November 24, 2015

An Open Letter to Congress: Beware of Reinsurance Tax Hikes as "Pay-Fors"

Dear Member of Congress:

As the 2015 session winds down, lawmakers are seeking a variety of "pay-fors" to offset the costs of legislation whose passage is deemed urgent. Although many of these bills may be worthy endeavors in their own right, the undersigned organizations urge you to pursue spending reductions rather than revenue increases for such purposes. We further caution you to avoid employing revenue-raisers in the service of random, unrelated bills, whatever the merits of those bills may be. One of many examples would be to slap a tax hike on foreign reinsurance –a critical product that balances risk in the insurance system to the benefit of policyholders. This provision, often characterized as a "deduction disallowance for non-taxed reinsurance premiums paid to foreign affiliates," would amount to little more than a thinly disguised tariff proposal that could impose enormous costs on consumers and limit international trade.

The proposal, which Rep. Richard Neal (D-MA) has pushed aggressively for years and has the support of President Barack Obama, simply penalizes non-U.S. headquartered companies for a normal business practice. All insurers that operate internationally are "groups" of related companies that cooperatively manage financial resources in order to insure risks around the world. Under the Neal scheme, these ordinary business transactions would be slapped with a large tariff that would substantially raise costs for non-U.S. insurers. While current tax laws treat U.S. and non-U.S. companies slightly differently, there is no "loophole" for non-U.S. companies. Indeed, in some cases they pay *higher* effective taxes than their U.S. counterparts. From a policy perspective, the primary underlying premise of the Neal plan is protectionism.

And, for consumers, the consequences of this plan would be devastating – the Brattle Group has estimated that the consumers' costs for insurance could rise by $130 billion over 10 years. This would trickle down into the prices of everything from airline tickets to food. Meanwhile, the tax could bring much less to the Treasury than anticipated. According to a Tax Foundation analysis, the downstream effects of the policy would be so adverse that "[o]ver the long term, the tax provision reduces GDP by about twice the revenue it collects directly. As a result, about 40 percent of the intended revenue from the provision ends up being lost through lower collections of other taxes."

Just as importantly, the structure of the proposal might well violate the United States' obligations with regard to the World Trade Organization. This, in turn, could result in other countries slapping retaliatory tariffs on American goods and services. The result, quite literally, could be a trade war.

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At a time when systemic tax reform is becoming more imperative, it is especially critical for Congress to avoid embedding further distortions into the law that will have long-term drawbacks and make the task of simplification even more difficult. For all the foregoing reasons, we hope you will reject a reinsurance tax hike or anything like it.

Yours truly,

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