Long Awaited Reconciliation Bill Includes Tax Changes But Excludes Many Proposals That Would Have Harmed America's Hog Producers

President Biden on Aug. 16 signed into law the Inflation Reduction Act of 2022, a budget reconciliation bill for fiscal 2023 passed by the Senate and House earlier in the month.

Its passage came after more than a year of discussion over tax code changes and the "Build Back Better" agenda. While the budget bill would alter current tax law, it is much smaller than earlier versions of the bill and excludes many of the proposals previously considered that would have had severe, long-term harmful impacts on hog producers and family farms.

NPPC was intensely engaged on the issue since the process began early in the Biden administration. NPPC staff received input and guidance from many stakeholders, including a producer-led Tax Task Force to assess the tax implications for the U.S. pork industry. The task force found that the proposals for treating capital gains as ordinary income, increasing the tax rate for high-income earners, and raising the corporate tax rate could have caused significant disruption to the pork industry. The task force also concluded that the proposal to eliminate step-up in basis for inherited assets and to consider the transfer of assets at death as a capital gains tax event would have been the most damaging of all. Such changes could have had devastating implications for family farms as the tax liability on those who inherit hog operations would have forced many to either sell their farm or face years of debt.

Fortunately for pork producers, the Inflation Reduction Act tax plan is a dramatically scaled-down version of the Biden administration's original spending and tax plans. In the spring of 2021, President Biden released the American Jobs Plan (AJP), which focused on corporate taxation, and the American Families Plan (AFP), which addressed capital gains taxes and other individual-targeted taxes. These plans contained some new proposals, which, as mentioned, would have been a huge problem for hog farmers if passed into law. Elements of both plans were expected to be included in a budget reconciliation bill, which could be passed under a fast-tracked process that only requires a simple majority to win approval in the Senate.

Shortly after the administration unveiled its tax and spending proposals, NPPC began its lobbying campaign. In addition to working with stakeholders to reach out to Capitol Hill, NPPC worked with 40 other agricultural organizations on a letter to House and Senate leadership expressing the importance of safeguarding family-owned agricultural businesses and preserving tax provisions that support future new and multi-generational operations. NPPC also worked with a coalition of organizations whose members spanned the economy to push back against the proposals.

In August 2021, both the House and Senate adopted a $3.5 trillion budget resolution for fiscal 2023, requiring at least half of the total target be offset by tax changes. As House members worked to mark up a bill, NPPC sent a letter, cosigned by 25 state pork associations, to House and Senate leaders of the tax-writing, agriculture, and budget committees outlining the potential ramifications of eliminating step-up in basis and detailing the provisions necessary to exempt family farms, including broad definitions for "family," "owned," and "operated" for determining eligibility for exemption.

Weeks later, the tax-writing House Ways & Means Committee released its recommendations for the Build Back Better Act. The $3.5 trillion package did not include a proposal to eliminate step-up in basis, though it did include other changes that could have been detrimental to hog producers such as lowering the estate tax exemption amount by about 50%, increasing the top marginal tax rate on individuals to 39.6% from 35%, raising the capital gains tax rate to 25% from 20%, and adding a 3% surcharge on adjusted gross incomes greater than $5 million. The committee also proposed expanding the 3.8% Net Investment Income Tax (NIIT), which would have applied to ordinary business income for pass-through firms and trusts.

NPPC remained engaged on the issues, reconvening its Tax Task Force to assess the new proposals and working with other organizations to amplify concerns about the damage the tax changes could have on small businesses and family farms. NPPC continued to express the importance of preserving existing tax provisions that allowed producers to navigate the profitability cycle of the hog farming business and to pass farm assets from generation to generation.

In October 2021, the Biden administration announced a revised framework for the Build Back Better Act, a $1.75 trillion version of the initial social spending plan that was intended to reflect a compromise between moderate and progressive Democrats. The framework proposed offsetting spending with a 15% minimum tax on corporations, a 1% stock buyback tax, a continuation of the limitation on excess business losses, and a surcharge on high earners, among other changes. Notably absent were any changes to step-up in basis or estate tax exemptions. The House narrowly passed a similar version of the Build Back Better Act in November, including many of the president's tax changes, such as the expansion of the NIIT.

While the Senate was expected to vote on the Build Back Better Act before Christmas 2021, Democrats were unable to reach an agreement on a package that could secure 50 votes. Action on a bill stalled, but in late spring and early summer, negotiations on the reconciliation bill were resurrected. Throughout the process, NPPC continued working in coalition with nearly 200 other agricultural organizations and Main Street employers to oppose any changes that would harm America's farmers and small businesses. This included opposing expansion of the 3.8% NIIT and the continuation of the limitation on excess business losses, which would raise taxes on small businesses in profitable years while limiting their flexibility in a downturn.

In July 2022, the Inflation Reduction Act was offered as a much smaller, narrower $740 billion budget bill addressing climate and extending the Affordable Care Act. Initially, the bill proposed three main revenue sources: a 15% corporate minimum tax on C-corporations with more than $1 billion in profit, a 1% excise tax on stock buybacks, and increased IRS enforcement. In the final stages of negotiation and amendments, Senate Democrats also added a two-year extension of the current limitation on how pass-through firms can use business losses to offset income.

While the changes in tax policy will have varying impacts on small businesses, jobs, inflation, and the overall economy, NPPC was successful in preventing many of the changes that would have seriously harmed U.S. pork producers and family farms out of the final bill.

For more information, contact NPPC Staff Economist Holly Cook (cookh@nppc.org)