Deloitte.

Tax

Tax News & Views

Capitol Hill briefing.

March 25, 2016

In this issue:

Short-term FAA extension heads to White House

The House of Representatives on March 21 approved by voice vote and sent to President Obama legislation (H.R. 4721) that would reauthorize spending authority for the Federal Aviation Administration (FAA) and the taxes that provide the agency's dedicated revenue stream through July 15. The president is expected to sign the bill into law.

Authorization for the FAA's spending authority and related taxes was set to expire on March 31.

Senate changes accepted

The measure now awaiting the president's signature reflects modifications made in the Senate to an earlier version of H.R. 4721 that cleared the House on March 14. The original House bill would have extended the FAA's authority to draw from the Airport and Airway Trust Fund and spend money on the Airport Improvement Program through July 15 of this year; but it would have renewed the passenger, cargo, and fuel excise taxes that provide the bulk of the revenue for the trust fund through March 31, 2017 – a strategy advanced by House Republicans that likely would have foreclosed the possibility of using FAA reauthorization as a vehicle for an extenders bill this year.

After a number of senators reportedly objected to those staggered renewal periods – at least in part because they were looking for an opportunity to move an extenders package in 2016 – the Senate on March 17 approved amendments to extend the spending and revenue provisions through mid-July, sent the revised measure back to the House, and a few hours later

adjourned until early April for the spring recess. That move essentially forced House lawmakers to either accept the Senate's changes or risk an FAA shutdown at the end of this month. (For prior coverage, see *Tax News & Views*, Vol. 17, No. 12, Mar. 18, 2016.)
URL: http://newsletters.usdbriefs.com/2016/Tax/TNV/160318_3.html

Path to long-term extension unclear

Although passage of the legislation keeps the FAA aloft for the near term, the exact path forward for a long-term FAA extension is not immediately clear. The House Transportation and Infrastructure Committee approved legislation (H.R. 4441) in February that would renew FAA funding for six years, turn over management of the nation's air traffic control system to a yet-to-be-created nongovernmental agency, and pay for air traffic control operations through user fees rather than airline ticket taxes. (For prior coverage, see *Tax News & Views*, Vol. 17, No. 6, Feb. 5, 2016.)
URL: http://newsletters.usdbriefs.com/2016/Tax/TNV/160205_2.html

But that bill has so far failed to take off in the House, in part because of concerns over the impact that a shift to user fees would have on the jurisdiction of congressional taxwriters over FAA funding in the future. Senate Republican leaders likewise do not appear to have embraced a user-fee approach. Finance Committee Chairman Orrin Hatch, R-Utah, last month called the proposal "an interesting idea," but expressed doubt that it would "go anywhere" in Congress.

House Transportation and Infrastructure Committee Chairman Bill Shuster, R-Pa., told reporters on March 14 that passage of a short-term extension would give him time to work with lawmakers to get his long-term bill "over the goal line." In comments reported on March 23, Shuster stated that he is working with "everyone that's against" his proposal in the House, although he indicated that he has not met recently with members of the Ways and Means Committee.

Across the Capitol, the Senate Commerce, Science, and Transportation Committee marked up legislation (S. 2658) on March 16 that would reauthorize the FAA for 18 months (through September 30, 2017). Commerce Committee Chairman John Thune, R-S.D., has indicated that S. 2658 likely will reach the Senate floor in early April.

Brady: No extenders in checked or carry-on baggage

For his part, House Ways and Means Committee Chairman Kevin Brady, R-Texas, this week dismissed suggestions that an FAA extension – or other tax legislation that may move through Congress this year – would serve as a vehicle for lawmakers to revisit the temporary tax extenders provisions that otherwise will expire at the end of this year.

Brady's comments came a few days after Senate Finance Committee ranking Democrat Ron Wyden of Oregon told the audience at an American Council on Renewable Energy conference on March 17 that he is "working with [his] colleagues on the Finance Committee, in leadership and in the House to make sure the renewable energy extenders set to expire this year don't get left behind," and that he was "extremely optimistic that Democrats and Republicans in

Congress can come together around these proposals." (Wyden told Tax Analysts the same day that he intends to formally propose a long-term extension of certain alternative energy provisions when the Senate reconvenes in April.)

The extenders legislation enacted into law late last year – the Consolidated Appropriations Act, 2016/Protecting Americans from Tax Hikes Act of 2015 (P.L. 114-113) – made a number of expired business, individual, and charitable giving incentives permanent; extended a handful of provisions for five years; and renewed others – including several alternative energy incentives – only through the end of 2016. (A complete list of the provisions addressed in last year's extenders package is available from Deloitte Tax LLP.)
URL: http://newsletters.usdbriefs.com/2015/Tax/TNV/151218_1suppA.pdf

House Republicans have contended that last year's appropriations/extenders bill largely eliminated the need for an annual extenders debate by providing permanent or long-term extensions of the most critical temporary provisions and allowing others to be evaluated in the context of a comprehensive tax code overhaul – a sentiment that Ways and Means Chairman Brady affirmed in comments to reporters on March 22.

"My view is that we have dealt with the extenders as a Congress last December. Any further action will occur either within overall tax reform or as stand-alone bills. So no, we are not bringing an extenders package to the floor out of the House this year," Brady said.

Ways and Means Tax Policy Subcommittee Chairman Charles Boustany, R-La., likewise told reporters on March 22 that House Republicans "want to keep the momentum going to move toward comprehensive tax reform." Boustany commented that "[a]ll of the extenders were on the table" when lawmakers negotiated last year's extenders deal and that "[t]hings that were left out were left out for a reason."

— Michael DeHoff
Tax Policy Group
Deloitte Tax LLP

Ways and Means subcommittee looks at cash-flow and consumption-based tax reform proposals

As part of House Republicans' process to develop a comprehensive tax reform plan this year for what they hope will be a new GOP presidential administration in 2017, the House Ways and Means Tax Policy Subcommittee held a hearing March 22 to discuss several existing proposals on cash-flow and consumption-based approaches to taxation that have been introduced by House members.

Witnesses included Republican Reps. Devin Nunes of California, Michael Burgess of Texas, and Robert Woodall of Georgia.

Tax Policy Subcommittee Chairman Charles Boustany, R-La., noted in his opening statement that "[u]ltimately, the Ways and Means Committee must weave the most pro-growth concepts and ideas into a bold plan that fundamentally and comprehensively reforms our tax system."
URL: http://waysandmeans.house.gov/chairman-boustany-opening-statement-at-tax-policy-subcommittee-hearing-on-fundamental-tax-reform-proposals/

Nunes, a senior member of the Ways and Means Committee, testified on the American Business Competitiveness (ABC) Act (H.R. 4377), which he introduced in January. His proposal would eliminate the income tax on businesses and replace it with a cash-flow tax of 25 percent imposed on all entities regardless of their business structure. The bill also would allow for immediate full business expensing and move the US to a territorial tax system, with a 5 percent "toll" payment due on repatriated earnings. Under Nunes' plan, full business expensing would be paired with repeal of the deduction for business interest costs – an issue that prompted questions from several subcommittee members.
URL: https://www.congress.gov/114/bills/hr4377/BILLS-114hr4377ih.pdf

Burgess discussed the Flat Tax Act (H.R. 1040), which would allow businesses and individuals to opt into a flat tax system – at a 19 percent rate in the first two years and 17 percent thereafter – and be taxed on a cash-flow basis for business activities.
URL: https://www.congress.gov/114/bills/hr1040/BILLS-114hr1040ih.pdf

Woodall testified on the Fair Tax Act (H.R. 25), which was first introduced in Congress in 1999 (by then-Rep. John Linder, R-Ga.) and has been proposed in substantially similar form each Congress since. The Fair Tax would replace all current federal taxes with a national consumption tax on goods and services at the point of purchase. The proposal calls for a tax-inclusive rate of 23 percent on the sale of new goods and services in the first year, which equates to 30 percent on the pre-tax price. The rate would adjust annually based on the revenue collected in the previous year.
URL: https://www.congress.gov/114/bills/hr25/BILLS-114hr25ih.pdf

Additional hearings planned

Boustany announced that the March 22 session was the first in a series of hearings the subcommittee will hold on various approaches to tax reform. The next, slated for April 13, will focus on income-based proposals. Republicans have more traditionally embraced this "broaden the base, lower the rate" approach to tax reform, although consumption-based approaches have received more attention this election season, with several presidential candidates – including Sen. Ted Cruz, R-Texas – advocating alternatives to the current system.

Neal: A little less conversation, a little more action

In his opening remarks at the hearing, the subcommittee's ranking Democrat, Rep. Richard Neal of Massachusetts, took aim at the Republicans' work on tax reform this year and touted the "methodically bipartisan" approach that now-retired Ways and Means Chairman Dave Camp, R-Mich., took to crafting the comprehensive discussion draft he introduced in 2014.

Although he acknowledged that he disagreed with parts of the Camp proposal, Neal called it "the best effort since Chairman [Dan] Rostenkowski in 1986" and suggested that lawmakers should be using it as a foundation for developing a comprehensive tax reform plan.

"[R]ather than building on [Camp's] effort, we're instead holding another hearing on tax reform, instead of trying to roll up our sleeves and actually doing the hard work," he said.

— Storme Sixeas
Tax Policy Group
Deloitte Tax LLP

JCT projects $2.1 trillion net revenue gain under White House budget proposal

The fiscal year 2017 budget package that President Obama sent to Congress last month would, if enacted into law, result in a net increase in federal receipts of just over $2.1 trillion between 2016 and 2026, according to a revenue estimate released by the Joint Committee on Taxation (JCT) staff on March 24.
URL: https://www.jct.gov/publications.html?func=startdown&id=4881

Like previous budget packages from the Obama administration, the FY 2017 tax-and-spending blueprint proposes tax increases primarily targeting multinational corporations, the fossil fuel industry, financial services companies, and high-income individuals to pay for priorities such as tax relief for small businesses and lower- and middle-class individuals, as well as increased spending on "clean" transportation infrastructure, alternative energy research and development, cancer research, and an expansion of computer science education in elementary and secondary schools.

The bulk of the revenue-raising provisions are carried over without substantial change from earlier budget proposals. But the FY 2017 budget also includes several new tax provisions – most notably, a proposed $10.25-per-barrel "fee" on oil, to be paid by the oil companies – that would cover the cost of increased spending on clean transportation infrastructure projects. The oil fee, according to the JCT staff, would increase federal receipts by an estimated $273.4 billion over the 10-year budget window.

A new revenue provision intended to ensure that all trade or business income of high-income taxpayers is subject to the 3.8 percent net investment income tax enacted under the Patient Protection and Affordable Care Act (PPACA) would raise an estimated $235.9 billion over 10 years, the JCT says.

On the incentive side, a new proposal to dial back the "Cadillac" tax on high-cost employer-provided health insurance coverage (enacted in the PPACA) by adjusting the threshold for imposing the tax to account for regional differences in the cost of health care coverage would reduce federal receipts by an estimated $7.8 billion, according to the JCT.

The White House budget also proposes a new tax credit for employers who hire community college graduates (JCT estimated 10-year revenue loss: $2.1 billion) and new provisions making it easier for smaller employers to join multiple employer pension plans (10-year estimated revenue loss: $5 billion).

Descriptions of all the administration's proposals are available in the "Greenbook" released by the Treasury Department in conjunction with the budget package. For a discussion of the projected debt-and-deficit picture under the president's final budget blueprint and highlights of the new revenue provisions as well as some of the significant returning provisions, see *Tax News & Views*, Vol. 17, No. 8, Feb. 12, 2016.
URL: https://www.treasury.gov/resource-center/tax-policy/Documents/General-Explanations-FY2017.pdf
URL: http://newsletters.usdbriefs.com/2016/Tax/TNV/160212_1.html

The administration's budget proposals been largely dismissed by congressional Republicans, who have indicated that they will use this election year to map out their own tax-and-spending agenda which they hope to see enacted under a new presidential administration in 2017.

— Michael DeHoff
Tax Policy Group
Deloitte Tax LLP

A note on our publication schedule

As this issue goes to press, both the House and Senate are away for their spring recess. The House adjourned on March 23 and will be back in session on April 11. The Senate adjourned on March 17 and will return to Capitol Hill on April 4.

Barring unexpected developments on the tax policy front, *Tax News & Views* will not be published during the week of March 28-April 2.

— Jon Traub
Managing Principal, Tax Policy
Deloitte Tax LLP

Have a question?
If you have needs specifically related to this newsletter's content, send us an email at clientsandmarketsdeloittetax@deloitte.com to have a Deloitte Tax professional contact you.