

THE BOND BUYER

Senate tax bill may be used to negotiate final measure

By

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WASHINGTON — Lawmakers in the House and Senate may use a series of managers' amendments from Senate Finance Committee chairman Orrin Hatch to negotiate changes to the tax bill that will ensure its passage by that chamber and then approval by the House.

That could be good news for private activity bonds, which the House bill would terminate by year-end but the Senate bill would retain and enhance by eliminating the alternative minimum tax.

Muni market participants are working hard to save advance refundings, but both bills would terminate them after the end of the year.

The goal of using managers' amendments to get a bill through the Senate and negotiate differences between Senate and House bills would be to avoid a formal conference on a final tax bill as there is a little more than two weeks left in the session to pass a final tax reform bill.

Also the vote may be so tight in the Senate — the Senate can lose no more than two senators in the vote — that the House couldn't make many changes to whatever the Senate passes without risking the loss of votes in the Senate.

President Trump and Republican leaders have promised a tax bill by Christmas.

"There's no way they could have it at the President's desk by Christmas if they don't do it that way," said William Hoagland, senior vice president at the Bipartisan Policy Center.

"I really think the House and Senate don't want to do a Dodd-Frank Act-style full open conference because of the very short-time frame that exists to get a bill done," said Micah Green, a partner at Steptoe and Johnson here and co-chair of the firm's governmental affairs and public policy group.

“I don’t believe for a minute that there’s going to be conference with 20 senators and 20 congressmen,” said Howard Gleckman, a senior fellow at Tax Policy Center.

But neither Green nor Gleckman think it will be easy or smooth sailing to “pre-conference” or negotiate the changes.

“That’s easier said than done,” said Gleckman.

The Senate is expected to take up the tax bill as soon as Tuesday and that will start the clock on 20 hours of debate on the bill. That will give senators Thursday and Friday to pass the bill.

“The Senate can barely clear its throat in two days,” Gleckman joked.

“You know there’s going to be a least one manager’s amendment to get it through the Senate,” he said.

Sen. Ron Johnson, R-Wis., has said the tax break on pass-through entities is not big enough. Several Senators, including James Lankford, R-Okla., are concerned about adding to the deficit. Sen. Susan Collins, R-Maine and are nervous about repealing the provision of the Affordable Care Act that requires individuals to be insured or pay a penalty. Collins is also against a full repeal of the federal deduction for state and local taxes.

If the Senate goes into next week without a vote it runs into the expiration of the continuing resolution and the debt limit on Dec. 8, though Congress could take short-term action to punt resolution of these issues until later this year or early next year.

“The question is can they pre-conference this or will they have to get four guys together in a room and work it out,” Gleckman said, referring to Hatch, R-Utah, House Ways and Means Committee chair Kevin Brady, R-Texas, Senate Majority Leader Mitch McConnell, R-Ky., and House Speaker Paul Ryan, R-Wis.

In the House, some members have strong views against adding to the deficit and making sure there is small business relief.

Both bills would add around \$1.5 trillion to the deficit over 10 years – the bill pending in the Senate slightly less than that, according to the Joint Committee on Taxation.

“They’re going to pass a tax bill, I’m not certain at all it will be by Dec. 31,” said Gleckman, adding it could be by Spring.

“This Congress wants to pass tax reform,” said Green. “Now the devil is in the details.”