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## Tax Legislation

James Carter, who was head of tax policy implementation on President Trump's transition team, looks at the factors that make an overhaul of the tax system more likely than not to succeed in 2017, as well as the potential paths the legislation could take in Congress. Trump is "poised to overcome decades of political stalemate and inertia," the author writes.

### The Art of the Tax Deal

BY JAMES CARTER

**M**ore than 30 years have passed since the U.S. last reformed its tax code. When asked at the time who deserved credit for the Tax Reform Act of 1986, Sen. Bob Packwood (R-Ore.), then-chairman of the Finance Committee, mumbled "God, I think."

But, ultimately, tax reform was made possible because policy makers struck a deal.

Enter President Donald J. Trump. He may be a political novice but he wrote the book—literally—about making deals. Tax reform depends on his ability to convince at least 218 congressmen and 50 or more senators that it is in their interest to make a deal. That won't be easy, but it is more likely than not to succeed this year.

First, Trump campaigned on tax reform, calls it one of his top priorities and is prepared to put his considerable political influence behind it. Translating President Trump's campaign promises into concrete tax reforms will require a deft willingness on the president's part to give and take as circumstances warrant. "I ... protect myself by being flexible," he wrote in his 1987 book "The Art of the Deal," "I never get too attached to one deal or one approach."

That flexibility will serve President Trump (and tax reform) well.

Second, according to a recent Rasmussen Reports LLC survey, 73 percent of Americans want President

*James Carter served as the head of tax policy implementation on President Donald Trump's transition team. Previously, he was a deputy assistant secretary of the Treasury Department and deputy undersecretary of Labor under President George W. Bush.*

Trump to succeed. While some in Congress will fight Trump's efforts for purely political reasons, most won't want to be viewed as opposing the new president. President Trump understands his window of opportunity is short and that he must act fast. As he wrote, "It pays to move quickly and decisively when the time is right."

Third, congressional Republicans have unified behind the president's call for tax reform. They know they must deliver or face the wrath of an unforgiving electorate.

Republicans command a comfortable 241-seat House majority. If they stick together, they can pass anything they want. But what passes the House may land without so much as a loud thud in the Senate.

### Filibuster Potential

Although Republicans hold a nominal Senate majority, Senate Democrats are capable of filibustering tax reform unless one of two things happen. Eight Democrats could, in theory, be convinced to vote with the Senate's 52 Republicans to attain the 60 votes needed to end any filibuster. Alternatively, Senate Republicans could pursue tax reform via reconciliation, an expedited process that would allow them to pass reform with as few as 50 votes plus that of the vice president.

Republicans would be well advised to pursue the bipartisan, 60-vote path for passing tax reform. They should, however, be prepared to resort to reconciliation should it become necessary.

Senate Democrats are understandably opposed to Republicans using reconciliation to advance tax reform. They see it as a partisan effort to make Democrats irrelevant to the process, cutting them out of the deal. Then again, reconciliation need not be strictly partisan. The Taxpayer Relief Act of 1997 passed with considerable

support from congressional Democrats. The reconciliation bill enacting President George W. Bush's 2001 tax cuts passed with the support of 12 Senate Democrats.

Reconciliation or not, Senate Democrats are primed to work with Republicans to pass tax reform. They have little choice. Twenty-five Democrat-held seats are up for re-election in 2018 and 10 of them are in states Trump won—five of those are states Trump won by double-digits. Those senators can either risk their seats by opposing the president's tax reform effort or they can embrace it and run for re-election having accomplished something.

### **Simplification Isn't Simple**

There is nothing simple about simplifying the tax code. Balancing the need for revenue against the desire

for economic efficiency is further complicated by the political necessity of taking into account the impact of reform on the distribution of the tax burden across income classes. But tax reform, warts and all, could be a popular choice. A broad consensus exists on Capitol Hill that the federal tax code is broken. Congressional Republicans and more than a few Democrats are eager to scrap the code and campaign for re-election having adopted a simpler, fairer, pro-growth replacement.

President Trump is poised to overcome decades of political stalemate and inertia. How will he do that? He will strike a deal. As he explained in his book: "My style of deal-making is quite simple and straightforward. I aim very high, and then I just keep pushing and pushing and pushing to get what I'm after. Sometimes I settle for less than I sought, but in most cases I still end up with what I want." That is the sound of real change.