RSC Republican Study Committee

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Legislative Bulletin……………………………………………December 2, 2010

Contents:

H.R. 4853—The Middle Class Tax Relief Act of 2010

(Oberstar, D-MN)

Key Conservative Concerns

Take-Away Points

--**Tax Increase on Businesses and Individuals:** The legislation allows the income tax relief to expire for individuals earning more than $200,000 a year and for families earning more than $250,000. 750,000 small business owners would also be subject to the tax increase.

--**Death Tax Increase:** The legislation would allow the death tax relief from the 2001 tax law to expire. This means the tax will return in January 2011 with a 55% maximum rate (including surtax) and a $1 million exemption.

--**Marriage Penalty:** The legislation allows all of the tax relief to expire for individuals earning more than $200,000 a year and for families earning more than $250,000. That creates a massive new marriage penalty for some couples.

--**$100 Billion of New Spending:** The legislation extends provisions from the stimulus that increase spending (via rebates for people who do not have income tax liability).

--Process: The Democrat Congress has had almost four years to deal with the impending expiration of the 2001/2003 tax relief. During this period, while the economy has experienced one of the worst economic downturns in American history, families and businesses have had no idea what the tax code would look like in the near future for planning purposes. This uncertainty has contributed to the economic downturn. Now, less than one month before expiration of all of the tax relief, this bill is brought to the floor less than one day after being publicly available. No opportunity for amendments, or even a motion to recommit, is available to Members.

For more details, see below.

Order of Business: The legislation is scheduled to be considered on Thursday, December 2, 2010 under a closed rule. The rule provides 1 hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means and waives all points of order against consideration of the bill except those arising under clause 10 of rule XXI (PAYGO). What the House is considering today takes the form of an amendment to the Senate-passed version of the Airport and Airway Extension Act of 2010. The sole reason for brining the bill up under this process is to deny the Minority the opportunity to amend the bill through a Motion to Recommit.

Summary: The legislation would make permanent some of the tax relief provisions from the 2001 and 2003 tax laws, allow other existing tax cuts to expire--allowing the top rate to increase from 35% to 39.6%, the top capital gains tax rate to increase from 15% to 20%, and allowing the death tax to increase from 0% to 55%--and provide an AMT "patch" for 2010 and 2011. The legislation reduces tax revenues by $1.125 trillion over ten years (compared to current law), and increases spending by $380 billion over ten years (due to rebates above tax liability owed). Of note, the legislation is a large tax increase compared to a baseline that assumes extension of all expiring tax provisions.

The following are the main highlights of the bill:

- **10% Tax Bracket:** Makes permanent the lower 10% income tax bracket. This provision reduces revenues by $449 billion compared to current law, but does not change projections compared to a baseline that assumes extension of the rates in effect today.
- **25%, 28%, 33% Tax Brackets:** Makes permanent the lower 25%, 28% and a portion of the 33% tax brackets. The pre-2001 tax rates would be in effect for incomes above $200,000 (individual)/$250,000 (married couples). This means that the top rate would increase from 35% to 39.6%. This provision reduces revenues by $206 billion compared to current law, but increases taxes compared to a baseline that assumes extension of the rates in effect today.
- **35% Tax Bracket:** The legislation would cause the top rate to increase from 35% to 39.6% in 2011 and all of the following years. In addition, the 33% tax rate would increase to 36% for incomes above $200,000 (individual)/$250,000 (married couples).
- **Child Tax Credit:** Makes permanent the $1,000 child tax credit. This provision reduces revenues by $432.7 billion compared to current law, but does not impact revenue compared to a baseline that assumes extension of existing tax law.
- **Marriage Penalty:** Makes permanent provisions from the 2001 tax law that provide marriage penalty relief. Specifically, the bill makes permanent the standard deduction/15% rate bracket set at two times single for married filed jointly. This provision reduces revenues by $85.7 billion compared to current law, but does not change projections compared to a baseline that assumes extension of the tax policy in effect today.
- **AMT:** Provides for a $72,450 AMT exemption amount for married couples in 2010 and 2011 (it was $70,950 in 2009 and would drop to $45,000 without a "patch") and a $47,450 exemption amount for singles (it was $46,700 in 2009 and would drop to

$33,750 without a "patch"). Note that the exemption amount is not double for married couples what it is for individuals. This would prevent for just two years a huge, unintended tax increase, without which more than 25 million taxpayers would be subject to a large tax increase beginning in tax-year 2010. This provision would reduce revenues by $134.6 billion.

- **Capital Gains and Dividend Taxes:** The current rates, with a top rate of 15%, would be made permanent for those with incomes below $200,000 (individual)/$250,000 (married couples). For income above this level, the capital gains tax rate would revert back to 20%, and dividend income would be treated as ordinary income. This provision reduces revenues by $99.1 billion compared to current law, but increases taxes compared to a baseline that assumes extension of the rates in effect today.
- **Education Tax Provisions:** Among other things, the legislation makes permanent the Coverdell education savings provisions from the 2001 tax relief law (annual contribution limit of up to account for qualified education expenses), and makes permanent the higher student loan interest deduction phaseouts ($65,000 individual/$130,000 married couple). This provision reduces revenues by $18.7 billion compared to current law, but does not change projections compared to a baseline that assumes extension of the tax policy in effect today.
- **Death Tax:** The legislation does not address this provision from the 2001 tax law, thus allowing the death tax relief from the 2001 tax law to expire. Consequently, the tax will return in January 2011 with a 55% maximum rate (including surtax) and a $1 million exemption.
- **Permanent Extension of Enhanced Small Business Expensing.** The bill would make permanent the increased small business expensing of a write-off up to $125,000 (indexed for inflation) of capital expenditures subject to a phase-out once capital expenditures exceed $500,000 (indexed for inflation). This proposal would reduce revenues by $25.474 billion over 10 years.

<u>Committee Action</u>: The legislation has not been considered by any committee.

<u>Earmarks</u>: No committee report listing earmarks is available.

<u>Cost to Taxpayers</u>: The legislation reduces tax revenues by $1.125 trillion over ten years (compared to current law), and increases spending by $380 billion over ten years (due to rebates above tax liability owed). Of note, the legislation is a large tax increase compared to a baseline that assumes extension of all expiring tax provisions.

<u>Does the Bill Expand the Size and Scope of the Federal Government?</u>: Yes, the legislation will cause taxes to increase compared to tax policy in effect in 2010 (the death tax returns at the 55% level, the capital gains rate increases to 20% for some families, and the top income tax rate increases from 35% to 39.6%).

<u>Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?</u>: No CBO score is available listing any possible mandates.

Constitutional Authority: No committee report with this information is available.

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