108th Congress, 1st Session: No. 6 March 4, 2003

INFORMED BUDGETEER

TAX CHANGES IN RECONCILIATION: IN OR OUT?

- As the congressional schedule this month turns to mark up and consideration of the 2004 Budget Resolution, all budget-watchers are curious to see to what extent reconciliation will be employed to carry out the policies assumed in the resolution. The largest potential use of reconciliation could further the President's tax relief proposal. But the use of reconciliation for changing tax policy has not been automatic (see following table).

- Many budget observers may be under the impression that most major tax policy changes have been enacted through the reconciliation process. While that is largely true, there are important bills to note that were not enacted through reconciliation.

- There have been 12 tax increases enacted since reconciliation was first employed in its current familiar form in 1980, and nine of them have been in reconciliation bills. The three tax increases that were not reconciliation bills are the Windfall Profits Tax Act of 1980, the Social Security Amendments of 1983, and the Small Business Job Protection Act of 1996.

- There have been six enacted tax bills that were either revenue neutral or tax relief measures, and two of them have been reconciliation bills -- the Taxpayer Relief Act of 1997 (which was paired with the Balanced Budget Act) and the Economic Growth and Tax Relief Reconciliation Act of 2001.

- Four other major pieces of tax legislation were enacted outside of the reconciliation process: the Reagan tax cuts of 1981 (Economic Recovery Tax Act), the Tax Reform Act of 1986, the Health Insurance Portability and Accountability Act of 1996, and the IRS Restructuring and Reform Act of 1998.

- As a footnote, three tax relief bills passed both houses under reconciliation in 1995, 1999 and 2000, but all three were vetoed by President Clinton.

POSTAL PAYMENTS: UP OR DOWN?

- This week, both the Senate Committee on Governmental Affairs and the House Committee on Governmental Reform plan to mark up legislation to assist the Postal Service (S. 380 and H.R. 735, respectively). The bills would reduce payments that the Postal Service is required to make to the federal government under current law. Although CBO has not prepared cost estimates on these exact bills, CBO has done some recent work that the *Bulletin* thinks will illuminate their budgetary effects.

- Any budgeteer – make that anyone who regularly mails letters – has some awareness of the Postal Service's recent woes, which it has struggled to address by repeated cost-cutting and by increasing the price of stamps. This off-budget entity, which is required by law to operate like a business that fully recovers its costs, has experienced losses for the past three fiscal years. Recent events – whether they be gradual, such as increased competition, or sudden, such as the downturn in mail volume following the 9/11 attacks and the added costs caused by the anthrax letters and subsequent cleanup – have hit the Postal Service hard.

- So six months ago, when the Postal Service, OPM, and OMB surprisingly discovered that the Postal Service was about to overpay the Civil Service Retirement System (CSRS) for the accrued cost of pensions for its employees under an old formula, it seemed like found money. Soon thereafter, the Administration proposed draft legislation to relieve the Postal Service of this excessive obligation. The President's 2004 budget included this proposal, and members introduced the companion implementing bills, undaunted by an analysis of the draft bill that CBO prepared for House Budget Committee Chairman Nussle on January 27.

MAJOR TAX ACTS SINCE 1980

Act	Tax Increase or Decrease	Reconciliation Bill?
Windfall Profit Tax Act of 1980	Increase	No
Omnibus Reconciliation Act of 1980	Increase	Yes
Economic Recovery Tax Act of 1981	Decrease	No
Tax Equity and Fiscal Responsibility Act of 1982	Increase	Yes
Social Security Amendments of 1983	Increase	No
Deficit Reduction Act of 1984	Increase	Yes
Consolidated Omnibus Budget Reconciliation Act of 1985	Increase	Yes
Omnibus Budget Reconciliation Act of 1986	Increase	Yes
Tax Reform Act of 1986	Neutral	No
Omnibus Budget Reconciliation Act of 1987	Increase	Yes
Omnibus Budget Reconciliation Act of 1989	Increase	Yes
Omnibus Budget Reconciliation Act of 1990	Increase	Yes
Omnibus Budget Reconciliation Act of 1993	Increase	Yes
Balanced Budget Act of 1995	Decrease(Vetoed)	Yes
Small Business Job Protection Act of 1996	Increase	No
Health Insurance Portability and Accountability Act of 1996	Neutral	No
Taxpayer Relief Act of 1997	Decrease	Yes*
IRS Restructuring and Reform Act of 1998	Neutral	No
Taxpayer Refund and Relief Act of 1999	Decrease(Vetoed)	Yes
Marriage Tax Relief Reconciliation Act of 2000	Decrease(Vetoed)	Yes
Economic Growth and Tax Relief Reconciliation Act of 2001	Decrease	Yes

*Paired with Balanced Budget Act of 1997 so that the two bills together reduced the deficit. Prepared by SBC staff, 12/11/02.

- CBO observed that while reducing the Postal Service's payments to the CSRS fund would improve the Postal Service's internal fiscal position, the bill would increase federal deficits by $36 billion to $41 billion over the 2003-2013 period. (The exact amount of the deficit increase would depend on how the Postal Service responded by delaying postal rate increases, increasing spending, or repaying debt to Treasury, or some combination thereof.)

- If this were the only issue facing the Postal Service, perhaps such an increase in the deficit would be acceptable. Why should postal rate payers pay the federal government any more than necessary to cover the accrued cost of the pension liabilities of postal employees? If rate payers paid more than necessary, it would be in effect a tax.

- But CBO takes this question to its natural next step. The Postal Service currently does not set aside any funds for the accrued costs of future health benefits of its employees when they retire (GAO now says the Postal Service should; CBO estimates these accrued costs are nearly twice the size of the annual reduction the Postal Service is seeking). When those costs finally do occur, the Postal Service may have to raise rates dramatically (in effect, raising costs for Postal Service users only), which it may not be able to do in its competitive environment. Or perhaps it will shift those health costs onto taxpayers in general. One might ask: why should future taxpayers pay the cost of health benefits of Postal retirees when the Postal Service has a legal mandate to recover all its costs through rates?

- What is puzzling about the Administration's legislation is that the budget the President proposed for both 2003 and 2004 would require all federal agencies to fully fund on an accrual basis all the future retirement benefits – both pension and health – of all federal employees. So it is curious that the legislation proposed for the Postal Service is not consistent with the Administration's professed support for requiring agencies to fully fund all retirement benefits.

- CBO's analysis suggests that "legislative changes as large as the one being proposed might best be evaluated in the broader context of financial risks to the federal government and to the compensation systems that the government has established for its workforce." CBO continues that if "lawmakers...determine that financial support of the Postal Service is necessary to continue the public purposes that the agency serves...[and is] reflected in the federal budget as a subsidy, it would provide transparency to lawmakers and the public. *Adjusting the Postal Service's retirement payments to CSRS while failing to recognize its unfunded health-related retirement benefits obscures the real costs of the agency's services*." [emphasis added]

VIEWS AND ESTIMATES

- Under section 301(d) of the Congressional Budget Act of 1974, Congressional committees are required to review the President's budget and submit to the Budget Committees their "views & estimates" on appropriate spending or revenue levels for programs within their jurisdiction. The following summarizes three of the letters received by Chairman Nickles and Senator Conrad. Next week's *Bulletin* will summarize additional letters, and the Budget Committee's report on the budget resolution will include a copy of all such letters received.

BANKING, HOUSING, & URBAN AFFAIRS

The Banking Committee has jurisdiction over the mass transit component of the Highway Trust Fund. Chairman Shelby argues that, within the reauthorization of TEA-21, any increases in "transportation investment [should] maintain the historical balance [80%/20%] between highways and mass transit." Another committee priority is the reform of deposit insurance. The letter supports the proposal in the President's budget to merge the Bank Insurance Fund and the Savings Associate Insurance Fund in 2004, and recommends changes to the premium structure to provide a more risk-based insurance system. The letter endorses the President's request of $842 billion for the SEC in 2004 to carry out the corporate responsibility activities under the Sarbanes-Oxley Act. On the other hand, the committee suggests that the $51 million the President requests for the Community Development Financial Institutions Fund could be spent more effectively elsewhere.

COMMITTEE ON GOVERNMENTAL AFFAIRS

The item with the largest direct budgetary impact in Chairman Collins' letter concerns the President's proposal to "correct for an anticipated [Postal Service] over-funding of [CSRS] retirement benefits." The committee recommends that the budget resolution assume the costs (about $40 billion) of enacting the legislation (S. 380) that would implement this proposal. On the topic of federal employee pay, the committee disagrees with the President's request of a 2% increase for civilian employees in 2004 when the President asks for a 4.1% increase for the military. Instead, the committee supports pay parity between the military and the civil service. The committee endorses the President's proposal for a $500 million Human Capital Performance Fund to allow agencies to raise the salaries of high-performing employees.

Written separately, Ranking Minority Member Lieberman's letter addresses an area not touched on by the majority's letter – budget process. Senator Lieberman is concerned that the reconciliation process will be used to enact tax cuts or "extraneous matter" and argues that "reconciliation procedures were established for only one purpose, to provide momentum for deficit reduction … it would be an abuse of these procedures to use them to enact tax cuts or other legislation that does not reduce the deficit." The minority, however, does support an extension of PAYGO procedures, a better definition and application of emergency requirements, and a shift to biennial budgeting; but the minority opposes the Administration's proposal for an automatic continuing resolution. Finally, while Senator Lieberman does not mention the Postal Service issue, he concurs with the Chairman's view on pay parity for civilian employees, but is cautious and skeptical of the President's pay-for-performance proposal.

Correction: Last week, the *Bulletin* erroneously stated that the omnibus appropriations bill for 2003 was **P.L. 108-10**. The correct public law number is **P.L. 108-7**. The *Bulletin* regrets the error.