

# CRS Report for Congress

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## Revenue Legislation in the Congressional Budget Process

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Most of the laws establishing the federal government's revenue sources are permanent and continue year after year without any additional legislative action. Congress, however, typically enacts revenue legislation, changing some portion of the existing tax system, every year. Revenue legislation may include changes to individual and corporate income taxes, social insurance taxes, excise taxes, or tariffs and duties. Congressional consideration of revenue legislation is governed by various constitutional provisions and procedural rules. For more information on budget process, see [<http://www.crs.gov/products/guides/guidehome.shtml>].

Article I, Section 8 of the U.S. Constitution provides Congress with the power "to lay and collect taxes, duties, imposts and excises." The 16<sup>th</sup> Amendment gave Congress the power to levy an income tax. Section 7 of Article I requires that all revenue legislation originate in the House of Representatives, but the Senate has considerable latitude to amend a revenue bill received from the House.

Revenue legislation is under the jurisdiction of the House Ways and Means Committee and the Senate Finance Committee. In the House, Rule XXI, clause 5(a) protects the Ways and Means Committee's jurisdiction by barring other committees from reporting revenue measures. However, other legislative committees may report legislation authorizing other types of collections.

Revenue legislation is not automatically considered in the congressional budget process on an annual basis. Frequently, however, the President proposes and Congress considers changes in the rates of taxation or the distribution of the tax burden. An initial step in the congressional budget process is the publication of revenue estimates of the President's budget by the Congressional Budget Office (CBO). These revenue estimates usually differ from the President's since they are based on different economic and technical assumptions (e.g., growth of the economy and change in the inflation rate).

Cost estimates of any congressional revenue proposals are prepared by CBO, based on revenue estimates made by the Joint Committee on Taxation (JCT), and are published in committee reports or in the *Congressional Record*. In addition, clause 3(h)(2) of House Rule XIII, adopted at the beginning of the 108<sup>th</sup> Congress, requires a "macroeconomic

impact analysis” by the JCT of any Ways and Means Committee-reported bill or joint resolution that proposes to amend the Internal Revenue Code of 1986. Such an analysis may be included in the committee report accompanying the measure or printed in the *Congressional Record* prior to the measure’s consideration on the House floor. The requirement also may be met by including in the committee report a statement from the JCT explaining why such an analysis is “not calculable.”

The budget resolution includes baseline estimates of federal government revenues based on the continuation of existing laws and any proposed policy changes. The budget resolution may include reconciliation instructions directing the House Ways and Means and Senate Finance Committees to report revenue legislation to meet the recommended level of federal government revenues. Revenue legislation also may originate under the normal legislative process, initiated by the revenue committees or individual members.

Section 303 of the Congressional Budget Act (CBA) of 1974 (P.L. 93-344) prohibits revenue legislation from being considered before a budget resolution has been adopted. In the House, this rule may be waived by a “special rule” reported by the Rules Committee and adopted by the House. Typically in the case of minor changes to the tax system, revenue legislation may be considered under suspension of the rules or unanimous consent. In the Senate, the rule may be waived by unanimous consent or a majority vote.

When revenue legislation is considered, its content is restricted under the rules of the congressional budget process. First, Section 311 of the CBA prohibits consideration of revenue legislation that would cause revenues to fall below the agreed upon levels for the first fiscal year or the total for all fiscal years set forth in the budget resolution. A point of order may be raised in either chamber against legislation that would violate this restriction. In the House, the point of order may be waived by a “special rule” reported by the Rules Committee and adopted by the House. In the Senate, a motion to waive the point of order requires a three-fifths vote of all Senators duly chosen and sworn (60 votes, if there are no vacancies).

Second, the Senate’s “pay-as-you-go,” or PAYGO, rule (Section 505 of H.Con.Res. 95, the FY2004 budget resolution) generally prohibits the consideration of revenue legislation that is projected to increase (or cause) an on-budget deficit in any one of three time periods: the first year, the first 5 years, and the second 5 years, covered by the most recently adopted budget resolution. Any reduction in revenues resulting from such legislation must be offset by an equivalent amount of direct spending cuts, tax increases, or a combination of the two. Without an offset, such legislation would require the approval of at least 60 Senators to waive the rule and be considered on the Senate floor. However, under the rule in its current form, legislation implementing the revenue policy changes assumed in the FY2004 budget resolution is exempt from the rule, even though it might be projected to increase (or cause) an on-budget deficit.

At the beginning of the 104<sup>th</sup> Congress, two provisions regulating the consideration of any revenue legislation modifying federal income tax rates were added to the House Rules. Clause 5(b) of Rule XXI requires three-fifths of the members voting to pass a federal income tax rate increase. Clause 5(c) of the same rule prohibits any measure with a retroactive federal income tax rate increase from being considered on the House floor.