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Lawmakers eye light tax agenda for September

Congress returned from its extended summer recess this week to take up what is expected to be a relatively light tax agenda for September that likely will not include action on expiring tax provisions or technical corrections legislation.

The House and Senate are currently scheduled to be in session only through the end of this month and then adjourn for several weeks to make a final campaign push in advance of the November 8 elections. Lawmakers are expected to return to Capitol Hill for a post-election lame duck session shortly thereafter.

During the relatively compressed September work period, only two bills are regarded as "must pass" in both chambers: a continuing resolution to fund government operations into the new fiscal year that begins on October 1 and legislation to provide emergency funding to fight the spread of the Zika virus.

No tax amendments to funding resolution

House and Senate leaders indicated this week that they are reluctant to use the continuing resolution to move extraneous tax legislation such as a technical corrections bill or extensions of expiring tax provisions.

Senate Finance Committee member John Thune, R-S.D., told reporters September 7 that the addition of extraneous provisions would "muck the [continuing resolution] up in a way that would prolong its consideration around here and would be very controversial and probably make it difficult to pass."

House Ways and Means Committee Chairman Kevin Brady, R-Texas, told reporters that his panel has “worked on the technical correction bill for a while, but no decisions have been made on whether that will go forward.”

On extenders, Brady reiterated the position of many congressional Republicans that the issue was definitively addressed last year with the enactment of the Protecting Americans from Tax Hikes (PATH) Act of 2015, which made many expired or expiring provisions permanent and extended most others either through 2016 or for a slightly longer term. (For prior coverage, see *Tax News & Views*, Vol. 16, No. 44, Dec. 18, 2015.)
URL: http://newsletters.usdbriefs.com/2015/Tax/TNV/151218_1.html

The House, Brady told reporters, “strongly objects to any extenders package.”

Congressional Democrats and some Republicans have been pushing for the renewal of several alternative energy provisions set to expire at the end of this year – including the investment tax credits under section 48 for combined heat and power property, fuel cell property, small wind property, and geothermal property – which they contend were inadvertently left out of the PATH Act because of a drafting error. But Brady and other House Republican taxwriters have shown less enthusiasm for revisiting these benefits, contending that their exclusion from the PATH Act was deliberate and that expiring provisions should be addressed in freestanding legislation or as part of tax reform in 2017.

A decision to rule out the government funding resolution as a vehicle for tax legislation would mean that any action this year on technical corrections legislation or extenders is likely to be deferred until the lame duck session in November.

House agenda: Medical expense deductions, Olympic prizes

Among the tax bills expected to receive a vote on the House floor this month, according to Majority Leader Kevin McCarthy, R-Calif., is legislation (H.R. 3590) sponsored by Rep. Martha McSally, R-Ariz., that would reduce the threshold for claiming the itemized deduction for medical expenses to 7.5 percent of adjusted gross income (AGI) for all taxpayers, effective for taxable years beginning after December 31, 2015.

The PPACA increased the threshold for claiming the medical expense deduction to 10 percent of AGI for taxpayers younger than 65 (from 7.5 percent under prior law) for tax years beginning in 2013; for taxpayers age 65 and older, the threshold is scheduled to increase to 10 percent of AGI beginning in 2017. Reinstating the 7.5 percent threshold would reduce federal revenues by $32.7 billion over 10 years, according to estimates from the Joint Committee on Taxation (JCT) staff.
URL: https://www.jct.gov/publications.html?func=startdown&id=4930

H.R. 3590 was one of several health care-related bills that cleared the Ways and Means Committee on June 15. (For prior coverage, see *Tax News & Views*, Vol. 17, No. 22, June 17, 2016.)
URL: http://newsletters.usdbriefs.com/2016/Tax/TNV/160617_3.html

Also likely to see floor action in September is a measure (H.R. 5946) sponsored by Ways and Means Committee member Bob Dold, R-Ill., and Rep. Blake Farenthold, R-Texas, which, according to a release from Dold’s office, would “exempt the value of medals won and other prizes awarded by the United States Olympic Committee from an [Olympic] athlete’s taxable income.” The measure would apply retroactively to the participants in the 2016 Olympic and Paralympic Games in Rio De Janeiro, Brazil, and “would not affect taxes on endorsement or sponsorship income earned by athletes,” the release said. Dold’s bill is expected to be marked up in the Ways and Means Committee as early as the week of September 12. A Senate companion measure (S. 2650) sponsored by Finance Committee Democrat Charles Schumer and Republican John Thune, won approval in that chamber in July.

Another rumored contender for House floor consideration is legislation (H.R. 3608) sponsored by Ways Means Tax Policy Subcommittee Chairman Pat Tiberi, R-Ohio, that would exempt from the so-called airline “ticket tax” the fees paid by a private aircraft owner to a third party for management services related to maintenance and support of the aircraft or flights on the aircraft. The Ways and Means Committee approved that bill on July 13. (For prior coverage, see *Tax News & Views*, Vol. 17, No. 26, July 15, 2016.)
URL: http://newsletters.usdbriefs.com/2016/Tax/TNV/160715_2.html

Ways and Means approves individual mandate exemption: In committee action this week, House taxwriters on September 8 approved legislation (H.R. 954) that would exempt from the PPACA’s individual mandate for health insurance coverage those individuals who purchased minimum essential coverage under a qualified health plan through one of the PPACA's Consumer Operated and Oriented Plan (CO-OP) programs but subsequently lost that coverage because their CO-OP program folded. The exemption would apply beginning in the first month in which coverage was terminated and would continue through the end of that calendar year.

H.R. 954 is sponsored by Ways and Means Committee member Adrian Smith, R-Neb., and would be effective for months beginning after December 31, 2013. The JCT staff estimates that it would decrease federal receipts by $4 million over 10 years. It is unclear when the bill will come up for a vote on the House floor.
URL: https://www.jct.gov/publications.html?func=startdown&id=4940

Oversight subcommittee to examine college, university endowment funds: Also this week, the Ways and Means Oversight Subcommittee announced that it will hold a hearing on September 13 to examine issues related to tax-exempt college and university endowment funds.

According to a news release, the Oversight Subcommittee will "hear from college and university representatives and other experts on how higher education tuition has increased so rapidly and how some institutions are using their tax-exempt endowments to fulfill charitable purposes and reduce costs for students." A witness list was not available at press time.

Senate agenda uncertain

Across the Capitol, Senate leaders have not yet indicated whether they intend to hold floor votes on tax legislation this month, and leaders of the Finance Committee likewise have not yet announced plans to hold tax-related hearings or mark-ups.

Plans by Finance Committee Chairman Orrin Hatch, R-Utah, to release a discussion draft proposal of a corporate integration plan presumably remain on hold as he awaits a revenue score from the JCT staff.

Wyden discussion draft addresses retirement-account reforms: For his part, Finance Committee ranking Democrat Ron Wyden of Oregon on September 8 released a discussion draft of legislation aimed at eliminating certain rules that permit wealthier individuals to accumulate significant balances in tax-advantaged retirement accounts, expanding retirement savings opportunities for working families and younger individuals, and adjusting the required minimum distribution rules to account for longer life expectancies.
URL: http://www.finance.senate.gov/imo/media/doc/RISE%20Act%20discussion%20draft%20text.pdf

Among other provisions, the Retirement Improvements and Savings Enhancements (RISE) Act would:

- Prohibit further contributions to a Roth IRA if the total value of an individual's Roth IRA generally exceeds $5 million and require distributions of amounts over the cap;
- "Reinstate" the income limits on contributions to Roth IRAs and shut down so-called "back door" Roth IRAs by eliminating Roth conversions, for both traditional IRAs and employer-sponsored plans;
- Eliminate so-called "stretch" IRAs by requiring the retirement savings accounts to be distributed within five years of the death of the account holder, unless the beneficiary is: (1) within 10 years of the account holder's age, (2) an individual with special needs, (3) a minor, or (4) the account holder's spouse;
- Allow employers to make "matching" contributions to a 401(k) retirement plan while their employees make student loan repayments (thus enabling recent graduates who cannot afford to save money above their student loan repayments to begin saving for retirement by taking advantage of the employer match);
- Repeal the maximum age for making traditional IRA contributions, which would allow taxpayers to continue making traditional and Roth IRA contributions after age 70-1/2;
- Apply the required minimum distribution rules to Roth IRAs to ensure consistent treatment with traditional IRAs and employer-sponsored plans; and
- Gradually increase the age for beginning required minimum distributions from 70-1/2 under current law to 73 in 2028, with proportional increases thereafter based on anticipated increases in life expectancy.

According to a news release, Wyden is requesting comments on the draft from lawmakers and stakeholders.
URL: http://www.finance.senate.gov/ranking-members-news/wyden-proposal-would-crack-down-on-tax-avoidance-in-retirement-plans-create-new-opportunities-for-working-americans-to-save

Release of the draft appears to be part of Wyden's ongoing effort to lay out the direction he intends to take on tax reform should Democrats win control of the Senate in the November elections and he reclaims the Finance Committee gavel from Chairman Hatch in 2017. Other draft proposals Wyden has released in recent months address cost recovery rules (for prior coverage, see *Tax News & Views*, Vol. 17, No. 17, Apr. 29, 2016) and the tax treatment of derivatives (for prior coverage, see *Tax News & Views*, Vol. 17, No. 19, May 20, 2016).
URL: http://newsletters.usdbriefs.com/2016/Tax/TNV/160429_2.html
URL: http://newsletters.usdbriefs.com/2016/Tax/TNV/160520_2.html

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