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# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Betsy Shotwell

**SUBJECT:** SEE BELOW

**DATE:** December 19, 2012

Approved

Date

12/20/12

**SUBJECT: PATTON BOGGS UPDATE ON U.S. FISCAL CLIFF CRISIS**

## INFORMATION

Attached is a special update from the City's Federal lobbyist firm of Patton Boggs on the fiscal cliff negotiations. Patton Boggs financial services and tax policy team is providing these updates on the negotiations for their clients.

BETSY SHOTWELL  
Director, Intergovernmental Relations

Attachment: Patton Boggs LLP: Fixing the Debt: Update on U.S. Fiscal Cliff Crisis 12/19/12

**FIXING THE DEBT: UPDATE ON U.S. FISCAL CLIFF CRISIS**

December 19, 2012

**SUMMARY**

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- Despite a continued narrowing of differences between Speaker Boehner and the President, on Tuesday evening Speaker Boehner announced that House Republicans intend to move forward with a vote on their own tax plan on December 20th – “Plan B” – which includes making the Bush tax cut rates permanent for income below \$1 million. The plan does not address spending cuts, which would be tackled during a debt ceiling debate in the beginning of 2013.
- House Republicans are working to ensure they have 218 votes to pass this legislation on Thursday, not an easy task given some conflicting views in their caucus on how best to approach the fiscal cliff. Their effort may have gotten a boost Wednesday when Americans for Tax Reform released a statement indicating that Plan B is consistent with the Taxpayer Protection Pledge.
- Speaker Boehner is pursuing Plan B because the President and Speaker continue to disagree on what the proposed level of spending cuts should be in comparison to tax increases. While the differences are narrowing, Republicans believe that the ratio of spending cuts to tax increases should be closer to 1:1. Republicans argue that the President has only proposed \$850 billion in spending reductions, which falls short in comparison to the \$1.3 trillion in revenue increases he has proposed.
- The White House has threatened that it will veto Plan B and Senate Majority Leader Harry Reid has also publicly rejected the Plan B approach by stating that it cannot pass the Democratic-controlled Senate. Majority Leader Reid added that the only alternative to a grand bargain is for the House to pass S. 3412, the Middle Class Tax Cut Act, which passed the Senate earlier this year and allows the Bush tax cuts to expire on income above \$250,000.
- If Plan B passes the House this week, it could place an increasing amount of pressure on the White House and the Senate to compromise further with Congressional Republicans. While it is possible that this pressure could lead to a stalemate and thus, no deal, it could also result in further concessions by the President in continuing discussions with Speaker Boehner.

## FORMAL PROPOSALS

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- As of Monday evening, the details of the President's latest offer:
  - \$1.295 trillion in revenue increases, including permanent extension of current tax rates on income up to \$400,000.
    - Rates above \$400,000 return to 39.6 percent;
    - Capital gains and dividends would rise to a 20 percent tax rate for incomes over \$1 million;
    - 28 percent limitation on tax deduction and other "major exclusions" with a 35 percent limitation for charitable giving; and
    - Application of PEP and Pease limitations for income over \$250,000.
  - \$1.22 trillion in spending reductions which include:
    - \$130 billion in savings from moving to a modified "chained-CPI" inflation measure for Social Security that would protect low-income populations;
    - \$290 billion in interest savings;
    - \$400 billion in savings from health programs;
    - \$200 billion in non-health entitlements; and
    - \$200 billion in discretionary spending cuts (split 50/50 defense/nondefense).
  - Fast track processes for corporate and individual tax reform as well as for spending reform;
  - The current sequestration cuts would be turned over for good except in select areas as part of the enforcement trigger for tax and spending reform to commence in 2013;
  - Extension of the debt ceiling for four years with periodic votes on disapproval resolutions in Congress; and
  - Extras: extension of unemployment insurance; additional infrastructure spending, a 1 year AMT patch, and a 1 year Medicare "doc fix."
  - Some reports indicate that the Administration has offered a permanent AMT patch and a permanent "doc fix," but this has not been confirmed through any White House release.
- On Tuesday evening, Speaker Boehner laid out the "Plan B" approach. Under this Plan B approach:
  - The Bush tax cuts on income over \$1 million would expire and return to a 39.6 percent rate;
  - Permanently extends the current estate and gift tax (\$5 million at 35 percent and indexed for inflation);
  - Permanently extends section 179 expensing for small businesses;
  - Permanently patches the AMT;
  - Permanently extends parity for capital gains and dividend taxes at 20 percent;
  - Entitlement and other spending reform would be left out; and
  - The debt ceiling would not be raised (The offer includes the caveat that spending cuts must exceed any debt limit increase)

## OPTIONS LEFT

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*With several options still possible, expect negotiations between the President and the Speaker to pick up following tomorrow's vote on Plan B in the House; such negotiations could continue on into the week between Christmas and New Year's Day. These options include:*

- House Republicans vote tomorrow to send their Plan B approach to the Senate, leaving the debate on entitlements for another day. Leader Reid has not said how he intends to handle the House bill when it arrives (if at all), but he could seek to substitute the middle-income only tax bill (capping the extension at income below \$200,000/\$250,000), or some variant of that, and send it back to the House, at which point House Republicans would have to decide how to handle it.
- President Obama and Speaker Boehner continue to negotiate on a grand bargain. This will require additional concessions from the White House on its latest offer, particularly with respect to the level of spending cuts and its demands for a debt limit increase. Despite publicly signaling that their efforts have stalled, both the White House and the Speaker seem to continue to want a deal, and the White House appears open to making more concessions on revenue, spending, and debt ceiling. Should that agreement be reached, the Senate could take it up, pass it as an amendment to the House bill, and send it back for final action.
- If the President and the Speaker fail to reach an agreement, and the country goes over the cliff on December 31<sup>st</sup>, expect negotiations to continue into January.

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## FOR MORE INFORMATION

*For up to-the-minute fiscal cliff updates, please contact a member of the Patton Boggs Tax Policy team:*

**Rosemary Becchi**

202-457-5255

[rbecchi@pattonboggs.com](mailto:rbecchi@pattonboggs.com)

**Micah Green**

202-457-5258

[msgreen@pattonboggs.com](mailto:msgreen@pattonboggs.com)

**Aubrey Rothrock**

202-457-5620

[arothrock@pattonboggs.com](mailto:arothrock@pattonboggs.com)

**Manny Rossman**

202-457-5664

[mrossman@pattonboggs.com](mailto:mrossman@pattonboggs.com)

**Daris Meeks**

202-457-5205

[dmeeks@pattonboggs.com](mailto:dmeeks@pattonboggs.com)

**Erin McGrain**

202-457-5344

[emcgrain@pattonboggs.com](mailto:emcgrain@pattonboggs.com)

**Joe Urso**

202-457-5349

[jurso@pattonboggs.com](mailto:jurso@pattonboggs.com)