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Eliminating Partisan Analysis from Congress's Support Agencies

J. D. Foster, Ph.D.

The incoming Congress has its hands full. It should prevent a massive tax hike from shellacking a weak economy, get a spend-happy President to repent, try to repeal or defang Obamacare, get a handle on entitlement spending, and much more. The going will be much easier if new Members first redress some bad habits at its support agencies, especially the Congressional Budget Office (CBO), the Congressional Research Service (CRS), and the Joint Tax Committee (JTC).

The work these agencies perform in advising Congress can shape legislative outcomes in powerful ways. Unfortunately, and for far too long, these agencies have been allowed to imbue their analysis with a clear leftward tilt. It's time Congress leveled the playing field.

The Congressional Budget Office. In addition to often penetrating and useful analysis, the CBO provides official revenue, spending, and deficit forecasts. By and large, CBO does a credible job maintaining a non-partisan approach to policy—with one glaring exception. The CBO continues an inherently politically biased approach to expiring tax provisions.

The CBO produces a baseline forecast of revenues and spending. When a spending program such as an appropriation or the highway bill is slated to expire, the CBO spending baseline nevertheless assumes that the program will continue throughout the 10-year forecast.

If CBO allowed expired spending to drop out of the spending baseline, then the program's extension would appear as a large spending hike. Unfortunately, spending programs are routinely extended and increased, and CBO provides a more credible forecast of spending by assuming that expiring programs will in fact be extended. To do otherwise would hide the most likely outcome for spending and the deficit.

Not so for expiring tax provisions. In constructing its revenue forecast, CBO assumes that expiring tax provisions will be allowed to expire. Thus, for example, the longstanding R&D tax credit, which is typically extended for a year or two at a time, is assumed in the revenue baseline to expire. Consequently, the credit's extension appears to be a tax cut and under normal budget rules must be offset or "paid for" with some other tax hike or spending reduction.

Any system that necessitates offsetting the extension of current tax policy makes no sense, any more than it makes sense to require offsetting the extension of current spending policy. To its credit, the Obama Administration recognizes this problem as they assume in their revenue baseline that expiring tax provisions will be extended.

This disparate treatment by CBO of spending and taxes is illogical. It is also de facto entirely par-

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tisan. Congress should require the CBO to correct this flagrant bias immediately.

The Congressional Research Service. CRS generally provides Congress accurate and timely research into a wide variety of subjects. For the most part, analysis is also non-partisan. The longstanding and blatant exception is the analysis of tax policy.

Typically, CRS staff keep their political leanings out of their analysis. In tax policy, however, strong political bias regularly permeates the work, degrading its usefulness and impugning the work of the rest of the staff. A recent report on the individual Alternative Minimum Tax (AMT) provides a good example, but a quick review of CRS tax work shows that this bias is the rule, not the exception.

The AMT is a parallel income tax afflicting increasing numbers of taxpayers. The AMT is now roundly scorned by nearly all tax analysts, but its elimination is problematic because the AMT bite is now so great. In recent years Congress has repeatedly sought to contain the damage wrought by the AMT by enacting a "patch," thus saving millions of taxpayers from an AMT affliction.

The political bias of the CRS is often most apparent to non-experts in the choice of language used in its reports. The CRS report on the AMT, for example, asserts that "a permanent fix to the AMT would be expensive. Indexing the AMT for inflation from the 2009 levels through 2020 would cost an estimated $658.8 billion."[1]

Language matters. Diminishing the AMT's bite is "expensive" only if one starts from the premise that the money belongs to the government in the first place. Likewise, preventing a massive tax hike would "cost" the government only if the money belonged to the government in the first place.

The issue is not one of expense or cost. The issue is whether Congress will permit a massive tax hike to befall millions of middle- and upper-middle-class taxpayers. But this is not the impression given by the CRS to the unwitting reader. For example, politically neutral language might say that a permanent fix to the AMT would have a significant revenue impact and that failure to index the AMT for inflation would impose a $658.8 billion tax hike.

This recalls the problem with the CBO revenue baseline discussed above. If the CBO revenue baseline were done properly—as is the Obama revenue baseline—then maintaining the AMT patch would not appear as tax relief. On the contrary, allowing the patch to expire would properly appear as a massive tax hike. The CBO revenue baseline aids and abets the CRS misdirection.

The CRS works for Congress. The new Congress should compel the CRS to clean up its act in tax analysis.

The Joint Committee on Taxation. The JTC advises Congress—especially the tax writing committees and congressional leadership—on technical issues of tax policy and provides revenue estimates and descriptions of tax provisions under consideration.

The longstanding issue regarding the JTC is how tax proposals are scored. A simple example demonstrates the problem. Suppose JTC were to score a proposal to raise the tax rate to 100 percent on all income over $250,000. Obviously, those taxpayers capable of earning such an amount would then have little interest in doing so. Equally obviously, this would deliver a crippling blow to small business and to the economy generally. Thus, revenues directly associated with this tax hike would be near nil, and a broad and significant drop in tax revenues from all sources would ensue.

In contrast, according to JTC methodology the tax provision would raise enormous sums and the economy would be unharmed. To be sure, this is an extreme example drawn to make a point, yet the problem exists whenever a tax proposal affects economic incentives.

In practice, this means that tax hikes that would distort behavior and be harmful to the economy are assumed to be harmless, while tax relief that would reduce existing distortions and thus strengthen the economy are assumed to be completely ineffective. It is not partisan to argue that such an arrangement is irrational and politically biased.

1. See "The Alternative Minimum Tax for Individuals", by Steven Maguire, Congressional Research Service, November 5, 2010.

Non-Partisan Policy. Policy is often inherently partisan. Yet while policy may be infused with political orientation, the data and analysis provided by Congress's supporting agencies should be as free of partisan taint as possible.

Today, in specific and systemic ways, each of the CBO, CRS, and JTC is operating in a biased, partisan fashion. The new Congress should correct this behavior quickly so the coming policy debates take place on a level playing field based on trusted, non-partisan information.

*—**J. D. Foster, Ph.D.,** is Norman B. Ture Senior Fellow in the Economics of Fiscal Policy in the Thomas A. Roe Institute for Economic Policy Studies at The Heritage Foundation.*