



Obama Considers Tax Hikes Via Executive Action

President Obama has indicated an interest in using executive action to raise taxes, once again proposing to circumvent Congress to advance his own agenda. White House Press Secretary Josh Earnest said Monday that the president was “very interested” in doing so, purportedly to benefit the middle-class.



Talk of unilateral executive action for raising taxes ensued after Senator Bernie Sanders (I-Vt.) asked Obama to raise over \$100 billion in taxes through IRS executive action by eliminating corporate tax breaks.

“If Congress fails to address these problems, the administration should act on its own to close, at a minimum,” the six tax breaks, declared Sanders, who is the ranking member of the Senate Budget Committee.

Sanders had sent a letter to Treasury Secretary Jack Lew on Friday detailing the specific executive actions he believes that the IRS can take without having to wait for congressional approval. His letter declares that the administration can successfully raise more than \$100 billion over the next decade simply by closing loopholes that are currently utilized by corporations. He wrote:

America needs tax reform that raises revenue in a progressive way to fund investments like infrastructure improvements that will create jobs and boost economic growth. One way to accomplish this is by closing tax loopholes that allow large, profitable corporations and some of the wealthiest people in our country to avoid paying their fair share.

The *Wall Street Journal* notes that three of the tax breaks to which Sanders refers — check-the-box loophole, Hewlett-Packard loophole, and the real estate investment trust loophole — were created by administrative actions or regulations, rendering them vulnerable to being closed by executive action. Sanders proposes closing the other three loopholes — corporate inversions, carried interest loophole, and valuation discounts — through regulatory powers assigned to the Treasury Department.

Sanders’ letter states that closing the check-the-box loophole — which allows multinational companies to characterize their offshore subsidiaries in multiple ways so as to ultimately avoid taxation from any government — could raise \$78 million over the next decade.

The Hewlett-Packard loophole enables major companies such as Hewlett-Packard to have offshore accounts that are circulated to the United States by a series of short-term “loans” from subsidiaries in tax havens such as the Cayman Islands.

Sanders indicates that the Obama administration should take action against the real estate investment trust loophole to stop businesses from structuring themselves like real-estate investment trusts so that they do not have to pay certain taxes.

He recommends administrative action to target corporate inversions, or “earnings stripping,” a practice in which an American company acquires a foreign company, relocates overseas, and deducts interest



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payments on debts borrowed by a foreign subsidiary. He claims that addressing these inversions would bring in \$13 billion over a decade.

Eliminating the carried interest loophole, which permits wealthy hedge fund managers to label their compensation as capital gains subjecting it to lower personal income tax rates, would raise \$17 billion over a decade, writes Sanders.

Finally, he claims that removing valuation discounts — restrictions on business property for family members that reduce the value of the property for tax purposes in order to keep the business in the family — would raise \$18 billion.

Sanders is careful to write that his list is by no means “intended to be exhaustive,” but serves instead to “illustrate that if Congress fails to act, the Administration can act to resolve some of the problems with our tax code.”

Sanders’ letter defends the executive action by blaming his GOP colleagues: “The Republicans in Congress have made it clear that they will not address these problems.”

According to the *Wall Street Journal*, several of the tax proposals have already been proposed in Obama’s budgets. WSJ writes, “The administration would curb one such break that allows multinationals to avoid taxation of profits by using offshore subsidiaries and another to curb ‘equity stripping’.”

Sanders contends that Obama should resort to administrative action to end the practice.

According to a White House spokeswoman, the president will be responding directly to Sanders. But Press Secretary Earnest states that the president has not ruled out using executive action to raise taxes.

“The president certainly has not indicated any reticence in using his executive authority to try and advance an agenda that benefits middle class Americans,” Earnest said, adding,

Now I don’t want to leave you with the impression that there is some imminent announcement. There is not, at least that I know of. But the president has asked his team to examine the array of executive authorities that are available to him to try to make progress on his goals. So I am not in a position to talk in any detail at this point, but the president is very interested in this avenue generally.

There is very clear evidence that the president is indeed interested in the executive action “avenue,” as he has already resorted to executive orders for immigration, minimum wage, federal pay discrimination, and EPA regulations on carbon emissions. He has even used administrative action to delay parts of the Affordable Care Act. To date, he has issued over 200 executive orders, according to the *Federal Register*.

The president’s continuing determination to circumvent Congress reveals his willful disregard for what the American people want, since Congress is comprised of individuals elected by citizens to represent them. More importantly, it blazons his utter disdain for the Constitution, which assigns all legislative powers to Congress alone.

Michael Steel, spokesman for House Speaker John Boehner, had this to say last June, after Obama threatened to use executive action to achieve immigration reform:

The president has a clear record of ignoring the American people’s elected representatives and exceeding his constitutional authority, which has dangerous implications for both our system of



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government and our economy.

For now, at least, Obama has not resorted to executive action to accomplish the tax reform Sanders has outlined, opting instead to include corporate tax hikes and tax hikes on all Americans in his 2016 budget that would spend nearly \$4 trillion and increase the deficit by approximately \$470 billion.

The president's budget proposal includes a one-time 14-percent tax on all overseas profits, a 19-percent tax on all foreign profits going forward, and tax hikes on capital gains.

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