**Insert for the Record**
**Senator Chuck Grassley**
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## Balance Of Payments - A Closer Look At Tax Bill Losers

By now we're well aware of the winners in the Senate's just-passed, $170 billion-plus, corporate tax cut package -- they include NASCAR racetrack operators, Oldsmobile dealers and Learjet makers, as well as large manufacturers and multinational companies more generally.

But one almost-overlooked aspect of the bill -- and perhaps the one that packs the most significant impact over the long term -- is the number of losers the bill would create.

The insistence by Senate Democrats and a few dissenting Republicans that all tax cuts be balanced out by offsetting "revenue raisers" has given birth to a peculiar form of alchemy on the Finance Committee. The new tax breaks are offset by provisions shutting down tax shelters and closing a vast array of perceived "loopholes," which will raise upwards of $60 billion for the Treasury over 10 years.

Finance Chairman Grassley said the revenue offsets in his bill are designed to punish tax cheats and corporate criminals. The revenue-raising provisions, if they eventually become law, will be the most significant rollback of tax loopholes since the 1986 law that changed the passive loss rules, observers said. They include new, stiff penalties for failure to disclose tax shelter activities, codification of the economic substance doctrine and an end to abuses brought to light by the Enron scandal.

But skeptics in the House and on K Street believe some offsets are a product of panning in the revenue stream of the U.S. government for tax cut gold. The rocketing cost of Senate bill and the parallel drive to create money-saving offsets have led the Finance Committee to over-reach, they claim.

House Ways and Means Chairman Thomas criticized the Senate approach in a Q&A with reporters last week, saying that the Senate has the tendency to turn striving for revenue neutrality "into a mechanical exercise." He said this led to some situations in which "the revenue you are reaching for is not the same as the policy you are trying to cover."

The most significant piece in terms of the money it raises -- $42 billion over 10 years -- is provisions to curb abusive leasing transactions, under which taxpayer dollars have literally been used to help finance dozens of foreign and domestic infrastructure projects, including sewer systems and subways, while the large financial institutions that structured the deals raked in billions.

Almost no one in Washington argues that no legislation is needed to stop the abusive leasing transactions, but the way the Senate went about it has raised a few eyebrows. By moving back effective dates and other adjustments, Grassley gradually expanded the scope of the provision to squeeze a greater number of transactions as tax cuts were added to the bill, making it more costly.

Particularly galling to some Republicans in the House and Senate was making the new curbs applicable to transactions entered after Nov. 19, 2003, which they argued makes the provision retroactive. But Senate aides said that was done to thwart a "rush-to-market" of promoters of the leasing transactions seeking to close deals under the wire.

"The fact that it was moved back continually to pay for various items might suggest that revenue had some kind of relevance," said Kenneth Kies of Clark Consulting, who lobbies on behalf of a coalition that wants the leasing benefits preserved.

Hill sources said Thomas and other Republicans, including some from the Senate, would insist in an eventual conference committee that the Senate language making the leasing provisions retroactive to last year be removed.

Also stirring some controversy are new limits on the amount individuals could deduct for donating automobiles to charity. (Full disclosure: My 1991 Buick was worth a $950 deduction to me on my 2003 return. I went with the book value for "good" condition and wished the American Lung Association best of luck getting that much for it. Under the new rules in the Senate bill, I would have been able to deduct only what the charity reported to me was the actual resale price of the car.)

Most donated used cars are sold at auction, and charities for which car donations are an important part of their fundraising are arguing to lawmakers that it is unfair to limit taxpayer deductions to the liquidation price when many could fetch more for cast-off autos if they found a private buyer themselves.

Charities -- including the National Kidney Foundation, the American Cancer Society and the American Lung Association -- are shopping alternative language to House tax writers for inclusion in the House FSC/ETI bill.

Business sources say a provision tightening rules on deferral for income derived from contract manufacturing overseas is an example of where the Finance Committee reached for a revenue raiser without fully understanding the policy consequences. The provision was struck from the bill in the hours before final Senate passage.

"The folks that were advocating that as a possible revenue raiser -- at a time when people were looking for revenue raisers -- didn't appreciate the extent to which most of contract manufacturing is a completely legitimate, appropriate business strategy," said Dan Kostenbauder, vice president of transaction taxes for Hewlett-Packard. "This is not like someone found a fancy tax dodge."
By Martin Vaughan

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