Insight

When Current Law and Current Policy Meet

GORDON GRAY | MARCH 1, 2016

Since the early 2000s, measuring budgets against an objective standard has been tricky. The “measuring stick” that observers use to measure budget changes is called a baseline. It is essentially a best approximation of what tax and spending levels would be if no further changes in law are made. It’s the counterfactual that can be used to gauge how much a given policy change will cost. Its construction is also spelled out in law (the Budget Enforcement Act or BEA), so it’s a clear and consistent standard.

Because of special rules in the Senate, tax policies enacted during the Bush Administration came with an expiration date, meaning millions of Americans faced a scheduled multi-trillion-dollar tax hike in 2011. No one thought the totality of the tax hike would happen, with policymakers divided only over the degree to which, if at all, the top rates would go up. And indeed, Congress passed and the president signed an agreement that made most of these tax cuts permanent in 2013.

A similar story can be told of other major policies that were temporary on paper but permanent in reality. The Sustainable Growth Rate (SGR) policy was enacted as part of the 1997 budget deal struck between Bill Clinton and a Republican Congress. Designed to reign in Medicare spending, the SGR was essentially a formula for reimbursing doctors providing care for Medicare patients. The formula mandated a cut in doctors’ reimbursement for 2002. This single cut caused enough pain for policymakers that Congress “patched” the SGR – that is, delayed reductions. They repeated this delay from 2003 to 2015, when Congress ultimately repealed the SGR. Since the SGR was actually law, its repeal had to be measured against an unrealistic counterfactual that assumed it was allowed to take effect. Accordingly, a permanent repeal of the SGR was always quite expensive. The same can be said for making the patchwork of “temporary” tax policies that Congress routinely extended, giving rise to their being named “extenders.”

This raft of temporary permanent policies opened up a rift between the current-law baseline and the current-policy baseline, where the current-policy baseline was arguably a more realistic projection of what the government’s bottom line really looked like over time. But creating a current-policy baseline, as both Presidents Bush and Obama did in their budgets, is also problematic as it can disguise the cost of policies that a president doesn’t want to have to pay for.

But a funny thing has been happening over the past few years. Congress and the president have been enacting permanent policies in lieu of the temporary tax code or the annual “doc fix” ritual that punting the SGR cut became. The result is a convergence of the current-law and current-policy baselines.

Image not found or type unknown

To be sure there is still some room for adjustments, but these increasingly amount to mere tinkering around the edges. Unfortunately, this convergence in baselines reflects the realization of mountains in debt that were only once projected as part of an alternate, current-policy universe. So while for this development may be helpful for budget observers, it only further clarifies that the nation's fiscal challenges are worse than some might have been led to believe.