

# THE HILL

PRICE \$3.00 VOL. 14, NO. 142 WEDNESDAY, DECEMBER 5, 2007 LARGEST CIRCULATION OF ANY CAPITOL HILL PUBLICATION

## K STREET INSIDERS

*This series of weekly columns by the biggest names on K Street unpacks the most important issues facing the lobbying business and the people in it.*

# The Tax Reform Act of 2010: lessons from history

**T**ax reform. The legislative Holy Grail. The policy issue that, if pursued successfully, defines both congressional and presidential legacies.

It has been over 20 years — a full generation — since the enactment of the Tax Reform Act of 1986. Prior to its enactment, it had been over 30 years since reform of such sweeping scope had been attempted, much less achieved. From its initial submission as “Treasury 1” in November 1984 to its ultimate enactment in October 1986, the 1986 Act took a full two years to navigate through the 99th Congress, endured many changes along the way, and survived despite strong efforts to kill it.

Despite being administered legislative last rites on several occasions, and while far from perfect, the 1986 Act stands as a tax policy paradigm with its significantly lowered rates and broadened tax base, and as a legislative achievement of truly historic proportions — worthy of its characterization as “landmark” legislation.

First, a few words about its design and purpose. The policy motivation for the 1986 Act was to reform the federal income tax system to make it fairer, simpler and more efficient. To these ends, the 1986 Act established two individual income tax rates (15 and 28 percent), removed over 6 million Americans from the tax rolls altogether, and substantially reduced the tax burden of millions of middle-income Americans. In the interest of simplicity and fairness, the capital gains differential was eliminated, many itemized deductions modified and the ability to utilize tax shelters significantly restricted.

To promote economic efficiency and



ROBERT J. LEONARD  
AKIN GUMP STRAUSS HAUER & FELD LLP

productivity, corporate tax rates were reduced from 46 to 34 percent — the lowest rates in the industrialized world at that time and the envy of the United States’ global competitors. And all of this was done on a “revenue-neutral” basis.

It was an excellent piece of legislative work — for the sweeping nature of its policy reach, for the legislative warriors who fought the good fight, for the integrity and stability of the legislative product itself, much of which still endures.

And so the question presents itself: Could it happen again? In this regard, the lessons of history are critically important and cannot be ignored.

Tax reform is a big issue requiring big thinking by courageous legislators willing to take risks, unafraid of incurring temporary setbacks (which are, of course, inevitable) or of trusting their colleagues — some on the other side of the aisle — whose cooperation will be essential for ultimate success.

The rules, procedures and precedents of the Congress do not lend themselves easily to fundamental policy reform, whether tax, healthcare or anything else. Congress tends to be incremental by institutional disposition and by virtue of the limits imposed by our constitutional system of checks and balances. Thus tax reform requires determined leadership and policymakers of

both parties who challenge themselves and each other to reach beyond smallness and partisan advantage, encouraging mutual risk for shared reward in the best spirit of “good policy makes for good politics.”

So will we witness enactment of the Tax Reform Act of 2010? It starts with the congressional leaders of both parties who will have to make it happen. House Ways and Means Committee Chairman Charles Rangel (D-N.Y.) and Senate Finance Committee Chairman Max Baucus (D-Mont.) are both skilled, veteran legislators — legislators in the best tradition of their profession, well-schooled in the bipartisan traditions of their two committees — legislators with track records of significant achievement.

Their two ranking members — Rep. Jim McCrery (R-La.) and Sen. Chuck Grassley (R-Iowa) — are seasoned legislators as well, widely respected on both sides of the aisle for their intellect and legislative acumen. They will need help from many of their colleagues, especially their respective leaders, whose support will be critical for tax reform to succeed, as then-Speaker Thomas “Tip” O’Neill (D-Mass.) and -Senate Majority Leader Bob Dole (R-Kan.) demonstrated at critical times during consideration of the 1986 Act. Make no mistake about it — the resolve of all these legislators will be constantly tested.

But, personalities aside, is the legislative environment right for tax reform? As with all significant reforms, tax reform will need an “action-forcing” event. In 1985, President Reagan, fresh from his historic 1984 reelection, provided it by identifying tax reform as the

SEE TAX REFORM PAGE 2



# THE HILL



PRICE \$3.00 VOL. 14, NO. 142 WEDNESDAY, DECEMBER 5, 2007 LARGEST CIRCULATION OF ANY CAPITOL HILL PUBLICATION

## K STREET INSIDERS

*This series of weekly columns by the biggest names on K Street unpacks the most important issues facing the lobbying business and the people in it.*

### *The Tax Reform Act of 2010: lessons from history, continued*

#### TAX REFORM FROM PAGE 1

No. 1 domestic priority of his second term. In a nationwide address, Reagan challenged Congress to produce a tax reform product “worthy of the American people.”

My former boss, Rep. Dan Rostenkowski (D-Ill.), responded heroically that evening by urging the American people to “Write Rosty” if they wanted congressional Democrats to accept the

#### ***THIS, THEN, IS THE ULTIMATE CHALLENGE OF TAX REFORM: CALLING LEADERS TO LEAD, LEADERS TO RISK, LEADERS TO THINK AND ACT BIG.***

president’s challenge. The public response was overwhelming, giving tax reform unstoppable, bipartisan momentum from that point on — momentum that sustained the effort through the many legislative difficulties that lay ahead. Could “Write Rangel” have the same political effect today?

Time will tell whether the new president elected in November 2008 pro-

claims a similar challenge to the 111th Congress. The looming expiration of the 2001 and 2003 Bush tax cuts in 2011 — the prospect of a \$1 trillion hit to the national economy, the further prospect of millions of middle-income taxpayers falling subject to the Alternative Minimum Tax — could well provide the necessary urgency, virtually assuring that a tax bill of significant dimension will be taken up by the new president and Congress in 2009.

Many of the precipitating elements for tax reform appear to be present: the legislative imperative of a significant revenue bill, the critical leadership at the tax-writing committees. But so, too, do the potential impediments — policy, procedural and political in nature. For all its high purpose, for all its “winners,” the discipline of revenue neutrality assures that tax reform will produce “losers” as well. And the political process tends to hear far more from the latter — in far louder decibels — than

the former.

But the player with the biggest megaphone is the president of the United States. Absent, at least for now, is the essential ingredient of presidential leadership on tax reform — so central to the success of the 1986 Act. Let there be no doubt — tax reform requires far more than presidential commissions and conferences where theoretical proposals are debated and multiple options produced. It requires nothing less than a president fully committed to the arena.

This, then, is the ultimate challenge of tax reform: calling leaders to lead, leaders to risk, leaders to think and act big. In that challenge lies tax reform’s promise and inevitability. For, as in 1986, the American people should demand — and a full generation removed, ultimately will demand — no less from their elected representatives.

Leonard is a partner in the Policy practice of Akin Gump Strauss Hauer & Feld LLP in Washington, D.C. He was chief Democratic tax counsel on the Ways and Means Committee when the 1986 tax reform bill was passed.