In this issue:

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The House of Representatives this week approved a multibillion dollar tax-and-spending package aimed at beginning to address the economic fallout from the global coronavirus outbreak; meanwhile, congressional leaders and White House officials have already begun discussing the contours of a potential second stimulus bill that could include additional tax relief.

Credits for paid sick leave, family leave

The Families First Coronavirus Response Act (H.R. 6201) cleared the House by a vote of 363-40 (with one member voting “present”) early on March 14 – just hours after House Speaker Nancy Pelosi, D-Calif., and Treasury Secretary Steven Mnuchin finalized an agreement to incorporate revisions that address objections raised by congressional Republicans and the White House when the measure was unveiled earlier this week. 

URL: http://newsletters.usdbriefs.com/2020/Tax/TNV/200313_1_suppA.pdf

H.R. 6201 was approved under an expedited process known as “suspension of the rules,” which requires a two-thirds vote for passage.
President Trump, who on March 13 declared the coronavirus pandemic a national emergency, announced his support for the bill in a statement posted on Twitter, which likely will improve its chances for passage when it reaches the Republican-controlled Senate in the coming days.

Tax provisions in the House-approved measure include:

- A tax credit – not to exceed $7,156 per employee – designed to compensate employers for the cost of providing up to two weeks of paid coronavirus-related sick leave to employees as separately required under the Emergency Paid Sick Leave Act (Division E of H.R. 6201). On a quarterly basis, the credit is limited to (and allowed against) the total taxes imposed on the employer under section 3111(a) (that is, the employer portion of the Social Security payroll tax), with any excess being refundable to the employer.

- A credit – not to exceed $10,000 per employee – designed to compensate employers for the cost of providing paid coronavirus-related family leave to employees as separately required under the Emergency Family and Medical Leave Expansion Act (Division C of H.R.6201). Similar to the paid sick leave credit discussed above, the family leave credit would also be limited to (and allowed against) the total Social Security payroll taxes imposed on the employer, on a quarterly basis, with any excess refundable to the employer.

In the case of both credits, the bill would prevent any double benefit (for example, claiming both a deduction for sick leave and/or family leave wages paid as well as the associated credit(s)) by requiring the gross income of any employer claiming the credit(s) to be increased by the amount of the credit(s). The bill further provides that any revenue loss to the Social Security trust fund on account of these credits be backfilled by transfers from the federal government’s general fund.

Both credits would apply only to qualified sick and family leave wages paid within one year of the bill’s enactment (plus up to as much as 15 additional days, at the Treasury Secretary’s – or his delegate’s – discretion), and include related language extending the credits’ benefits to self-employed individuals. (The credits also include so-called “mirror provisions” that would make them applicable in US territories.)

The two credits were added to the bill during the course of two days of negotiations between Speaker Pelosi and Treasury Secretary Mnuchin to allay Republican concerns that the measure as introduced did little to help businesses pay for the added costs of the paid-leave requirements.

**Nontax provisions:** In addition to mandating 14 paid sick days for most employees and three months of paid emergency family and medical leave (covering at least two-thirds of an employee’s wages) throughout the coronavirus crisis, the approved bill also funds an increase in state unemployment insurance programs, provides more than $1 billion in nutrition aid, allows closed schools to continue providing free and reduced meals to eligible students, adds flexibility for the food stamps program, increases the portion of Medicaid spending paid by the federal government (as opposed to the states), enhances unemployment insurance, and guarantees free coronavirus testing to anyone whose doctor has said needs a test.

The legislation reflects GOP-requested changes to many of these provisions, as well. A House Republican aide told the *Wall Street Journal* on March 13 that the economic relief measures in the bill were amended to be specifically limited to the duration of the coronavirus threat. In addition, the federal medical assistance percentages, or match of federal funds to state funds, would be increased to 6.2 percent, lower than the 8 percent match Democrats sought. The emergency leave provisions are also written to expire in one year and provide exemptions for smaller businesses.

**No offsets:** The bill was designated as emergency spending and does not include tax or spending offsets. An estimate of revenue and spending changes was not available at press time.

**Brady on board:** House Ways and Means Committee ranking member Kevin Brady, R-Texas, announced his support for the bill in a statement released ahead of the vote, noting that “It achieves the president’s goal of free testing and helps working Americans who are ill, quarantined, or caring for others due to coronavirus, by providing a tax credit to employers.” Brady added that “[d]uring negotiations, Republicans also successfully removed a burdensome new entitlement mandate that would have harmed Main Street America while creating new strains on the Social Security Administration, potentially harming seniors and those with disabilities.”
Senate vote expected the week of March 16

H.R. 6201 is expected to be taken up in the Senate the week of March 16. Senators had been scheduled to leave Washington for a state work period and come back into session the week of March 23; but Majority Leader Mitch McConnell, R-Ky., announced March 12 that the Senate would instead remain in Washington to move “bipartisan legislation to continue combating the coronavirus and keep our economy strong” as well as to deal with the pending expiration of the Foreign Intelligence Surveillance Act. (The House passed legislation to extend the FISA program on March 11 and will be in recess the week of March 16 as originally scheduled.)

If all Senators support the measure, it could be immediately approved under expedited “unanimous consent” rules and sent on to the White House for the president’s signature. Without unanimous consent, the process for moving the bill through the Senate could take longer. No decision on whether Senate leaders will pursue a unanimous consent agreement had been announced at press time.

Future relief could include payroll tax cut, tax filing extension

As House Democratic leaders worked over the last few days to bring the initial coronavirus stimulus bill to the chamber floor, additional tax proposals emerged as possible contenders for inclusion in a follow-on stimulus package that could move through Congress in the coming weeks or months, depending on the trajectory of the coronavirus and its impact on the economy.

Payroll tax cut: Perhaps the most significant change under discussion – one advocated by President Trump himself both during a March 10 lunch with GOP senators and again during a March 11 address from the Oval Office – is a temporary reduction in payroll taxes.

“…I am calling on Congress to provide Americans with immediate payroll tax relief,” Trump said in his March 11 address. “Hopefully they will consider this very strongly.” (Trump reportedly had pushed to include a payroll tax cut in the stimulus bill that was just approved in the House – an issue that helped prolong the negotiations between Pelosi and Mnuchin.)

But the exact shape of any payroll tax cut proposal remains in flux – including how long it would last, how big it would be, and whether it would apply only to employees or to employers and employees alike.

“I think he’s looking at various options,“ an unnamed GOP senator said on March 10. “Short period of time, long period of time. I don’t think he’s set.”

For his part, White House trade adviser Peter Navarro on March 11 suggested that any payroll tax relief should be expansive – implying that it should apply to both Social Security and Medicare taxes, on both the employee and employer side, for the remainder of the year.

“A payroll tax cut provides a hefty 7.65 percent raise for blue collar and middle-income workers while allowing particularly small and medium-sized business to effectively manage any short-term cash flow problems that may arise in a time of heightened uncertainty,” Navarro told Politico in an email.

In any event, it is far from clear – at least at present – whether a payroll tax cut, in any form, has the necessary support in Congress to move forward. Democrats in particular have largely dismissed the idea, arguing that it would be ill-suited to addressing the crisis at hand.

“The best way to prevent economic damage is to stop the spread of the virus,” Senate Finance Committee ranking Democrat Ron Wyden of Oregon said in a March 10 news release. “President Trump isn’t going to wriggle out of addressing this growing public health crisis with tax cuts. A payroll tax cut can be an effective tool, but it’s not the best answer in this case. A payroll tax cut would do little to help workers without paid sick days or those who have lost shifts and tips,” he said.

Wyden told reporters at a March 10 press conference that Finance Committee Democrats would “oppose this with everything we have.”

Even some GOP lawmakers appeared hesitant to pursue such a policy.
Senate Finance Committee member James Lankford, R-Okla., told reporters on March 10 that he is not interested in “blowing a hole in Social Security for this.”

For his part, Finance Committee Chairman Charles Grassley, R-Iowa, did not reject a payroll tax cut outright but questioned whether it should be part of an initial legislative package to address the economic impact of the coronavirus.

“I wouldn’t say we ought to do it now, but it’s something you could quickly kick in if needed. We’re in the process of analyzing the economic impact of the virus so right now I wouldn’t say it’s necessary,” Grassley told reporters.

The potential cost of a payroll tax cut also could emerge as a concern on Capitol Hill. Because a proposal has not yet been formally introduced, there is no official revenue score available from the Joint Committee on Taxation staff; however, the nonpartisan Penn Wharton Budget Model estimates that suspending the entire payroll tax from April 1 through the end of this year would reduce federal receipts by $807 billion between 2020 and 2029.

URL: https://budgetmodel.wharton.upenn.edu/issues/2020/3/12/president-trump-payroll-tax-holiday

**Extending the April 15 deadline:** One policy gaining currency on both sides of the aisle, however, is extending the upcoming April 15 tax return filing deadline.

After an unrelated hearing with House appropriators on March 11 to discuss the president’s fiscal year 2021 budget blueprint, Secretary Mnuchin told reporters the administration was examining its authority to – without action by Congress – extend the April 15 deadline, as it applies to both filing and payment of any taxes due, free of any interest and penalties.

“For small and medium-sized businesses, for hardworking individuals, we are going to recommend to the president that we allow the delay and that [taxpayers] don’t have to pay any interest or penalty on that,” Mnuchin said. “This will have the impact of putting over $200 billion back into the economy.”

President Trump echoed that sentiment in his Oval Office address a few hours later, noting that he would be “instructing the Treasury Department to defer tax payments, without interest or penalties, for certain individuals and businesses negatively impacted.”

Mnuchin told reporters after the president’s address that, in terms of individual taxpayers, any extension would apply to “virtually all Americans other than the super-rich” – a parameter he did not define.

Congressional Democrats, meanwhile, appear to support Treasury and the IRS acting to delay the tax deadline. In separate letters, Ways and Means Democrats and a group of eight Senate Democrats this week urged IRS Commissioner Charles Rettig to consider providing filing and payment extensions, especially for individual taxpayers.

“In light of the 2019 Novel Coronavirus (COVID-19) outbreak, we are writing to urge you to provide significant flexibility on the April 15 tax filing season deadline for individual taxpayers,” the Senate Democrats wrote in a letter spearheaded by Finance Committee member Bob Menendez of New Jersey and Assistant Democratic Leader Patty Murray of Washington. “Families need to focus on making sure they are prepared for this public health threat rather than expending time and energy to comply with this deadline.”

URL: https://www.cardin.senate.gov/imo/media/doc/Join%20Extension%20of%20Tax%20Deadline%20Letter%20031020%20With%20SignatureBlocks.pdf

Ways and Means Committee Democrats expressed concern about “the ability of the IRS to provide taxpayer assistance and process returns, as well as the ability of taxpayers, free tax preparation sites, and tax professionals to meet the filing deadline.” They also pointed out that “the IRS has authority to extend the time for filing any return for six months or less and the authority to waive certain penalties upon a showing of reasonable cause.”

President Trump’s declaration on March 13 that the coronavirus is a national emergency potentially opened the door to more expansive relief from filing and tax payment deadlines, though as of press time neither the IRS nor the Treasury Department had released any details on such relief.

**Other tax proposals under discussion:** Along with a payroll tax cut, a number of other tax-related policies were reportedly being floated this week as lawmakers began to compile ideas for provisions that could be included in future stimulus legislation. These include:

- A fix to the so-called “retail glitch” in the 2017 tax code overhaul (P.L. 115-97, the Tax Cuts and Jobs Act, or TCJA) that would clarify the cost recovery period for qualified improvement property;
- A revision of the TCJA provision prohibiting companies from carrying back net operating losses against prior tax years;
- Some form of “employee retention credit” designed to encourage employers to maintain headcounts even if employees cannot report to work because of issues related to the coronavirus; and
- Excise tax relief (or other relief) targeted at particular affected industries (for example, relaxing excise taxes airlines pay into the Federal Aviation Administration trust fund or providing loan guarantees).

Lawmakers also may push to include any number of other tax proposals in the next stimulus package, which could challenge congressional leaders to distinguish between those that are truly responsive to the economic impact of the coronavirus and those that are simply long-standing legislative priorities that are being rebranded as economic stimulus.

**Seeing what sticks:** As with the payroll tax cut proposal being espoused by the president, it remains too early to tell which, if any, of these proposals could gain traction in Congress. That will likely be determined in large part by how broadly the virus spreads within the US over the coming days, weeks, and months and the effect it has on the economy.

Treasury Secretary Mnuchin was already managing the politics on March 11, emphasizing that any industry-related relief should not be branded a “bailout.”

“I want to be clear, ...we are not looking for bailouts,” Mnuchin told House appropriators at their March 11 hearing on the president’s budget blueprint. “[T]here may be specific industries that are highly impacted by travel that have issues with lending. ...I would assume the airlines would be on the top of the list.”

— Alex Brosseau and Storme Sixeas  
Tax Policy Group  
Deloitte Tax LLP