Congress completes action on one-year extension of expired business and individual tax provisions

December 16, 2014

In brief

The Senate late on December 16, 2014 voted 76 to 16 to pass H.R. 5771, the Tax Increase Prevention Act of 2014, providing for one-year retroactive extension of business and individual tax provisions that expired at the end of 2013. H.R. 5771 also includes technical corrections to previously enacted tax law changes, and a new tax-advantaged savings account for disabled persons.

The Senate action approving without change the tax extenders bill previously passed by the House of Representatives now clears the bill for the White House, where President Obama is expected to sign it into law.

Congress also has approved an extension of the Internet Tax Freedom Act through September 2015 as part of legislation funding the federal government for fiscal year 2015. The $1.1 trillion FY 2015 spending bill provides $10.6 billion in funding for the IRS, a $345.6 million reduction below last year's level. The spending bill also includes provisions related to multiemployer pension plans and certain revisions to the Affordable Care Act.

The Senate has now joined the House in adjourning the current Congress. A new 114th Congress, with a Republican-led House and Senate, will convene on January 6, 2015.

In detail

Tax extenders

Key business provisions renewed through December 31, 2014 include the research credit, 50-percent bonus depreciation, look-through treatment for controlled foreign corporations (CFCs), and a Subpart F exception for active financing income.

Also included among the more than 50 expired tax provisions being renewed for 2014 are the following:

- 15-year recovery for qualified leasehold, restaurant, and retail property
- Work opportunity tax credit
- Sec. 179 small business expensing
- Reduction in S corporation built-in gains holding periods
- Basis adjustment of S corporation stock for donations
- Certain regulated investment company (RIC) provisions
- Renewable electricity production credit

- Biodiesel and renewable diesel credits
- Deduction for State and local general sales taxes
- Discharge of indebtedness on principal residence.

The overall package of tax extenders is estimated by Joint Committee on Taxation (JCT) staff to cost $41.6 billion over 10 years.

Click here for the JCT revenue estimate of the tax extender provisions, and click here for the text of the legislation.

Technical Corrections

The tax extenders bill also includes provisions for technical corrections and repeal of certain "deadwood" provisions.

These technical corrections address a number of business tax provisions enacted since 2004, including proposals affecting elections to claim alternative minimum tax (AMT) credits in lieu of bonus depreciation, section 199 domestic manufacturing deduction, certain energy tax provisions, depreciation rules for leasehold improvements and smart meters, and regulated investment companies.

Tax-free savings accounts for the disabled

H.R. 5771 also includes the provisions of a separate bill, H.R. 647, which allows for the establishment of tax-free savings accounts for certain expenses of severely disabled individuals. JCT staff projects that the $2 billion cost of H.R. 647 would be more than fully offset by several revenue-raising provisions, which include changes to certain Medicare payments, an increase in federal inland waterway fuel excise taxes, and indexing for inflation certain tax penalties. H.R. 647 was incorporated into the text of H.R. 5771 by the House before the tax extenders bill was sent to the Senate.

White House veto threats block permanent tax extenders

Congressional action to pass a one-year tax extenders bill came after an unsuccessful effort in late November by House and Senate leaders to reach agreement on a roughly $450 billion tax extenders package. Negotiations had almost been concluded before the Thanksgiving holiday on legislation that would have made permanent the research credit and several other business and individual tax provisions, while also extending for two years – 2014 and 2015 – more than 40 other provisions, including bonus depreciation, CFC look-through, and active financing.

White House officials on November 25 announced that President Obama would veto the package being negotiated by House Ways and Means Chairman Dave Camp (R-MI) and Senate Majority Leader Harry Reid (D-NV) because it did not include provisions to make permanent an expansion of the earned income and child tax credits set to expire in 2017.

While calling for additional provisions benefitting lower-income individuals to be included in any bill permanently extending business tax provisions, White House officials also stated that the package being negotiated outside a general agreement addressing tax reform and budget deficits would be "fiscally irresponsible."

The White House on December 10 also issued a veto threat against a separate bill (H.R. 5806) to make permanent three expired charitable giving provisions. The House on December 11, by a vote of 275 to 149, failed to secure the two-thirds majority vote required for passage under a House floor procedure ("suspension calendar") that does not permit floor amendments. H.R. 5806, the Supporting America's Charities Act, would have made permanent expired tax deductions for donations using money from Individual Retirement Accounts, donations of conservation easements, and donations of food inventory. JCT staff estimated the bill would reduce federal revenues by $11.1 billion over 10 years. These same provisions would be extended for one year (2014) as part of the general tax extenders bill approved by Congress

Internet Tax Freedom Act extension and other tax provisions included in FY 2015 spending bill

The Internet Tax Freedom Act, which prohibits state and local governments from imposing multiple and discriminatory taxes on Internet sales and services, is extended through September 30, 2015 as part of the FY 2015 spending bill.

The FY 2015 spending bill also includes provisions related to multiemployer pension plans and certain revisions to the Affordable Care Act (ACA).

The $1.1 trillion FY 2015 spending bill approved by Congress would fund most of the federal government through the current fiscal year ending September 30, 2015. The legislation would fund the Department of Homeland Security, which has jurisdiction over immigration enforcement, through February 27, 2015, to provide Republicans with additional time to craft a legislative response to President Obama's executive order on immigration.

IRS funding

Among other things, the spending bill provides $10.6 billion in funding for the IRS – a reduction of $345.6

million from the fiscal year 2014 funding level and $1.5 billion below the President's request. The House Appropriations Committee noted that IRS funding will be below FY 2008 levels and that the FY 2015 bill does not include any additional funds for ACA implementation.

The takeaway

It remains to be seen whether President Obama and Republican leaders in the new 114th Congress will be more successful next year in taking permanent certain temporary tax provisions.

Let's talk

For a deeper discussion of how this might affect your business, please contact:

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