Biden's bank tax reporting proposal still in play

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By Zoe Sagalow
Market Intelligence

Congress might still include a proposal in budget reconciliation that would require banks to report inflows and outflows for many more accounts to the IRS, despite resistance from the banking industry.

The proposal is "still being considered, and we don't have a timeline beyond that," Senate Finance Committee spokesperson Ashley Schapitl told S&P Global Market Intelligence on Sept. 22. In the House, the Ways and Means Committee's bill excluded the provision.

The proposed reporting requirement is included in President Joe Biden's budget as a way to raise revenue. Its future remains uncertain as legislators weigh their interests. If it were to become law, banks could face higher compliance costs and could potentially lose customers, according to some experts.

Edward Mills, managing director and Washington policy analyst at Raymond James & Associates Inc., said he anticipates Congress will put the legislation together in late October or early November — or possibly not until December if Congress ends up addressing the debt limit without doing budget reconciliation.

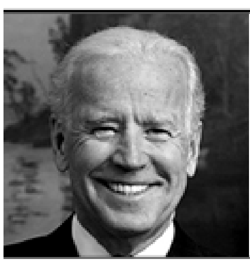
"Everything is in play until we get a final bill," Mills said in an interview. "If it's included in the House [version], you have to increase the probability it's included in the final bill, but not included in the House does not mean it's out."

James Lucier, a managing director of Capital Alpha Partners LLC, said in an email that the reporting requirements could still be included in the House Rules Committee's version for consideration on the House floor. Work on the legislation is likely to last into October.

House and Senate leadership, relevant committee chairs and a couple of key senators who raised doubts will agree on the final bill, so which provisions are included now might have little bearing on the final version, Mills added.

IRS Commissioner Charles Rettig gave more details in Senate testimony in June, saying it would require banks to report gross inflows and outflows of at least $600 for all bank, loan and investment accounts for businesses and individuals, or a fair market value of more than that amount. Currently, banks are required under the Bank Secrecy Act to submit Suspicious Activity Reports about activities such as cash transactions exceeding a daily aggregate amount of $10,000.

IRS reporting proposal for banks



Proposed by U.S. President Joe Biden: Banks would have to tell the IRS about account flows "so that earnings from investments and business activity are subject to reporting more like wages already are."

From April 28, 2021.
Source: White House announcement

The requirement would apply to businesses' and individuals' bank, loan and investment accounts — except for accounts with less than $600 in gross flow or a fair market value of less than that amount.

From June 8, 2021.
Source: IRS Commissioner Charles Rettig in Senate testimony

Needle in a haystack

The proposal could make it harder to find relevant information, according to Paul Merski, group executive vice president of congressional relations and strategy for the Independent Community Bankers of America.

"That's just adding a ton of hay to the haystack when you're looking for a needle of somebody trying to avoid taxes," Merski said in an interview.

The ICBA does not have an estimate of compliance costs for banks because it would need the final statutory language and regulations from Treasury, Merski said. The costs would include redoing privacy notices and sending them to customers.

"It really is also going to change the dynamic between the bank and their customer," Merski said. "I think the folks that are leery of government already will drop out of the banking system if they know all this information is being sent to the IRS."

For financial institutions, compliance with the proposal would be "a medium-to-big type of engagement," according to Don Free, a vice president and analyst at Gartner Inc. Every year, they would probably need processing time of 15 minutes per account.

"So you just do the math, and you'll see the impact of that across all banks," Free said in an interview.

Venetia Woo, Accenture's North America digital risk and compliance group leader, agreed that it would be a big lift for banks.

"Qualitative estimates would place this as a massive technology and client communications effort as well as possible inadvertent impacts to state-level data privacy laws that empower consumer choice in data sharing," Woo said in a statement to S&P Global Market Intelligence. "The technology lift to be able to aggregate end-of-year flows would also require bottom-up controls and quality checks ... For smaller institutions, the effort could potentially be burdensome."

Closing the tax gap

Treasury Secretary Janet Yellen told House Ways and Means Committee Chairman Richard Neal, D-Mass., that the provision would help close the gap between what some wealthy individuals pay in taxes versus what they owe.

"The tax gap is concentrated at the top of the income distribution, with the one percent of earners with the highest incomes responsible for nearly 30 percent of unpaid taxes: totaling over $160 billion in tax year 2019," Yellen wrote in a letter Sept. 14. "This inequity is closely tied to gaps in information reporting, namely the disparity between when information is reported to the IRS by a third-party source to facilitate verifying the accuracy of taxpayer filings, and when it is not. ... It is clear that when taxpayers know that this information exchange exists, their voluntary compliance rises."

Janet Holtzblatt, senior fellow at the Urban-Brookings Tax Policy Center, said the proposal might be especially useful for finding non-compliance by self-employed people, though not all of their deposits will be taxable.

"In the short term, their goal is to improve voluntary compliance as people realize that the IRS has this information, or has more information about them, and up their compliance game," Holtzblatt said in an interview. The longer-term goal is to improve the selection of tax returns for audits, Holtzblatt added.

Jeffrey Paravano, partner at Baker & Hostetler LLP, said it could potentially "be scored as raising less revenue than proponents are hoping for."

"The jury's still out on this issue," Paravano said in an interview. "It's not clear at this point whether there's sufficient support among Democrats to include it."

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