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## Federal Tax Reform Plan Unveiled by Trump, GOP; 'Protecting Middle Class, Small Biz,' Simplicity are Goals

While it's generally acknowledged effective tax rates are key, small and family-owned businesses – so-called "pass-through businesses," including partnerships and sole proprietorships – would see their corporate tax rate capped at 25%, the lowest small business rate in 80 years, according to President Trump and the congressional GOP leadership's framework for federal tax reform. The GOP released this week a nine-page outline of what they're hoping to accomplish, including slashing the broad corporate tax rate from 35% to 20%, and capping personal income taxes at 35% for the wealthiest Americans.

The framework is just that, a document long on concepts and goals, but short on details. The respective tax-writing committees are now left to turn the framework into legislation, reconcile the two chambers' approaches and get it to the president's desk. The pragmatic goals are simplification of the system for individuals, particularly the middle class, and cutting the corporate tax rate. House Ways & Means Committee Chair Kevin Brady (R, TX) said, "We want to make sure we create growth and higher pay checks in every sector, and we will design to those goals."

While leadership clings to an optimistic end-of-the-year deadline, Hill staff contend the effort will easily extend into 2018. At the same time, to move the respective chamber bills through the reconciliation process – reconciling available outlays to designated spending limits – in order to get approval on simple majority votes, both chambers will need to pass budget resolutions on how much the government should be spending. Several members are withholding their opinion of the framework until they see the budget resolutions.

Secretary of Agriculture Sonny Perdue praised President Trump's roll-out of the plan during his appearance in Indiana this week, calling the reform push "long overdue." Perdue said hard-working farm families "shouldn't be overburdened by the tax collector as well…most family farms operate as small businesses, with the line between success and failure frequently being razor thin," said Perdue in a statement. He said the complexity of the tax code makes compliance expensive, and the estate tax can "cause too many family farms to be broken up and sold off to pay the tax bill…"

Trump met with a small group of Indiana business people prior to his presentation, including a farmer. Agri-Pulse interviewed Kip Tom who said he was able to talk about the inheritance tax with Trump, as well as interest expense deductions and cash accounting. "He knew what I was talking about when I brought them up," Tom told the newsletter.

President Trump abandoned his public endorsement of a 15% top rate in favor of the 20% rate pushed by House GOP leadership; however, Senate Finance Committee Chair Orrin Hatch (R, UT) is talking a “corporate integration” proposal that could lower the effective top corporate rate to 15% by allowing companies to deduct enough shareholder dividends from their bottom line to reach the 15% goal. Hatch’s idea is not part of the tax reform framework released by congressional leadership this week, but observers contend each chamber will pass their own version of the GOP plan and reconcile the two approaches in conference committee.

For individuals, the Republican plan would reduce seven tax brackets to three – 12%, 25% and 35% -- with the authority to Congress to create a fourth, high-end rate to ensure the top 1% cannot pay a lower portion of income tax than they currently pay. The alternative minimum tax would be repealed, as would the inheritance or “death” tax, a major priority for agriculture. The standard deduction would be doubled to nearly $12,000 for individuals and $24,000 for married couples under the GOP plan, and the Child Tax Credit would be “significantly increased,” but the outline does not say by how much. The plan calls for elimination of tax loopholes and deductions “used primarily by the wealthy,” but keeps the home mortgage interest deduction and the federal deduction for charitable contributions. The plan is silent on the fate of the deductibility for state and local income taxes. Tax “incentives” for work, higher education and retirement are included in the plan.

The 20% top corporate rate is designed to get U.S. business tax rates below the 22.5% average of the rest of the industrialized world. The framework calls for creation of creating a “territorial tax system,” under which the profits of U.S.-owned companies are not taxed. The plan talks about “bringing profits home” by imposing “a one-time, low tax rate on profits stashed overseas by U.S. corporations, the goal being to remove any incentive for companies to keep profits overseas. At the same time, there would be two rates on repatriated profits: One for cash and cash equivalents, and a second, lower rate for other types of assets.

Businesses will be allowed “full expensing” of depreciable assets other than structures for up to five years, meaning companies can immediately expense new investments, another major agriculture priority. However, the plan also calls for “partially limiting” a company’s ability to deduct interest expenses, and details are yet to be seen and a continuation of small business write-offs of interest paid is possible. There’s no reference in the plan to cash accounting, nor does the framework talk about a stepped-up basis for capital gains. The research/development tax credit and the low-income housing tax credit are preserved by the GOP plan.

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## Censky, McKinney to Get Ag Committee Votes Next Week; Roberts Tees Up Northey, Ibach, Finance to Quiz Doud

Following a largely noncontroversial joint confirmation hearing, Senate Agriculture Committee Chair Pat Roberts (R, KS) this week said he’s planning to hold a full committee vote on President Trump’s nominees to be USDA deputy secretary and under secretary for trade and foreign agriculture.

Expected to be easily confirmed by both the committee and full Senate are USDA deputy secretary nominee Steve Censky, a former Senate staffer who’s now the popular CEO of the American

Soybean Assn. (ASA), and under secretary for trade and foreign agriculture nominee Ted McKinney, a friend of Vice President Mike Pence, and a former agribusiness executive now serving as Indiana agriculture director.

Roberts also said he's scheduled a hearing for October 5 on the nomination of Iowa Agriculture Secretary Bill Northey to be under secretary for farm and conservation programs, and Greg Ibach, Nebraska director of agriculture, to be under secretary for marketing and regulatory programs. Both nominees are noncontroversial.

Sen. Orrin Hatch, chair of the Senate Finance Committee, has scheduled a confirmation hearing for Gregg Doud to be chief agricultural negotiator at the Office of the U.S. Special Trade Representative (USTR). Now head of the Commodity Markets Assn. (CMA), Doud is a former economist for the Senate Agriculture Committee and the National Cattlemen's Beef Assn. (NCBA).

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## USDA Codex Office Shift Attracts More Opposition, Concerns including FDA

The department reorganization proposal by Secretary of Agriculture Sonny Perdue to shift the Codex Alimentarius office from the Food Safety & Inspection Service (FSIS) to the new program area to be run by the under secretary for trade and foreign agriculture, is drawing more and more opposition, with federal agencies, consumer groups and former USDA and FDA officials weighing into the issue this week, calling on Perdue to reverse his decision.

At the same time, FDA, which apparently was not consulted about the Codex shuffle, told Politico in an unusually strong statement: "FDA was recently informed of the decision to move the Codex office and notified USDA of its concerns with the proposal. We will be sharing FDA's view in more detail as part of written comments to USDA, and we look forward to working with them to address these issues. We will evaluate whether FDA needs to adapt the agency's relationship with Codex pending the final outcome of USDA's decision."

Signing the consumer letter along with several major consumer advocacy groups was Dr. Richard Raymond, former department under secretary for food safety during the George W. Bush administration; Brian Ronholm, who held the same job for President Obama, and Michael Taylor, former FDA deputy commissioner for foods and veterinary medicine.

Because the Codex office is part of a world mechanism for crafting "science-based standards for food safety, moving it will compromise the independence of health and safety regulatory agencies, (and) politicize technical policy," the groups said in a letter to Perdue. The consumer groups said it shouldn't be moved because it would possibly place health and safety issues in conflict with trade promotion and expansion programs.

Some contend President Trump's nominee to be the new under secretary for trade and foreign agriculture, Ted McKinney, a former agribusiness executive, a good friend of Vice President Mike Pence and former Indiana agriculture commissioner, provides for less than great optics in overseeing Codex. McKinney spent 10 years as head of corporate global affairs for Elanco, the animal drug division of Eli Lilly Corp. During that time, he battled within codex on behalf of Elanco's ractopamine and BST. Critics say it "looks bad" to have McKinney in the job, given other animal health products are under Codex review

Perdue says the change is designed to improve coordination on trade and international actions, and the department said, "We need to ensure the Codex standards are grounded in science – for both health and commercial reasons." USDA said other countries are taking actions counter to U.S. interests, and the U.S. must "raise its game to face this challenge."

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## NAFTA 2.0 Round Three Ends; Lighthizer Continues Tough Talk, Cools Expectations

Claiming "significant progress has been made" albeit on relatively non-controversial issues, the third round of U.S., Canada and Mexico NAFTA renegotiations wrapped up September 27. However, the administration is doing little to buoy the spirits of agriculture traders who want a successful conclusion to the effort by the end of the year, and this means they want to see the trade mavens "do no harm" to existing successful tariff-free movement of goods among the three countries.

The fourth round of NAFTA modernization negotiations will be held October 11-15, in Washington, DC, and it's then sparks are expected to fly and "things could get complicated," said one observer, as the U.S. puts forward plans for auto rules of origin on cars and parts, investor-state dispute settlement, increasing standards for Mexican labor and tackles head on Canada's government supply protection/dairy pricing scheme, a position supported by Mexico.

"There's a lot of pressure on us," said U.S. U.S. Special Trade Representative (USTR) Robert Lighthizer at the end of the talks when asked about progress. "At some point, you find out whether you can have a deal. If you don't have a deal, you don't have a deal, and you just walk away from it. There are uncertainties and problems with that." He said progress was made on a chapter dealing with small and medium businesses, along with digital trade, state-owned enterprises, food safety – the three are pursuing a Trans-Pacific Partnership-like (TPP) approach – plant and animal health issues, customs and telecommunications. Close to an agreement is a deal on competition policy.

The U.S. also formally proposed a new mechanism making it easier for southeastern U.S. fruit and vegetable producers to bring anti-dumping complaints against Mexico. The proposal is not universally popular within the specialty crop world with western growers opposing the plan, and both Canada and Mexico are not supportive of the proposed program.

As to the likelihood the U.S. will advance a formal proposal next week to add a five-year sunset provision to the treaty – a concept opposed by Mexico, Canada, USDA and the Department of State –Lighthizer said he wouldn't talk about an issue that may not be part of the agreement. Lighthizer is also drawing domestic criticism for advancing ideas in the press and elsewhere which haven't been vetted within the administration among agencies affected. For himself, Lighthizer says all topics forwarded by the U.S. "have 100% support" within the administration. "Every one without exception," he said. On the sunset idea, he and Secretary of Commerce Wilbur Ross like the idea of a sunset provision under which the treaty expires after five years unless all three nations reapprove it. The National Farmers Union (NFU) likes adding a sunset provision, but would set the time frame at 10 years.

Lighthizer reaffirmed the U.S. would like to see a conclusion to the NAFTA effort by year's end – Mexico suggested the three countries start looking at 2018 dates to meet – but left questions when he said in a speech, "We're moving at warp speed, but we don't know if whether we're going to get to a conclusion." The Washington, DC, session next month will be followed by three more negotiating sessions.

Lighthizer said he's concerned about the uncertainty the talks are creating, impacts and "real-life effects on farmers and ranchers and business people who are trying to do business, particularly in the U.S. and Mexico, but also in Canada."

The National Farmers Union (NFU) last week sent Lighthizer a letter endorsing trade reform items put forward by the Coalition for a Prosperous America (CPA). In addition to a 10-year sunset provision, NFU wants to see reduced "trade imbalances;" wants currency manipulation addressed; wants tougher rules of origin; wants to see a return of country-of-origin labeling (COOL); elimination of investor-state dispute settlement; automatic NAFTA enforcement; elimination of domestic procurement provisions; improved labor and wage requirements; compliance with food, product and highway safety standards; remedies for perishable and cyclical products, and addressing border adjustment taxes.

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## EPA Falling Down on Imported Pesticide Inspections; FDA not Handling Food Inspections Well

EPA's Inspector General's (IG) office this week reported the agency's regional offices are not conducting the required number of inspections on imported pesticides, and some fear the inaction may be leading to illegal imports. At the same time, the Department of Health & Human Services (HHS) IG's office says FDA is not doing a good enough job inspecting food facilities.

On the EPA report, the IG said only 73 or 46,280 shipments of imported pesticides were inspected in 2016, and that number should have been 926 given the agency has a publicly stated goal of inspecting 2% of those shipments. "Consequently, there is limited assurance that imports in violation of FIFRA will be identified or prevented entry into the U.S.," the IG report said. The IG said one major cause is that regional offices fail to include the voluntary inspections as part of their strategic planning, but that Washington, DC, has not provided these offices with guidance on how to coordinate with the Customs & Border Protection (CBP). EPA said it would provide the CBP guidance.

As FDA's inspection weaknesses, apparently a number of problems were uncovered including FDA overreliance on voluntary correction of problems, citing a Kansas case where a bean and sauce company facility, once cited for violations, went uncorrected for more than two years. The report says FDA consistently fails to “conduct timely follow-up inspections to ensure facilities corrected significant inspection violations.” The IG also called out several instances where no follow-up inspections were conducted, and where no enforcement action was taken despite significant violations of federal food safety laws. FDA says it agrees with the IG report’s recommendations, and that implementation of the Food Safety Modernization Act (FSMA) will bring needed updates and changes.

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## Industry Outraged as EPA Contemplates Cut in 2018, 2019 Biodiesel RFS

Higher biodiesel prices as the result of federal tax credits expiring last December and the U.S. set to put import tariffs on South American biodiesel exports to the U.S., are two reasons EPA published this week a call for public comment on its notion to cut the 2018 Renewable Fuel Standard (RFS) gasoline blending mandate for biodiesel from “biomass,” meaning the possible cut would only affect biodiesel made from feedstocks other than oilseed oils, including animal-based biodiesel.

Media reports from President Trump’s Indiana speech this week indicate he was unaware of the agency proposal when asked by a farmer. Details can be found by going to www.epa.gov.

Reportedly based on letters from the American Petroleum Institute (API), Valero and the American Fuel & Petrochemical Manufacturers (AFPC), the agency said the cost of blending the advanced biofuel with gasoline is significantly higher than a year ago, and EPA is contemplating cutting the 2019 volume requirement to as low as 1 billion gallons – the lowest level legally allowable – come November when it finalizes its 2019 mandate on gasoline blending.

The agency wants input on whether to cut the amount of biodiesel required to be produced from biomass by 15% or up to about 315 million gallons. The 2018 level for advanced biofuels, including biodiesel and renewable diesel, has been finalized for over a year. For instance, the 2019 RFS for biodiesel was proposed earlier this year to be 2.1 billion gallons, just under industry capacity, but in line with the 2018 level.

Both ethanol and biodiesel industries denounced the agency action, saying it’s a way to undercut the RFS, and calling the contemplated changes “baseless” and warned of a trade war if such actions as import tariffs are deemed to be “protectionist” by the World Trade Organization (WTO). Sen. Charles Grassley (R, IA) took to the Senate floor this week and blasted EPA, calling it “bait and switch” on behalf of Big Oil. The Iowa lawmaker said it’s time for EPA and the White House to keep their word. Sen. Joni Ernst (R, IA) sent a letter to President Trump saying the EPA action is bad for farmers, manufacturing and rural industry. It’s known a letter is circulating in the Senate that voices similar objections.

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## WOTUS Comment Period Ends

An estimated 193,000 comments from individuals and organizations on the what and how of modifying EPA's Clean Water Act (CWA) jurisdiction were received by the time the comment period ended this week. The number of comments, while large, is dwarfed by the more than 1 million comments received when President Obama's EPA first proposed the so-called "waters of the U.S. (WOTUS)" rule in 2014.

In its comments, the American Farm Bureau Federation (AFBF) joined with its state Farm Bureaus to urge repeal of the water rule, saying the final rule put out by the Obama administration is "in various aspects beyond the agencies' statutory authority, inconsistent with the Supreme Court precedent and contrary to the goals" of the CWA. Ag groups commenting generally cited regulatory overreach and ambiguity in the rule, the grounds on which federal courts stayed the final regulation.

Generally, environmental groups and others supporting WOTUS say the broadened EPA and U.S. Army Corps of Engineers jurisdiction over wetlands and small waterways is a critical safeguard for protecting ecosystems. The Southern Environmental Law Center said the rule is supported by an economic analysis a 408-page technical report offering scientific justification for the expanded EPA authority over U.S. waters, arguing the Trump administration decision is a political move and will "result in dirtier water, destroyed wetlands and failure to meet CWA's objective."

EPA will continue to hold listening sessions this month. While those in the know said the administration's new proposed version of the "waters of the U.S. (WOTUS)" rulemaking would be published before the end of 2017, EPA Administrator Scott Pruitt last seek said it's more likely the new proposal will emerge "sometime in the first quarter of next year." A separate effort to rescind the old final rule continues on schedule.

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## H-2A Visa Battle Heating Up

Legislative efforts to revamp and expand the H-2A agricultural guest worker visa program are drawing fire, as this week the United Farm Workers and the AFL-CIO – leading a group of more than 140 groups – waded into the issue announcing their opposition to expanding the visa initiative, pushing instead for full-blown immigration reform. Meanwhile, Labor Secretary Alex Acosta met with 14 House members, including lawmakers from Georgia, New York, Texas and California, to talk about how much the Department of Labor (DOL) can do administratively to streamline the program and how much Congress will have to do to fix the program.

Rep. Bob Goodlatte (R, VA) sparked the controversy when he announced recently his intent to reintroduce his bill that would rework the H-2A visa program to make it work for employers needing all-year employees, streamline the application process and modify housing, transportation and wage requirements. Currently, H-2A visa holders enter the U.S., harvest a crop or do other tasks, then return to their homelands until needed.

Rep. Buddy Carter (R, GA), said the group provided Acosta with a "laundry list" of problems with the program, citing the need for his blueberry growers to file for guest workers at planting and then again at harvest. Rep. Chris Collins (R, NY) said while crop producers in his state are seeing guest workers returning to harvest crops and fruit, the dairy farmers in his district are at a disadvantage because H-2A visas are not available for year-around workers. He contends Acosta can take administrative action to change the rules, and that the Farm Bill or an immigration bill are needed for permanent relief. "I urge Secretary Acosta to take action on this issue now," Collins told reporters. "Western New York's and America's farmers can't continue to be burdened by these ineffective rules and regulations while waiting for Congress to act."

The union-led group, however, said "the one thing that could stabilize agriculture quickly (is) providing legal status for undocumented agricultural workers," adding any changes to the H-2A program must include a pathway for farmworkers to become "legal" in the eyes of the federal government. These groups support what is called "Blue card" legislation, bills introduced by Sen. Dianne Feinstein (D, CA) and Rep. Luis Guttierez (D, IL) offering certain classes of undocumented workers a new system under which to get green cards or legal permanent residency.

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## Syngenta Inks Deal on GMO Corn Suit

A preliminary settlement has been reached between biotech plant giant Syngenta and farmers who brought a class action federal lawsuit against the company for selling a variety of genetically modified (GM) corn to U.S. farmers before the variety was approved by the Chinese government. The move, farmers contend, led to China temporarily shutting down imports of all U.S. corn until shipments could be tested for the Syngenta GM variety.

Unconfirmed media reports indicate the settlement sets up a $1.5-billion fund for payments to eligible farmers who got caught in the corn market debacle after September 15, 2013. "The proposed settlement would allow both sides to avoid the uncertainty of ongoing litigation. The settlement does not constitute an admission by either side concerning the merits of the parties' allegations and defenses," Syngenta said in a statement.

The company said, "All the details have to be worked out," including how many farmers are eligible for payments. Plaintiffs' lawyers concurred, explaining they're hopeful they can reach a final agreement with Syngenta that can be recommended to the courts "over the next several weeks."

If the settlement is accepted by the federal court, it halts class actions in Minnesota now at trial, as well as to states where trials have not begun. The settlement does not apply to grain traders or Canadian farmers who have also sued the company.

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## East Coast, Gulf Unions Pursue Contract Talks

The Maine-to-Texas labor agreement covering East Coast and Gulf Coast ports may be up for a quick extension, similar to successful management-labor actions that extended West Coast port labor contracts through July, 2022. The International Longshoreman's Assn. and the U.S. Maritime Alliance (USMX) acknowledged this week that USMX has sent the ILA a letter proposing a contract extension.

While discussions are underway to evaluate the offer and seek clarification of some proposals, the ILA stressed the talks are at a very early stage with no formal proposals being discussed and no negotiations scheduled yet. The ILA plans to convene its wage scale committee shortly. The current contract expires on September 30, 2018, and both sides would like to see a new deal in place well in advance of that date.


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