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Two-year suspension of SALT deduction cap clears House

The House of Representatives on December 19 approved an amended version of legislation from Ways and Means Committee Democrats that would temporarily suspend – for most taxpayers – the $10,000 cap on the deduction for state and local taxes (SALT) that was enacted in the 2017 tax overhaul legislation known informally as the Tax Cuts and Jobs Act (TCJA, P.L. 115-97)

The Restoring Fairness for States and Localities Act (H.R. 5377), sponsored by Democratic taxwriters Tom Suozzi of New York, Bill Pascrell of New Jersey, and Mike Thompson of California, was approved by a vote of 218-206. Five Republicans broke ranks to support the measure and 16 Democrats crossed party lines to oppose it.

Overview of SALT changes

At a high level, the bill as amended and approved would:
• Suspend the SALT deduction cap for 2020 and 2021 for taxpayers with annual adjusted gross income (AGI) of $100 million or less.
• Eliminate the marriage penalty under the cap for 2019 by increasing the deduction limit to $20,000 for married taxpayers filing jointly. (Under the TCJA as enacted, a married couple filing jointly is limited to a SALT deduction of $10,000, while an unmarried couple is entitled to deduct $10,000 each, for a combined deduction of $20,000.)
• Offset the cost by restoring the top individual income tax rate to its pre-TCJA level of 39.6 percent and lowering the income thresholds at which the top bracket begins. These changes would be effective for taxable years beginning after December 31, 2019, and would remain in effect through 2025. (The bulk of the TCJA provisions affecting individuals and passthrough entities – including the current-law SALT limitation – are scheduled to expire in 2026.)

Last-minute amendment: The measure that cleared the Ways and Means Committee on December 11 would have suspended the deduction cap for all taxpayers for 2020 and 2021. But shortly before the full House voted on final passage, lawmakers approved by voice vote an amendment from Mike Thompson, who chairs the Ways and Means Select Revenue Measures Subcommittee, that would retain the current-law cap for taxpayers with AGI over $100 million.

Thompson offered the amendment following passage of a procedural motion to recommit the bill from Ways and Means Committee Republican Tom Rice of South Carolina. (Rice had proposed a similar change to the bill during the Ways and Means mark-up but the panel defeated that amendment along party lines.)

Deductions for teachers and first responders

The House-approved bill also includes two provisions unrelated to the SALT deduction that would:

• Increase the current-law above-the-line deduction for certain out-of-pocket professional expenses of eligible educators to $1,000 (from $250) effective for taxable years beginning after December 31, 2018 and
• Create a new above-the-line deduction of $1,000 (indexed for inflation) for certain out-of-pocket expenses incurred by first responders, effective for taxable years beginning after December 31, 2019.

The measure as cleared by the Ways and Means Committee provided for deductions of $500 for teachers and first responders. Thompson’s amendment increases that amount to $1,000.

Revenue estimate TBD

At press time, a revenue estimate for the amended bill was not available from the Joint Committee on Taxation (JCT) staff. The JCT staff had estimated that Ways and Means-approved version of the bill would have raised $2.4 billion between 2019 and 2029.

URL: https://www.jct.gov/publications.html?func=startdown&id=5236

Striking at the TCJA

The SALT deduction was unlimited before the TCJA was enacted and the $10,000 cap has rankled some in Congress ever since the TCJA became law. The deduction tends to be used more heavily in higher-taxed “blue” states disproportionately represented by Democrats, such as New Jersey, New York, Connecticut, and California. But House members in both parties who represent jurisdictions with expensive housing markets and steep property and income taxes have decried the cap as unfair to their constituents in the middle class.

Supporters of the cap – mainly Republicans – have countered that the SALT deduction primarily benefits upper-income taxpayers and have pointed to a distributional analysis of H.R. 5377 from the JCT staff (prepared before the Ways and Means Committee mark-up) to argue that the proposal would pair a temporary tax cut for the rich in certain blue states with a permanent increase in the top marginal tax rate which also would affect the tax rate of passthrough business income.

Dim prospects in the Senate

The measure is not expected become law. It is likely to encounter resistance in the Senate, where Republicans, who hold the majority, have resisted calls to suspend or otherwise modify the limitation and would be reluctant to embrace an increase in the top individual tax rate. And in the unlikely event that the proposal eventually clears the Senate, the White House has indicated that the president’s senior advisors would recommend that he veto it.


If the proposed limitation on the deduction cap ultimately fails in the Senate as expected, Democrats in both chambers likely will use the issue as a political talking point as they head into the 2020 election season.

— Michael DeHoff
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Congress OKs FY 2020 budget bump for IRS

Congress this week approved and sent to the White House a fiscal year 2020 spending bill (H.R. 1158) that gives the Internal Revenue Service a budget of nearly $11.5 billion, compared to the $11.3 billion in effect for fiscal 2019.

URL: https://www.congress.gov/bill/116th-congress/house-bill/1158/text?q=%7B%22search%22%3A%22h.r.+1158%22%5D%7D&r=1&s=1

Across the Service’s four major program areas, the FY 2020 appropriation provides:

- $2.51 billion for taxpayer services (up from $2.49 billion in fiscal 2019);
- $5.01 billion for enforcement ($4.86 billion in fiscal 2019);
- $3.81 billion for operations support ($3.72 billion in fiscal 2019); and
- $180 million for business systems modernization ($150 million in fiscal 2019).

Policy riders include provisions that require the IRS to provide employee training programs related to taxpayer rights and various customer service issues, institute policies to safeguard taxpayer information and protect against identity theft, increase staffing for “1-800” telephone assistance, and allocate resources to improve response time for customer assistance requests – particularly those involving possible identity theft.

Other riders would prohibit the Service from using appropriated funds to target US citizens for exercising First Amendment rights, target groups for regulatory scrutiny based on their ideological beliefs, pay for conferences that do not meet standards and requirements laid out by IRS leadership, pay a performance bonus or other monetary award to a current employee or rehire a former employee without taking into account their professional conduct and compliance with federal tax law, or violate the requirements of section 6103 regarding disclosure of tax returns and tax return information.

H.R. 1158 is one of two appropriations bills that together provide full funding for the federal government for the remainder of fiscal year 2020 and avert a partial shutdown when the continuing resolution currently keeping the government’s doors open expires at midnight on December 20.

The other spending bill (H.R. 1865) also includes tax provisions – such as the renewal of certain expired and expiring tax “extenders,” repeal of some revenue provisions enacted in the Patient Protection and Affordable Care Act of 2010, retirement security measures, fixes to some of the policy changes made by the 2017 tax overhaul known as the Tax Cut and Jobs Act, and tax relief for victims of certain federally declared natural disasters – that, according to Joint Committee on Taxation staff estimates, will reduce federal receipts by some $426 billion over 10 years. (For details on those provisions, see Tax News & Views, Vol. 20, No. 42, Dec. 19, 2019.)

URL: http://newsletters.usdbriefs.com/2019/Tax/TNV/191219_1.html
President Trump is expected to sign both measures into law before the current stopgap spending bill expires.

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Sasse heads to Senate Finance Committee

Nebraska Republican Sen. Ben Sasse announced December 19 that he has been tapped to take a seat on the Senate Finance Committee when Congress returns in the new year following its holiday recess. Sasse will replace Sen. Johnny Isakson, R-Ga., who is retiring mid-session for health reasons.

URL: https://www.sasse.senate.gov/public/index.cfm/press-releases?ID=5E0B4032-7DD6-4613-AB00-400D1E0CFC64

“This is an incredible opportunity to work on some big issues that hit home for our state,” Sasse said in his statement. “Trade, tax, and health policy matter to moms and dads who work hard to give their kids the best shot they can. The Senate Finance Committee has a unique role and I’m eager to work with Chairman [Charles] Grassley to advance pro-trade, pro-growth, and pro-family solutions,” he added.

Before being elected to the Senate in 2014, Sasse – who holds a Ph.D. in American history from Yale, in addition to degrees from Harvard and St. John’s College – spent five years as the president of Midland University in Nebraska. Earlier in his career, he spent time as a management consultant and business advisor, taught at the University of Texas, and served in the Department of Justice and as an assistant secretary in the Department of Health & Human Services during the George W. Bush administration.

Sasse also serves on the Senate Banking, Intelligence, and Judiciary committees. He will give up his seat on the Joint Economic Committee to join Finance.

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JCT releases federal tax expenditures estimate

The Joint Committee on Taxation (JCT) staff on December 19 released its estimate of federal tax expenditures for fiscal years 2019-2023.

URL: https://www.jct.gov/publications.html?func=startdown&id=5238

Tax expenditures are defined under the Congressional Budget and Impoundment Control Act of 1974 as “revenue losses attributable to provisions of the federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability.” The JCT provides cost estimates for these provisions to “help both policymakers and the public to understand the actual size of government, the uses to which government resources are put, and the tax and economic policy consequences that follow from the implicit or explicit choices made in fashioning legislation.”

Cost estimates are based on tax legislation enacted as of September 30, 2019.

In addition to providing the estimates, the report explains the concept and measurement of expenditures. It also shows the distribution of tax returns by income class and distributions of selected individual tax expenditures by income class.

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