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FORM 1099 REPEAL – MAYBE NOT?

Last week I reported on favorable developments in our quest to repeal the infamous Form 1099 information reporting expansion.

Some additional facts regarding the upcoming vote later today or tomorrow on the Form 1099 repeal have come forward that have curbed my enthusiasm for success somewhat.

During the debate on the food safety reform bill, as I reported, there will be a vote on a repeal amendment by Senator Mike Johanns (R-NE) that includes a spending reduction offset. There will also be a vote on a repeal version by Senator Max Baucus (D-MT) that does not have an offset. The Johanns offset is a rather innocuous rescission of "non-spent" discretionary funds.

The deal for the votes was crafted by Senate Majority Leader Harry Reid (D-NV) and Senate Minority Leader Mitch McConnell (R-KY). The procedural deal was quickly approved by the Senate before Thanksgiving. It looked as if it put resolution of the repeal debate on a fast-track. The food safety reform bill is considered a "must-do" item.

However, the deal to allow the votes includes an unusual procedural obstacle. The Senate must vote to suspend its rules to vote on either. This requires 67 votes! And we thought 60 vote cloture margins were difficult enough to obtain.

I really do not know how this will play out. My thought is the Republicans will have to swallow pride and "pile on" when the Baucus amendment comes up. I do not see the Democrats voting for the Johanns' version in sufficient numbers. This could end up as another futile partisan stand-off.

Theoretically, there might be another obstacle, if we get pass the Senate vote. As I previously reported, the House majority's leadership had signaled they would be willing to consider the food safety bill "as is" but that was before the deal to allow votes on the repeal amendments were known.

The Constitutional scholars among you will recall that Article I, Section 7 states: "All Bills for raising Revenue shall originate in the House of Representatives." This is often referred to as the "origination" clause.

Over the years, the House has interpreted this requirement in the broadest manner. Generally, "raising" has come to mean "affecting"

The term used to describe the House's exercise of its prerogative is called "blue slipping." This refers to the color of the paper used for the resolution by which the House rejects the Senate action regarding revenues. Technically, the motion informs the Senate it has infringed upon the privileges of the House and the motion returns the bill to the Senate.

As far as I know, any time the House has chosen to "blue-slip" a bill, it has been upheld. What I cannot say is how often the House has chosen to look the other way. Usually, the Chair of the Ways and Means Committee initiates the blue slip motion.

Normally, the Senate avoids this situation by taking a non-germane tax bill, already passed by the House, and tacking on new revenue items as an amendment. Unfortunately, with the food safety bill, they did not have the option.

I guess we will just have to wait and see now.