

## Christopher Rizek Discusses GOP Tax Reform Plan with Tax Notes

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House Republicans' tax reform plan promises to dramatically simplify the tax code, but many observers worry that one of its key elements -- switching to a destination-based cash flow tax system -- could create myriad complications that would take years to sort through.

Deciding when a transaction triggers the tax also could prove challenging to businesses, according to Christopher S. Rizek of Caplin & Drysdale, Chartered. He offered an example: "Your product is software and you are in California, but you're selling your software in Australia or India. Well, I guess that's tax exempt. But suppose the coding is originally done by some guys in India in the first place, and they sell it to you. How do you trace that?"

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Rizek also wondered why the House GOP plan didn't simply adopt a full VAT with a credit-invoice system, rather than the subtraction-method system proposed. Other countries use a credit-invoice system because it's "so much simpler to administer," he said. But with a subtraction-method system, "there's all these tracing issues, supply chain issues, and where-the-tax-falls incidence issues," Rizek said.

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Rizek agreed that the IRS likely wouldn't need to be totally restructured, noting that the DBCFT proposal appears to leave many basic individual income tax concepts and tax procedures untouched, which would minimize some of the changes in adapting to the new system. But he argued that giving the IRS the responsibility of administering the DBCFT would still probably "shake up the organization." He drew parallels to when the Affordable Care Act was first implemented, which resulted in the IRS reassigning many of its staff, particularly those in counsel, to figure out how to implement the law. "I would think that this [DBCFT] effort would require a lot more training, and they'll have to scrap a lot of [business] income tax concepts and look at the new stuff," he said.

Rizek also said that the last time the IRS underwent a major restructuring effort, the result was that the IRS spent several years "basically focused on reorganizing rather than enforcing the tax law," a result that he suggested could happen here to a lesser extent.

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Also unclear in the IRS reorganization plan is how exempt organizations would be treated, Rizek noted, and that uncertainty extends to how exempt organizations would be taxed under a DBCFT. "If the Red Cross buys bandages from Czechoslovakia, or radios from Korea, do they pay tax on them or not?" Rizek wondered.

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Rizek wasn't sure what effect a DBCFT would have on tax enforcement, but he said that "there's going to be a very long learning curve in administering the [tax], both at the taxpayer level, the practitioner level, the IRS, and the accounting firms." Figuring out how to make it work is "not an easy task," he added.

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The best advice Rizek had for lawmakers advocating for the DBCFT would be to "kick the effective dates out a couple years" so that the IRS, businesses, and accounting firms could have time to adjust. "I would hope that Congress doesn't make this effective" this year, he added.

And despite Gleckman's concerns about how to practically implement the proposal, he said that it "almost certainly" would be an improvement over the current tax system. "But these challenges are an important warning that shifting to such a new system will be much more difficult -- and time-consuming -- than backers suggest," he said.

Rizek, for his part, wasn't convinced that Republicans had fully thought through the proposal. "Maybe this draft will spring fully formed from Kevin Brady's head, but I'm not counting on it," he said.

For the full article, please visit *Tax Notes'* website (subscription required).

*Excerpt taken from the article "Cash Flow Tax Could Cause Unforeseen Problems, Observers Say" by Jonathan Curry for Tax Notes.*

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