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## United States

### **Treasury's Mazur Says Groundwork Laid That Would Allow Overhaul of Tax System**

**B**usinesses hoping to see an overhaul of the U.S. corporate income tax will get their answer in the next few months, a U.S. Treasury official said April 21.

Mark J. Mazur, assistant secretary for tax policy with the U.S. Department of the Treasury, said the “fundamentals for tax reform are as good as they’ve been since 1986.”

He cited the efforts of former House Ways and Means Chairman Dave Camp (R-Mich.) and current chair Paul Ryan (R-Wis.) to develop proposals for an overhaul of the tax system, with a view toward stemming the flow of income offshore.

“The members have gotten educated, their staff has gotten educated—and the same thing has happened on the Senate Finance Committee,” Mazur told Bloomberg BNA. “In a sense, the spadework has been done so you don’t have to go through that again, and that is what makes this year different from previous ones.”

Mazur also noted that President Obama’s tax plan would use the revenue from a one-time 14 percent tax on earnings accumulated in controlled foreign corporations (CFCs) and invest it in infrastructure, using the monies to reauthorize the Highway Trust Fund at a higher level.

“I think you’ll see activity relatively soon, in the next few months, as to whether it is going to happen or not,” he said. As Congress is unlikely to act on tax proposals in an election year, the window for action likely will close this summer.

Mazur spoke with Bloomberg BNA following a keynote address and panel discussion at a seminar on international taxation sponsored by New York University Law School and KPMG LLP.

The theme of the day was “Is the U.S. International Tax System Really Broken?”

**Panel in Debate.** In his keynote speech, Mazur noted that while the U.S. federal corporate income tax rate is among the highest in the world, “when you look at effective tax rates, the U.S. is not an outlier. If you look at G-7 countries, the U.S. effective marginal tax rates are smack in the middle between France and the U.K.”

Because of special deductions, exemptions, credits and other provisions, the average effective tax rate is 27 percent.

However, he noted that average “masks a wide range of differences depending on the industry.” For companies in construction, finance, wholesale, or retail—the effective tax rate is greater than 30 percent, he noted. For companies in mining, transportation, computers, and electronics, the effective rate is less than 20 percent.

“So we have this disparity depending on the industry,” he said. “While these effective tax rates are summary statistics, they indicate we have widespread non-neutralities in our business tax system and these non-neutralities impose economic costs and make the business tax system less efficient than it could be.”

Speaking on a panel immediately following his speech, Mazur offered his conclusion that the U.S. corporate income tax—as applied both domestically and internationally—is not really broken, but so dysfunctional that it is no longer possible to ignore the problem.

“It needs to be fixed, and it needs to be a top-tier issue for policymakers,” Mazur said. “There are too many disparities in how industries are taxed, how assets are taxed, how different forms of financing are taxed.”

He added, “The basic problem is that we have a series of provisions in the corporate tax that really are not doing what they are intended to do. It is not really broken.”

**Stand-Alone Reform.** Fellow panelist Daniel Shaviro, professor of law with NYU Law School, agreed that the system is not broken—but that ill-advised efforts to address its shortcomings could backfire by creating even more problems.

“I’m not persuaded about the virtue of doing corporate stand-alone tax reform—where you lower the corporate rate and broaden the base but leave everything else as it was before. If you don’t do that carefully you can cause all sorts of messy problems,” Shaviro said.

One outcome could be to “disrupt the relationship” between corporate and non-corporate business sectors by, for example, broadening the base for all entities, but cutting the tax rate only for corporations.

“You also create problems in the relationship between the corporate and the individual tax,” Shaviro said. “I often think of the corporate tax as a backup to the individual tax—where a lot of the problem is with owner-employees who underpay themselves.”

If the corporate rate is reduced to the point that the individual rate is much higher, he said, “you have some issues there.”

**A Broken System?** Kimberly S. Blanchard of Weil Gotshal & Manges LLP took a radically different view.

“I do think the U.S. tax system is irretrievably and fundamentally broken and has been that way for a long period of time,” she said, noting that the system has deteriorating as it has grown more and complex.

“What was shocking to me when I started practicing,” she said, was the way Congress went about trying to fix malfunctioning provisions in the code. “They didn’t do it over, they just added another rule. And we go for years without answer to the most basic questions.”

Prof. H. David Rosenbloom, also of NYU Law School, said the fundamental question is what people are talking about when they talk about tax reform.

“I don’t think anything about the individual tax system is broken,” he said. “I understand that it is complex, but that affects a relatively small number of people.”

The bigger question, he said, is whether so much attention should go to revamping the corporate tax system when other issues are perhaps more critical.

“‘Broken’ is language that is too extreme,” he said. “There are a lot of things in life that don’t work perfectly and this is one of them.”

But Mazur countered that there are a number of indications that the U.S. international tax system is not functioning well.

“We have a system where some U.S. multinationals are able to achieve very low effective tax rates. That is not good policy.”

The system creates opportunities to strip earnings, and that has led to a lockout effect—where companies with offshore cash find they cannot get access to it, he noted.

“All these things can be fixed and the administration’s budget proposal is a decent step in that regard.”

BY DOLORES W. GREGORY

To contact the reporter on this story: Dolores W. Gregory in Washington at [dgregory@bna.com](mailto:dgregory@bna.com)

To contact the editor responsible for this story: Molly Moses at [mmoses@bna.com](mailto:mmoses@bna.com)