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INQUIRING MINDS WANT TO KNOW

When Congress and the President cut the deal to increase the debt ceiling last year, it included a fail-safe provision if the Committee of 12 Senators and Representatives, created to come up with a deficit reduction plan, failed to do so. The provision was the implementation of automatic across the board cuts in the federal budget, starting with cuts in January 2013. Well, as we all know, the Committee of 12 failed and the fail-safe is now just months away.

There is a fair amount of angst building in Washington about those across the board cuts, particularly in the defense budget. The fancy word for the fail-safe is "sequestration." While it is referred to as across the board cuts, as with most things in Washington, it is not exactly so. The legislation more or less divided the cuts equally between defense and non-defense, but Congress and the President walled off certain programs and left a few safety valves that could be opened.

What we know is the goal is approximately \$110 billion in cuts in 2013 with roughly \$55 billion in defense and non-defense each.

According to the Congressional Budget Office's initial review at the time of the legislation cuts for 2013 were estimated on a percentage basis to be: (the final percentages will probably look different given the actual size of the budgets going into this fiscal year, oddly enough probably smaller because the budgets are bigger than estimated at that time):

*Reductions of 10.0 percent in the caps on new discretionary appropriations for defense programs

*Reductions of 7.8 percent in the caps on new discretionary appropriations for nondefense programs

*Reductions of 10.0 percent in mandatory budgetary resources for nonexempt defense programs.

*Reductions of 7.8 percent in mandatory budgetary resources for other nonexempt nondefense programs and activities other than Medicare.

Exempt programs include Social Security, Medicaid, refundable tax credits to individuals and low-income programs such as the Children's Health Insurance Program, Supplemental Nutrition Assistance Program, Temporary Assistance for Needy Families, and Supplemental Security Income. Some discretionary programs also

are exempt, including all programs administered by the Department of Veterans Affairs. The President may choose to exempt or reduce by a lower percentage military personnel accounts, if he notifies Congress. Special rules also apply to several, primarily mandatory, programs. Sequestration of Medicare is limited to no more than two percent.

The interesting fact and the main source of the angst about sequestration is that it is applied to all programs, projects, and activities within a budget account. What this means is that the President cannot just tell agencies, "You have to cut 7.8 percent from your budget, find it where you can." They do not get to pick winners and losers.

The angst has led the Congress to take a bipartisan baby step towards turning blunt force into a surgical process. Congress has passed and sent to the President H.R. 5872, the Sequestration Transparency Act of 2012. It requires the President, within 30 days after the enactment, to submit to Congress a detailed report on the implementation of certain discretionary reductions (in security and non-security categories) and nonexempt direct spending reductions in the sequestration ordered by the Balanced Budget and Emergency

Deficit Control Act of 1985 (Gramm-Rudman-Hollings Act) for FY2013 on January 2, 2013.

It requires the head of each executive agency, upon the request of the Director of the Office of Management and Budget (OMB) (in assisting the President in preparation of the report), to provide to the Director promptly any information at the program, project, and activity level necessary for the Director to prepare the report.

I am not sure what this really accomplishes except it allows special interests to get extra agitated (I guess for this purpose, we in the small business community would qualify as a special interest) when they see how hard the programs of interest to them will be hit. For example, the Office of Advocacy for Small Business is an office especially dear to us. We just finished a fight to get it its own budget. An across the board cut will be dramatic in a tiny budget. As we are deficit reduction advocates too, this is going to put us between the proverbial rock and the hard place and why we supported a more balanced approach to deficit reduction in the first place. But we have to stay the course.

The report would be due when Washington returns after Labor Day. Combined with the fast approaching expiration of multiple major tax relief provisions, it will make for an interesting sprint as the pre-election calendar shrinks to days.

OLD DOG LEARNS NEW TRICK

Last week, I reported that the Senate would have the opportunity to consider two tax relief extension bills – a Republican one that would basically extend the “Bush tax cuts” and a Democratic bill to extend the cuts but limit them to \$250,000 incomes and below. The pattern had been to have attempts fail on cloture motions when 60 votes are needed to proceed.

The Republicans decided to take a different course. They let the Democrats get their vote on their plan and it passed. Initially the Republicans pointed out there would be absolutely no chance the House will consider it. (Technically, the Senate cannot initiate revenue bills anyway). How many times have we reported that the House has passed such and such reform or repeal bill and there is no way the Senate majority would consider it? The Republicans decided it was their chance to give the Democrats a taste of their own rhetorical medicine. (The Republican bill failed to pass but they felt it was worth it to make the point.)

Guess what. The House will consider the Senate-passed version as well as a variation of the Republican bill that was rejected in the Senate. The House majority is not planning on approving the Senate Democrats’ bill. They will vote against it and then pass the Republican version. Net result – right back where we started. The only thing we get out of this is neither party can say the other did not provide an opportunity for a vote on its bill. This is how we avoid a fiscal meltdown?

AS TIME GOES BY

Congress will start its traditional summer recess next week. The Weekly will go on hiatus too. When Congress returns in September, the House has only 13 workdays scheduled for September and October. 13 days. The rest of the time will be spending on re-election campaigning. It is not like they need a lot of days. Unless someone decides that it is time to sit down and become serious legislators, not much point in hanging around. Sadly, do not expect a whole lot of Weekly Reports between now and the election.

Congress has just about dropped any pretense it will pass appropriations bills to fund the government for fiscal year 2013 that begins on October 1st. Between the election and the fact sequestration would make many fiscal decisions that deviate from the budget parameters a moot point, Congress is most likely going to adopt a continuing resolution (CR) to fund the government for a period of time into calendar year 2013 .