potential WTO challenge, Rippeon said. It would be better to do tax reform so that everyone can predict the results and without an immediate challenge built into it, he said.

A House Ways and Means Committee spokesperson responded to the argument by saying, "This legislation is being drafted to minimize any uncertainty, drastically simplify our broken tax code, and finally level the playing field for American workers." ■

Border Tax Enforcement Could Require Unpopular 'Police State'

by Stephanie Cumings

Enforcing the House Republicans' proposed border-adjustable tax would likely represent an unwelcome culture shift that could require a new national enforcement apparatus, said Viva Hammer, legislation counsel for the Joint Committee on Taxation.

> ***Anything coming over the border would need to have some kind of information associated with it, Hammer said.***

If a House proposal for a border-adjustable tax becomes law, an entirely new administrative border system might be needed to ensure the tax is correctly collected on sales from overseas, Hammer said April 20. Hammer — who spoke at an event in Washington sponsored by the District of Columbia Bar Taxation Section, Jones Day, and Tax Analysts — said anything coming over the border would need to have some kind of information associated with it. "We're talking about opening packages," she said, adding, "That kind of police state would not be very popular in the United States," but any other approach would mean the end of retail.

Enforcing the proposed border-adjustable tax was discussed during a panel on how the House GOP's "Better Way" tax reform blueprint might affect the retail sector, which has been one of the most vocal critics of border adjustment.

Chad Pearson, senior director of tax planning at Best Buy Co., said there's concern from a retail perspective about direct shipments to consumers from foreign countries. The border-adjustable tax would deny a deduction for imports to U.S. business taxpayers, but this wouldn't affect foreign retailers shipping directly to U.S. customers. Danielle Rolfes, former Treasury international tax counsel, noted that the blueprint is silent on direct business-to-consumer sales.

"I recognize that this is a known issue and it's got to be plugged, but how do you plug it effectively without a whole lot of administration?" Pearson asked. "If it's not plugged, retail in the United States is done. We'll locate somewhere else across the border, and we'll do it, too." He questioned whether administration of a border-adjustable tax would mirror a VAT system and present the same administrative burdens.

Rolfes said the border-adjustable tax begins to look a lot more like a VAT when you talk about enforcing it.

Hammer criticized the estimate promulgated by the Urban-Brookings Tax Policy Center, that the border-adjustable tax would generate $1.2 trillion in revenue over the next decade. "I don't know why they think those numbers are accurate; I think nobody on this panel does," she said. "We don't know what's going to happen. I think that's the consensus here." Hammer strongly doubted that the destination-based cash flow tax would result in a manufacturing renaissance in the United States.

A 2012 study by PwC on behalf of the Retail Industry Leaders Association found that the retail industry's average domestic effective corporate tax rate was 36.4 percent between 2007 and 2011 — nearly 10 percentage points higher than the average of all other industries, Rolfes said. She asked if this meant retailers would disproportionately benefit from lowering the corporate tax rate. Pearson said if the only effect of lowering the rate is putting retail on par with other sectors, "it's about time."

> ***Many large companies are 'not that excited about expensing,' Rolfes said.***

Rolfes also asked whether the retail sector would be just as opposed to any shift in the direction of a consumption tax, like a traditional broad-based VAT. Sally Gilligan, a senior vice president at the Gap Inc., confirmed that it would, adding that retail would be opposed to anything that would have a negative impact on consumers. Hammer said retail sector support for a VAT could be bolstered if coupled with other "income replenishment" for consumers who are disproportionately hurt by consumption taxes. Hammer noted that most countries with large economies have a consumption tax in addition to corporate and individual income taxes, but offer a greater array of social services to citizens than the United States does.

Regarding the immediate expensing of most investments under the cash flow tax, Rolfes said she thought that many large companies, including large capital-intensive companies, are "not that excited about expensing."

Pearson said large retailers look at immediate expensing as a short-duration, zero-interest loan from the government. "That's nice to have, but it really doesn't impact our investment decisions," he said. The tax reform blueprint argues that expensing would provide greater incentive to invest than current law, but the panel noted that there is no benefit to expensing under generally accepted accounting principles.

"I think that the impact of GAAP on decision-making is overemphasized by the fact that a lot of lobbyists are employed by very large taxpayers who are filing GAAP, but the vast majority of taxpayers are not GAAP filers, and they really care about cash," Hammer said. "So although GAAP doesn't take into account the time value of money, which is a very odd thing in my opinion, some other people do take into account the time value of money because that's all they've got."

Rolfes said that if it's really small businesses that care about immediate expensing, maybe that benefit should be targeted at small businesses rather than sacrificing revenue on a benefit that's not as meaningful to large companies. ■