



Insight

Reconciliation Reminder

GORDON GRAY | MARCH 27, 2013

With the House and Senate budget having been passed last week, one element of congressional budget process bears reminding: reconciliation.

Reconciliation is among the most powerful procedural tools available to policymakers because bills passed through the reconciliation process bypass the usual super-majority vote thresholds that prevail in the United States Senate.^[1]

For reconciliation measures to even be taken up by the House or Senate, a budget resolution must be agreed-to by both chambers – at present an unlikely occurrence because of significant policy differences between House Republicans and Senate Democrats. The individual instructions in the House and Senate budgets reflect these differences, most strikingly on taxes.

The House Budget includes instructions for 8 separate committees, all essentially identical, but by way of example, the Ways and Means Committee received the following instruction: “The Committee on Ways and Means shall submit changes in laws within its jurisdiction sufficient to reduce the deficit by at least \$1,000,000,000 for the period of fiscal years 2013 through 2023.”

Earlier in the legislative text is a specification for the deadline by which the Committee must report its changes in laws to comply with its instruction of reducing the deficit by \$1 billion over the period 2013-2023.

The Senate includes just one instruction: “Not later than October 1, 2013, the Committee on Finance of the Senate shall report changes in laws, bills, or resolutions within its jurisdiction to increase the total level of revenues by \$975,000,000,000 for the period of fiscal years 2013 through 2023.”

These instructions share the 4 key requirements of a reconciliation instruction: 1.) The Committee to which the instruction is directed, 2.) the deadline by which the relevant committee or committees must comply, 3.) the dollar amount change to either revenues, outlays, the deficit, or the public debt, 4.) and the time period over which those budgetary changes must be achieved.

Clearly, however, the budgetary changes included in the House and Senate instructions differ vastly. The House instruction is effectively budget-neutral – a \$1 billion savings over ten years is essentially a rounding error. This reflects Chairman Ryan’s intention to facilitate a revenue neutral tax reform authored by Ways and Means Chairman Camp. By contrast, the Senate instruction requires a net tax increase of \$975 billion, which is a reflection of Senate Democrats’ to pursue additional tax revenues.

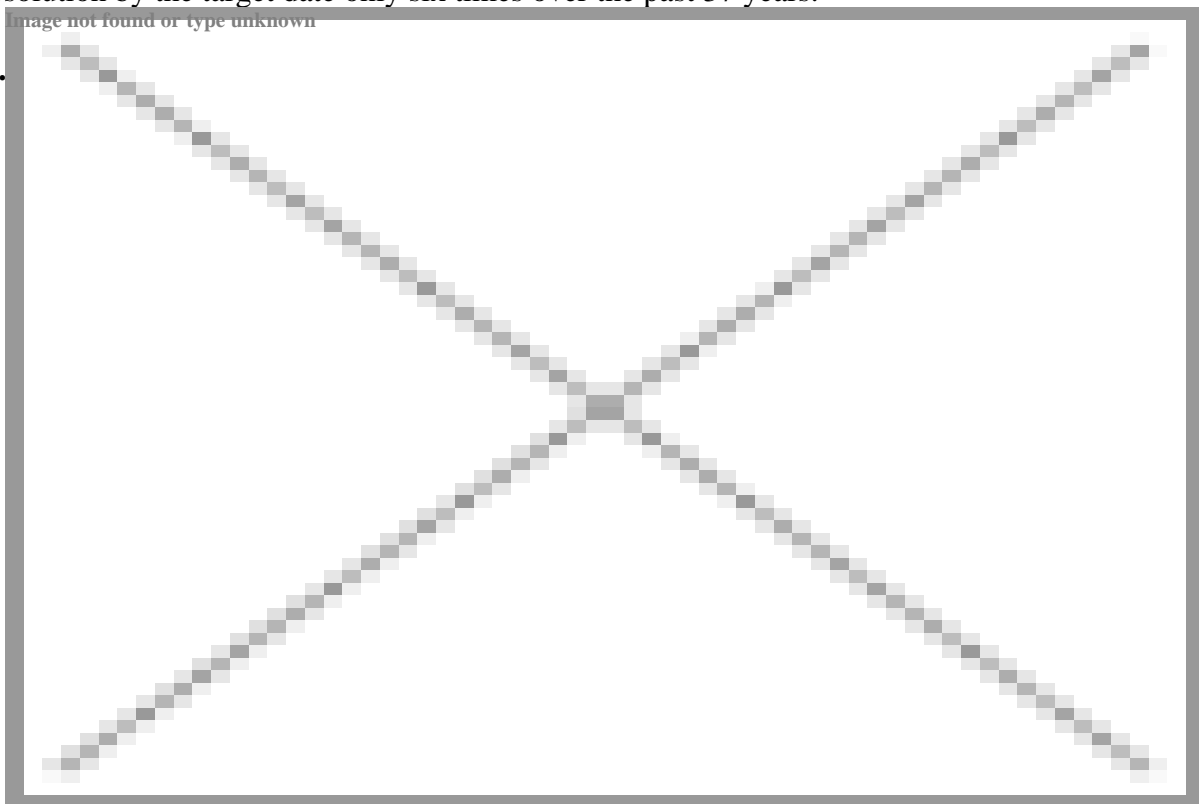
While the intentions of the instructions’ authors are well understood and expressed elsewhere, it is important to note that a reconciliation instruction is not binding (even, as is not the case here, when the instruction includes guidance on policy) on how specified budgetary changes must be met. Those changes remain the purview of the instructed committee. So, in a hypothetical in which the Ryan Budget is agreed-to by the House and the Senate with the current instruction to Ways and Means intact, to meet the instruction Chairman Camp may report a measure that simply raises taxes or cuts spending by \$1 billion over the ten year period specified in the

reconciliation instruction. While this would fall short of Chairman Ryan’s stated intention, it would fully comply with his Budget’s reconciliation instruction.

The same principle holds with respect to a hypothetical where the Senate Budget enters into force. While Senate Budget Chairman Murray may state her intention that new revenues be raised by closing “loopholes” on wealthy and corporations, the Finance Committee may pursue other policy changes to otherwise comply their reconciliation instruction – such as a rate increases sufficient to raises \$975 billion over the period of fiscal years 2013 through 2023.

The sequence of these hypothetical reconciliation measures is keyed to specific congressional action (figure 1). The first, as noted above, is the adoption of a budget resolution. Section 300 of the Congressional Budget Act of 1974 as amended requires that Congress complete action on a budget resolution by April 15th (changed from May 15 in 1985). However, this deadline has no force in practice. Indeed, as noted by the Congressional research service, when Congress has actually completed work on a budget resolution, Congress adopted the budget resolution by the target date only six times over the past 37 years.

Figure 1.



Once a budget resolution is agreed to, committees have until their specified deadlines to produce reconciliation measures. According to the Congressional Research Service, Committees tend to respond to their directives in a timely fashion. However there have been instances when Committees have responded after their deadlines, but without consequence.^[2] Once developed, the committee would then vote and pass (or nor pass) the measure and report it directly to their respective chamber.

If the Budget Resolution includes an instruction to more than one committee, the various committees would report their measure to the respective chamber’s Budget Committee. The Committee then performs what is essentially an administration function of reviewing the measures and packaging them into an omnibus

reconciliation measure that is then reported to the chamber as a whole. The Budget Committee may make no substantive changes to the measures. Once the measure or omnibus is reported to the chamber of the House or Senate, reconciliation measures are considered under special, expedited procedures. Once considered and if passed, resolution of differences between the chambers for the most part resembles the usual procedures. If both chambers ultimately agree to the same measure (through conference or amendment exchange) the measure is then sent to the president for signature or veto. Like other legislation, the Congress may attempt to override a veto of reconciliation legislation. However, once this process is complete, the reconciliation process is concluded – and the reconciliation instruction that ultimately prompted the law (or vetoed legislation) is effectively exhausted.

[1] For more on the procedural details of reconciliation, see this piece:
<http://americanactionforum.org/sites/default/files/JohnMaskoPaper.pdf>