COMMITTEE ON FINANCE
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Max Baucus (D-Mont.)
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For Immediate Release
March 1, 2010

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Hearing Statement of Senator Max Baucus (D-Mont.)
Regarding Changes in the Tax Code since the 1986 Tax Reform Act
As prepared for delivery

Author Thomas Friedman wrote:

"The long-term opportunities and challenges that the flattening of the world puts before the United States are profound."

Indeed, increased globalization in the last several decades has spurred advancements in technology, business practices and daily life.

And compared to life 30 years ago, the changes are profound. Back then, the Berlin wall was still intact, most business was done using snail mail – except then we just called it, "the mail," and the concept of derivatives was only familiar in a few, limited markets.

In the 1980s, most Americans had not heard of the internet, cell phones were usually found only in high-end cars, and computers were hundreds of times slower than those we use today.

Today, the global economy has indeed flattened.

Business is usually done using e-mail, the internet, and smart-phones. The use of interrelated financial products based on complex computer models nearly led to a global Great Depression. And today's ubiquitous mobile phones have many times the computing power of the 1980's personal computer.

Today, we will look at how the tax code has changed, and whether it has adapted to these changes. We will look at how the tax environment is different since we last revamped the code in the 1986 Tax Reform Act. And we will consider how globalization affects the central issues we face in tax reform.

We have made 15,000 changes to the tax code since 1986, but many of these changes have stretched the code in different directions. Have these changes left us with a tax code that is more efficient, competitive and fair? How have these changes affected average Americans?

Today's panel of distinguished witnesses allows us to look back on the last 25 years of tax policy. We will hear more about the reasons behind many of those 15,000 changes. We will hear about what challenges they faced and how things have changed.

The Assistant Secretary for Tax Policy sits at the intersection of tax policy and tax administration. In this position, our witnesses have been uniquely situated to see all sides of the tax policy debate.

One major change we must consider is how doing business has evolved since 1986. Changes in the foundation of conducting business have had a significant impact on how we collect revenue.

Today, many U.S. businesses pass their income through to shareholders and pay the same tax rate as individuals. For that reason, this business structure is often called a "pass-through."

Since 1986, we've seen the number of pass-throughs double and today, over 94 percent of all businesses are now organized as pass-through entities. Additionally, two-thirds of our large businesses are pass-throughs, which is more than twice the level of the next-highest developed country.

We receive more revenue from pass-through businesses every year than we do from businesses with traditional corporate structures, called C-corporations.

We must consider how efficiently we tax business income, given that so much of it is taxed on an individual basis today.

Given our increasingly global economy, we must also consider how other countries' tax laws affect our system.

In 1986, we closed tax loopholes that allowed individuals to eliminate their tax liability by investing in tax shelters for a small fee.

Today, complicated tax planning regimes are proliferating. They often involve cross-border transactions, or individuals transferring funds offshore.

We have made real progress cracking down on offshore accounts recently. We enacted the Foreign Account Tax Compliance Act in 2010, among other provisions that close international tax loopholes. But have we kept up?

In our global economy, intellectual property can be moved across borders quickly. Some companies use that advancement to drive their effective tax rates down to single digits, while other companies are paying rates closer to 20 or even 30 percent.

This disparity can have a significant effect on our economy. It is a major driver of the need for tax reform.

We must also consider the gap between the taxes owed and the taxes paid. The Treasury has estimated that gap is close to 300 billion dollars.

This tax gap is difficult to fill, but we need to find ways to improve compliance without excessive burdens on businesses or individuals. No one should be able to systematically avoid their tax obligations.

Today we will ask our panelists for their insights into this seemingly intractable problem. Perhaps information technology offers opportunities to reduce the tax gap while reducing compliance burdens at the same time.

We will also consider changes in the tax law. In 1986, there was no concept of an annual tax extenders bill. Last year there were 141 expiring provisions vying to be extended. The debate took nine weeks of Senate floor time.

We must look at why we have so many expiring provisions and how they affect our economy.

So today we ask: How did we get here?

I think more to the point though, we should also ask: Is here where we want to be?

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