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ESTATE TAX RELIEF

The House is scheduled to vote this week on a bill to “freeze” permanently the estate tax exemption and top estate tax margin rate at 2009 levels. H.R. 4154 sets the top rate at 45 percent and the individual exemption at \$3.5 million. Unfortunately, it does not do one thing we would like, and that is to index the exemption for inflation. If the bill passes, the freeze would take effect at the end of this year and there would not be a one-year repeal.

I am still waiting to confirm whether the House leadership will use a parliamentary maneuver to “deem” the attachment of a previously-passed statutory pay-go requirement bill to the estate tax upon passage. To refresh your memory, earlier this year, during the budget debate, the fiscally conservative House Blue Dogs arrived at an agreement with the House leadership under the terms of which they would let the budget resolution move forward provided the House leadership brought a statutory pay go bill to the floor. In addition, the leadership was able to convince the Blue Dogs, that if the statutory pay go bill was enacted, four items would be exempt from

the requirements. The permanent estate tax freeze was one of the four.

The House passed the pay go bill, H.R. 2920, in July. The Senate has shown little interest in the bill. The main “objector” has been Senate Budget Committee Chairman Kent Conrad (D-ND) and his main objection has been an objection to the exemption of the four items. He has additional concerns about the pay go process. The statutory version requires “sequestration” as the enforcement mechanism. Under sequestration, the Office of Management keeps track of all the mandatory spending and tax actions taken, and if at the end of the year, it is not in balance or has a “positive” balance, across the board cuts are supposed to be implemented by agencies. (Congress and the President always managed to avoid a sequestration with some procedural moves.)

If the House adopts a rule for this week’s debate that allows for the statutory pay-go requirement bill to be added to the permanent freeze bill upon passage, the Senate has plenty of options ranging from not doing anything to passing something entirely different. I can paint one hopeful scenario that has

the Senate and House engaged in a bit of legislative “chicken” at the end of this calendar year’s session. The Senate could delete the pay-go provisions (and maybe add the inflation provision), pass the simple bill and go home first before the House, leaving the House with the decision whether to seize the opportunity to end this debate once and for all. Hey!, my glass is half full.

In reality, it is anybody’s guess as to what the Senate does with it. With the extender bill (see last week’s Weekly) looming, the health care debate, and a lot of anxiety about Afghanistan, the Senate’s legislative course over the next three weeks or so will take a few uncharted turns.

SBLC ANNUAL MEETING

Monday, February 8, 2010 at 8 a.m.
in Washington DC.