5%, of the FY2003-FY2013 cost. This proposal would have eliminated individual taxes on retained earnings by increasing the basis of stocks, and classified income. The remaining provisions would have accelerated future tax cuts enacted in 2001 to the current year (2003). In order of decreasing 11-year revenue impacts, the proposal would have:

(1) Increased the child credit to $1,000 per child, set at $600 through 2004, $700 in 2005-2008, $800 in 2009, and $1,000 in 2010 under then existing law.

(2) Accelerated the scheduled income tax rate reductions. The current 38.6, 35, 30 and 27% income tax rates that are scheduled to decline to 37.6, 34, 29 and 26%, respectively, in 2004-2005 and to 35, 33, 28, and 25% in 2006 and after would have accelerated with the 2006 rates becoming effective in 2003.

(3) Increased the standard deduction and width of the 15% bracket for joint returns to twice that of singles. The increase was phased in over five years and the increase in the width of the bracket was phased in over four years beginning in 2005 under then existing law. Under the proposal those increases would have been accelerated to 2003.

(4) Expanded the10% income tax bracket. Under prior law, the thresholds were $6,000 for singles and $12,000 for married couples and scheduled to rise by $1,000 and $2,000 respectively in 2008. The expansion of the bracket would have been accelerated to 2003 and indexed for inflation thereafter.

(5) Temporarily increased the alternative minimum tax (AMT) exemption by $8,000 for married couples and $4,000 for singles in 2003-2005.

(6) Increased the amount of equipment that can be expensed (deducted in full in the first year) for small businesses from $25,000 to $75,000. This amount would have then been indexed for inflation beginning in 2004.

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[2] For a more extensive discussion, see CRS Report RL31907, *Tax Cut Bills in 2003: A Comparison*, by David L. Brumbaugh and Don C. Richards.

[3] For a more detailed explanation of the President's proposal, see CRS Report RS21420, *President Bush's 2003 Tax Cut Proposal: A Brief Overview*, by David L. Brumbaugh.

The purpose of the President's package was to stimulate the economy and to eliminate the double taxation of corporate equity income, which causes economic distortions. Supporters of the package suggested the plan would encourage investment that could translate into increased jobs, reduce deficits if economic growth is increased, and provide broad tax relief, particularly for seniors and families. Others had suggested that the proposed stimulus is not needed, cannot be appropriately timed by Congress, is too large, or, to the extent permanent tax cuts increase deficits, may ultimately harm the economy. The proposal had also been criticized as favoring high-income taxpayers.

House Proposal. On May 9, the House approved H.R. 2, Jobs and Growth Tax Act of 2003. According to the JCT, the proposal includes $550 billion (over 11 years) in tax cuts. One component, which differs from the President's proposal, would have reduced the tax rate on both dividends and capital gains to 15% (5% for individuals in the two lower rate brackets). This provision was adopted on a temporary basis in the final plan. The JCT estimates the combined impact of this reduction would cost $277 billion from FY2003 to FY2013. Other components within the plan included providing for 50% of equipment investment to be eligible for depreciation deduction ("bonus" depreciation) through 2005 (current law allows 30% first-year additional depreciation deduction until September 2004); accelerating the marginal tax rate reductions, the expansion of the 10% tax bracket and marriage penalty relief already scheduled to take place in future years; increasing the child credit to $1,000 temporarily for 2003-2005; increasing small business expensing to $100,000 from $25,000 through 2007; and extending the five-year carry back of net operating losses for tax years 2003, 2004, and 2005.

Senate Proposal. On May 15, the Senate incorporated S. 1054, Jobs and Growth Tax Relief Reconciliation Act of 2003 into H.R. 2 and approved the package as amended. Similar to the House version of H.R. 2 and the President's proposal, the Senate's version included an acceleration of many of the 2001 tax cuts (including rates, marriage penalties, child credits, and expansion of rate brackets) enacted in EGTRRA. The proposal also included a temporary increase in the amount that can be expensed by small businesses from $25,000 to $100,000 (and the threshold for qualifying investments) and a temporary increase in the alternative minimum tax (AMT) exemption. One of the major differences between the Senate's version, H.R. 2 as approved by the House, and the President's proposal was the taxation of dividends. The Senate approved legislation that would have reduced the taxation of dividends for foreign and domestic corporations by 50% in 2003 and provided a 100% exclusion in 2004, 2005, and 2006. The proposal also would have established a fund of $20 billion for federal aid to state and local governments. A series of revenue offsets were also included in the bill to reduce the total estimated net revenue impact from FY2003 through FY2013 to $350 billion. These revenue offsets were not included in the final bill.

Taxation of Armed Forces Personnel

Several proposals to provide military tax relief, S. 351, H.R. 878, H.R. 1307, H.R. 1664, and H.R. 3365 were introduced this year, and one of them, H.R. 3365, became public law (P.L. 108-121) on November 11. The Military Family Tax Relief Act, H.R. 3365, was introduced (Renzi) on October 21, 2003, passed the House on October 29, and passed the Senate on November 3. The bill as introduced, proposed to increase the military death gratuity payment from $6,000 to $12,000 and make such payments fully tax-free, was estimated to cost $122 million between fiscal years 2004 and 2013. It was subsequently amended to include other tax benefit provisions, including a time extension to ten years from five on the exclusion of gain on the sale of a principal residence by a member of the uniformed services or the foreign service. These provisions were similar to those contained in the House and the Senate passed versions of the Armed Forces Tax Fairness Act, H.R. 1307 as well as H.R. 1664 which passed the House in April, H.R. 878, and S. 351. In the legislation that has become law, provisions to improve tax equity for military personnel are expected to result in an estimated $1.236 billion revenue loss between 2004 and 2013 according to the JCT.

Medicare Prescription Drug and Modernization Act

On June 25, two health care bills, H.R. 2596, the Health Savings and Affordability Act, and H.R. 1, the Medicare Prescription Drug and Modernization Act, were introduced in the House and passed that same week. H.R. 2596, similar to an earlier bill, H.R. 2351, provides for health savings accounts and flexible spending arrangements with an estimated cost at $173.6 billion over 10 years. In passing H.R. 2596, the House agreed to append it to H.R. 1. A Senate bill, S. 1, introduced earlier in June and passed that same month, was incorporated into H.R. 1 in July as an amendment. The Senate passed H.R. 1 in lieu of its own measure on July 7.

H.R. 1 provides tax breaks to keep private employers from eliminating retirees' prescription drug coverage, creates health savings accounts and makes them a permanent feature fo the tax code, and calls for Medicare to pay companies with retiree health plans 28 cents for every dollar spent on drug benefits from $250 to $5,000, provided the health plan is certified to be at least the equivalent of the standard Medicare drug plan. After having been in conference since September 17, the conference report, H.Rept. 108-391, was agreed to in the House on November 22 and in the Senate on November 25. On December 8, 2003, the legislation was signed into law, P.L. 108-173.

Targeted Tax Proposals

Several targeted proposals have been introduced, some of which accelerate, freeze, or make permanent the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA; P.L. 107-16), the multi-year 2001 tax cut. This Act was passed with a sunset provision because there were not enough votes to set aside a budget rule. In the 108th Congress, numerous bills have been introduced to make provisions of P.L. 107-16 permanent. For example, on June 18 the House approved H.R. 8, which proposes to make permanent the repeal of the estate tax, currently scheduled to expire in 2010.

Charitable Contributions. On April 9, 2003, the Senate approved the CARE Act, S. 476, which is intended to provide tax subsidies for charitable giving, improve the public disclosure of activities of exempt organizations, and enhance the ability of low-income Americans to gain financial security by building assets. The bill includes $12.3 billion in decreased tax revenue but raises $13 billion over 10 years by curbing corporate tax shelters. A similar bill, H.R. 7, the Charitable Giving Act, was introduced in the House in June 2003 and passed on September 17, 2003. H.R. 7, which was referred to the Senate Committee on Finance on December 9, contains provisions for charitable contribution deductions for non-itemizers, tax-free distributions from IRAs for charitable purposes, and an increase in the corporate charitable contributions cap. The JCT estimates that this bill would decrease governmental receipts by $12.7 billion over the 2004-2013 period.

Child Tax Credit Refundability. H.R. 1308, the Relief for Working Families Tax Act, which passed in the Senate on June 5, has been in conference to resolve differences. The Senate used H.R. 1308 as a vehicle to expand the refundability of the child tax credit, a measure dropped from the general tax cut (JGTRRA) adopted in May. The Senate version would accelerate the increase in the refundable portion of the child tax credit and, beginning in 2008, increase the income phase-out threshold for joint filers for the child tax credit. Additionally, the Senate bill would increase the percent used to calculate the limit from 10% to 15% in 2003, presently scheduled to increase in 2005. The JCT estimates that the reduction in revenue for the Senate's proposal would be $9.8 billion, more than offset by extending, through March 2010, certain U.S. customs user fees.

On June 12, after Senate passage of H.R. 1308, the House insisted on its own amendments that would accelerate the refundability calculation to include 15% rather than 10% in 2003. The income phase-out included in the Senate's version would be increased immediately in 2003. Further, the House amendments would maintain the child tax credit at $1,000, currently scheduled to decrease to $700 in 2005 before increasing gradually in later years. Finally, the House amendments incorporate tax relief for members of the armed services but, unlike the Senate version, do not include any revenue offsets. The House version is estimated to reduce revenues by $82 billion from FY2003 through FY2013 and is not offset by revenue increases.

Energy Taxation. Both the House and the Senate have approved energy taxation measures that are currently in conference: H.R. 6, which provides $18.6 billion in net tax relief, passed the House on April 11, and the Senate version, which provides $15.5 billion, passed on July 31. This measure includes several energy tax cuts including tax credits for producers and consumers of energy. Another bill to provide energy tax incentives, S. 1149, was introduced in May 2003 and approved by the Senate Finance Committee. Some of the major differences being resolved in conference include the taxation of renewable fuels, clean coal, credits for producing electricity from renewable sources, and financial incentives for the construction of a natural gas pipeline from Alaska. The conference report, H.Rept. 108-375, was agreed to in the House on November 18 and considered in the Senate that same week.

Estate Tax Repeal. The House approved H.R. 8 introduced by Representative Dunn, on June 18. It proposes to make permanent the repeal of the estate tax, currently scheduled to expire after 2010.

Expiring Tax Provisions. On November 19, 2003, Senate bill S. 1896 and House bill H.R. 3521 were introduced to amend the Internal Revenue Code by providing extensions for certain expiring provisions. H.R. 3521, valued at $7.4 billion in tax revenue loss, passed the House on November 20 and was referred to the Senate Committee on Finance on December 9. S. 1896, with a value of $1.2 billion, was referred to the Senate Committee on Finance. The source of the significant difference in tax revenue loss between the two bills is a 5-year net operating loss carry-back period provision estimated at nearly $5 billion.

Export Provisions and Corporate Taxes. In response to the need to eliminate export provisions that have been deemed violative of trade agreements by the World Trade Organization, legislation has been introduced in the House, H.R. 1769 (Crane and Rangel) and H.R. 2896 (Thomas), and in the Senate, S. 970 (Hollings), S. 1475 (Hatch), S. 1637 (Grassley and Baucus), and S. 1688 (Rockefeller). H.R. 1769, which is identical to S. 970, would provide $126 billion in domestic manufacturing tax benefits and H.R. 2896, which is similar to S. 1475, would provide a $128 billion largely corporate tax revision. S. 1637 was introduced on September 18, 2003, as a measure to replace foreign sales corporation /extraterritorial income taxes (FSC/ETI) with tax cuts for manufacturing and other international tax relief in a $75 billion offset. All of the Senate bills were introduced and referred to the Committee on Finance. S. 1637 passed the committee in October and was reported to the Senate floor on November 7. H.R. 1769, after its introduction in April 2003, was referred to the House Committee on Ways and Means. H.R. 2896, introduced in July 2003, was reported from the House Ways and Means Committee and prepared for the House floor on November 21.

Internet Access. In January 2003, the Internet Tax Freedom Act, H.R. 49, was introduced to permanently extend the existing moratorium on the taxation of Internet access, ban the multiple or discriminatory taxation of Internet commerce, and preclude state and local governments from levying existing sales and use taxes on Internet access services. On September 17, 2003, this Act passed the House and was then received in the Senate the next day. S. 150, which is identical to H.R. 49 and also introduced in January, was referred to the Committee on Commerce, Science, and Transportation in July 2003, amended on September 29, and then referred to the Senate Committee on Finance, where it was discharged on October 29.

Pension Tax Policy. In the wake of the Enron bankruptcy, the House approved H.R. 1000, the Pension Security Act, on May 14 and referred it to the Senate Committee on Health, Education, Labor, and Pensions. Among other changes, the proposal would require permitting diversification in 401(k) plans. The JCT estimates that the revenue provisions in the bill would reduce revenues by a net of $482 million from FY2003 through FY2013. Other related legislation being considered includes H.R. 1776, the Pension Preservation and Savings Expansion Act, which makes currently available retirement savings opportunities permanent. H.R. 1776, which contains a provision to adjust the interest rate used to determine required pension contributions since a temporary provision addressing that issue was scheduled to expire at the end of 2003, was introduced in April 2003 and referred to the House Committees on Ways and Means and Education and Workforce. H.R. 743, the Social Security Protection Act providing additional safeguards for Social Security and Supplemental Security Income beneficiaries, was introduced in February 2003; it passed the House in April and the Senate in December.

H.R. 3108, introduced in September 2003, also addresses this interest rate issue by amending the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds. H.R. 3108 was introduced on September 17, 2003, and passed the House on October 8. After being referred to the Senate in December 2003, H.R. 3108 passed the Senate on January 24, 2004.