Tax Reform's Lesson for Health Care Reform

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THE chance of bipartisan agreement on health care seems to be waning as August draws to a close and ideologues mount increasingly vitriolic attacks on President Obama's health care initiative. The debate is beginning to sound more and more like the politics President Obama decried in his campaign — partisan, mean and progress-free. It needn't be that way.

In 1986, before President Ronald Reagan, a Republican Senate and a Democratic House succeeded in passing landmark tax reform, Washington insiders and the press predicted — as they are doing now — that it would never happen. There are lessons from the 1986 legislative experience that can be applied to health care reform today.

In the end, the tax bill passed because each party got something it wanted: Republicans got a lower marginal tax rate, and Democrats eliminated special-interest loopholes. By adhering to the principles of equity (equal incomes should pay equal taxes) and efficiency (the market is a more efficient allocator of capital than Congress), the bipartisan coalition produced a bill that lowered the top tax rate from 50 percent to 28 percent, eliminated $30 billion annually in loopholes and resulted in the wealthy contributing a higher percentage of income-tax revenues than they had before the reform.

Once the discipline of revenue neutrality was adopted, the trade-off between loophole elimination and a lower top rate became obvious (the lower the rate, the more loopholes had to be closed to pay for it), and the deficit was not increased. The bill's proponents, myself among them, also strove to enforce a no-amendment strategy on the Senate floor. With Republicans and most Democrats on the Finance Committee adhering to the strategy, countless amendments were fended off, and the compromise was protected from unraveling.

None of this would have happened had the Reagan administration not taken on some of the Republican Party's sacred cows — the oil and gas industry, real-estate interests and large industrial enterprises, all of which benefited disproportionately from loopholes. Similarly, the bill would never have passed had some Democrats not taken on an ingrained party orthodoxy — the belief that equity demanded higher tax rates.

In addition, there was the human factor. I remember a meeting in the White House with President Reagan and the supporters of tax reform from both parties. Each member of Congress had a few minutes to say something to the president. When my turn came, I said, "Mr. President, I know you're interested in tax reform because when you were an actor, the marginal tax rate was 90 percent — and Mr. President, I'm interested in tax reform because when I was a basketball player, I was a depreciable asset." He smiled, and we found common ground because he had been an overtaxed actor and I had been a loophole for the New York Knicks.

In working with Republicans, I felt I could trust Treasury Secretary Donald Regan, his successor, James Baker, and their staffs to do what they said they would do. Dan Rostenkowski, the Democratic chairman of the House Ways and Means Committee, and I believed not only that this tax bill was good policy but also that it might serve as a model for passage of other significant legislation, like deficit reduction and health care reform. Bob Packwood, the Republican chairman of the Senate Finance Committee, initially resisted the idea of fundamental reform, but after his less-ambitious alternative bill collapsed in committee (one of the many times the whole tax-reform initiative looked dead), he became a fearsome and effective supporter of tax reform, and I became his partner.

I mention all this because I believe such a grand bipartisan compromise is still possible with health care.

Since the days of Harry Truman, Democrats have wanted universal health coverage, believing that if other industrialized countries can achieve it, surely the United States can. For Democrats, universal coverage speaks to America's sense of decency and compassion. Democrats also believe that it will lead to a healthier and more productive country.

Since the days of Ronald Reagan, Republicans have wanted legal reform, believing that our economic competitiveness is being shackled by the billions we spend annually on tort costs; an estimated 10 cents of every health care dollar paid by individuals and companies goes for litigation and defensive medicine. For Republicans, tort reform and its health care analogue, malpractice reform, speak to the goal of stronger economic growth and lower costs.

The bipartisan trade-off in a viable health care bill is obvious: Combine universal coverage with malpractice tort reform in health care.

Universal coverage can be obtained in many ways — including the so-called public option. Malpractice tort reform can be something as commonsensical as the establishment of medical courts — similar to bankruptcy or admiralty courts — with special judges to make determinations in cases brought by parties claiming injury. Such a bipartisan outcome would lower health care costs, reduce errors (doctors and nurses often don't report errors for fear of being sued) and guarantee all Americans adequate health care.

Whenever Congress undertakes large-scale reform, there are times when disaster appears certain — only to be averted at the last minute by the good sense of its sometimes unfairly maligned members. What now appears in Washington as a special-interest scrum could well become a triumph for the general interest. But for that to happen, the two parties must strike a grand bargain on universal coverage and malpractice tort reform. The August recess has given each party and its constituencies a chance to reassess their respective strategies. One result, let us hope, may be that Congress will surprise everyone this fall.

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