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Lawmakers challenge Paycheck Protection Program guidance, Treasury changes course employee retention credit

A bipartisan group of senators – including the Republican and Democratic leaders of the Finance Committee – introduced legislation this week that would undo a recent notice issued by the Internal Revenue Service on the deductibility of expenses related to Paycheck Protection Program loans under the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136); meanwhile, the Treasury Department revised a recent holding on the treatment of health plan expenses as qualified wages under the CARES Act's employee retention tax credit.

Paycheck Protection Program loan expenses

As enacted in the CARES Act, the Paycheck Protection Program (PPP) offers loans of up to $10 million to most businesses with fewer than 500 employees. (Special affiliation rules apply to the hospitality industry businesses with fewer than 500 employees per location.) The loans are intended to be used largely for payroll, along with rent, utilities, and certain other expenses, but generally are forgivable if the business maintains its staff and payroll numbers through June 30.

The IRS held in Notice 2020-32, released on April 30, that no deduction is allowed for an expense that is otherwise deductible if the payment of the expense (*i.e.*, rent, utility and payroll costs) results in forgiveness of a covered PPP loan. The notice also held that the income associated with the forgiveness is excluded from gross income – an outcome expressly contemplated by the text of the CARES Act – and is therefore a "class of exempt income." Accordingly, the guidance seeks to prevent a "double benefit" by denying deductions for these "otherwise deductible" expenses under section 265 of the Internal Revenue Code.
URL: https://www.irs.gov/pub/irs-drop/n-20-32.pdf

Neither the statute nor the recently released report from the Joint Committee on Taxation staff describing the CARES Act's tax title suggests that deductions associated with loan forgiveness are disallowed.
URL: https://www.jct.gov/publications.html?func=startdown&id=5256

Small Business Expense Protection Act: The holding in Notice 2020-32 was expected to attract attention on Capitol Hill and prompted talk that taxwriting committee leaders would pursue legislation to clarify congressional intent or urge Treasury and the IRS to change their position.

The Small Business Expense Protection Act (S. 3612), which was unveiled on May 6, would amend the CARES Act to explicitly provide that borrowers may deduct expenses paid for with a forgiven PPP loan. It would take effect as if enacted in the CARES Act, which was signed into law on March 27.
URL: https://newsletters.usdbriefs.com/2020/Tax/TNV/200508_1_suppA.pdf

The measure is sponsored by Finance Committee member John Cornyn, R-Texas, committee Chairman Charles Grassley, R-Iowa, ranking member Ron Wyden, D-Ore., Small Business Committee Chairman Marco Rubio, R-Fla., and Finance Committee member Tom Carper, D-Del.

Grassley explained in a news release that when Congress created the PPP, its intent "was clearly to make sure small businesses had the liquidity and the help they needed to get through these difficult times. Unfortunately, Treasury and the IRS interpreted the law in a way that's prevented businesses from deducting expenses associated with PPP loans. That's just the opposite of what we intended and should be fixed. This bill will do just that."
URL: https://www.finance.senate.gov/chairmans-news/bipartisan-senators-introduce-bill-to-clarify-small-business-expense-deductions-under-ppp

Ways and Means Committee Chairman Richard Neal, D-Mass., indicated recently that he also would pursue legislation that would undo the holding in the notice. (A spokesperson for Neal said in an e-mail to reporters May 1 that the committee was "planning to fix this in the next [coronavirus] response legislation.") Rep. Lizzie Fletcher, D-Texas, announced on May 5 that she intends to introduce a legislative fix in the House, although she had not done so as of press time.
URL: https://fletcher.house.gov/news/documentsingle.aspx?DocumentID=2623

The Senate's Small Business Protection Act was introduced just one day after Grassley, Neal, and Wyden sent a letter to Treasury Secretary Steven Mnuchin in which they "urge[d]" him to "reconsider" the holding in Notice 2020-32 "in light of congressional intent and the importance of maximizing liquidity for businesses receiving PPP loans to survive and recover from the ongoing health crisis."
URL: https://www.finance.senate.gov/imo/media/doc/2020-05-05%20CEG,%20RW,%20RN%20to%20Treasury%20(PPP%20Business%20Deductions).pdf

"We believe the position taken in the notice ignores the overarching intent of the PPP, as well as the specific intent of Congress to allow deductions in the case of PPP loan recipients," they wrote.

Ways and Means Committee ranking member Kevin Brady, R-Texas, did not sign on to the letter.

Mnuchin disagrees: It is unclear whether the prospect of congressional action will prompt the Service to reconsider its position. Treasury Secretary Mnuchin defended the outcome of Notice 2020-32 during a May 4 interview on Fox Business in which he said he had "reviewed [the guidance] personally" and characterized the issue as "basically Tax 101."

IRS Chief Counsel Michael Desmond commented during a Tax Analysts webcast on May 6 that the "issue is being looked at," adding that it "was carefully considered when the guidance went out, and we're certainly always very receptive to comments coming from the Hill."

Senators seek changes to PPP expense thresholds: Also this week, a bipartisan group of senators – including several taxwriters – asked the Treasury Department and SBA to modify the PPP's expense caps to allow businesses to spend up to 50 percent of their loan proceeds on nonpayroll expenses without losing eligibility for loan forgiveness under the program.

Current rules permit loan forgiveness when at least 75 percent of the loan is spent on payroll. The senators note in a May 6 letter to Treasury Secretary Mnuchin and SBA Secretary Jovita Carranza that the 25 percent cap for nonpayroll expenses "is problematic for several business sectors, especially those whose mortgage, rent, or utility payments constitute a large portion of fixed monthly expenses. If they are unable to cover these expenses, they will have to decide between keeping their doors open, at personal financial risk, or closing shop and laying off employees."
URL: https://www.menendez.senate.gov/imo/media/doc/PPP%20forgiveness%20letter_final_.pdf

Employee retention credit

In other developments, the Treasury Department this week reversed its recent holding – published on an FAQ page addressing issues related to the CARES Act's employee retention tax credit (ERTC) – that an employer that continues its employees' health care coverage but does not pay any other qualified wages during the period when the employees are not providing services "may not treat any portion of its health plan expenses as qualified wages for purposes of the [ERTC] because no portion of the health plan expenses would be allocable to wages paid to its employees."

The Treasury Department's original position (published April 29 on the FAQ page) prompted pushback from Grassley, Wyden, and Neal, who said in a May 4 letter to Secretary Mnuchin that when lawmakers were drafting the ERTC, "qualified wages were explicitly expanded to incorporate certain qualified health benefits, with the intent to provide an incentive for employers to continue providing health benefits to their employees, even if the employer was otherwise unable to continue paying regular wages because of the coronavirus pandemic."
URL: https://www.grassley.senate.gov/news/news-releases/wyden-grassley-neal-request-retention-credit-eligibility-employers-providing

A Treasury official said in response to the letter that the department intended to revise its holding. The updated guidance has been incorporated into Question 64 and Question 65 on the FAQ page.
URL: https://www.finance.senate.gov/imo/media/doc/2020-05-07%20UST%20Response%20to%20Grassley%2005-04%20letter.pdf
URL: https://www.irs.gov/newsroom/covid-19-related-employee-retention-credits-amount-of-allocable-qualified-health-plan-expenses-faqs#65

Grassley said in a May 7 release that Treasury's decision to modify its position "will encourage employers to help employees keep their health insurance while temporarily furloughed due to the shutdown…[and] aligns Treasury's policy with the original congressional intent behind the employee retention tax credit.

More Paycheck Protection FAQs and other guidance updates

In other guidance developments, this week saw the release of additional FAQs on the Paycheck Protection Program, as well as a new FAQ page addressing some of the expanded retirement savings provisions in the CARES Act, an announcement of an extended safe harbor period for claiming certain energy credits, new cross-border guidance on coronavirus-related travel disruptions, and a revenue procedure providing an expanded safe harbor for elective cash-stock dividends for publicly offered REITs and RICs.

Paycheck Protection Program: In updates to their FAQ page on the Paycheck Protection Program, the Treasury Department and Small Business Administration (SBA) have provided guidance that, among other things:
URL: https://home.treasury.gov/system/files/136/Paycheck-Protection-Program-Frequently-Asked-Questions.pdf

- Extends the safe harbor period for certain PPP borrowers that had adequate sources of liquidity to support their business's ongoing operations to repay the borrowed funds without running afoul of the requirement to certify that "[c]urrent economic uncertainty makes this loan request necessary to support the ongoing operations of the [a]pplicant." Treasury and the SBA explain in Question 43 (published on May 5) that "any borrower who applied for a PPP loan prior to April 24, 2020, and repays the loan in full by May 14, 2020, will be deemed by SBA to have made the required certification in good faith." Under prior guidance (Question 31, published on April 23) the safe harbor was scheduled to expire on May 7.

- Explains that an employer that repays its PPP loan before the safe harbor period expires is eligible for the CARES Act's employee retention credit, assuming it meets the qualifications for that program (Question 45).
- Clarifies that a PPP borrower's loan forgiveness amount will *not* be reduced if the borrower offered to rehire an employee it had laid off, but the employee declined the offer (Question 40). Treasury and the SBA intend to address the issue further in forthcoming guidance.

Expanded access to retirement savings: In a new FAQ page posted on May 4, the IRS addresses issues under CARES Act section 2202, which generally provides for penalty-free early access to retirement account funds and relaxes rules for retirement plan loans to help individuals cover emergency expenses related to the coronavirus. Topics include, among other things, the definition of "qualified individual" and "coronavirus-related distribution" as well as rules for repaying coronavirus-related plan distributions and plan loans.
URL: https://www.irs.gov/newsroom/coronavirus-related-relief-for-retirement-plans-and-iras-questions-and-answers

The IRS notes in its response to Question 9 that adoption of the expanded distribution and plan loan rules by an employer is "optional." For example, the Service explains that "an employer may choose to provide for coronavirus-related distributions but choose not to change its plan loan provisions or loan repayment schedules."

According to the IRS, guidance on these provisions is being developed and will be released "in the near future." The Service said it anticipates the forthcoming guidance will "apply the principles of" Notice 2005-92, which addressed the treatment of distributions and plan loans under sections 101 and 103 of the Katrina Emergency Tax Relief Act of 2005 (KETRA), "to the extent the provisions of section 2202 of the CARES Act are substantially similar to the provisions of KETRA that are addressed in that notice."
URL: https://www.irs.gov/pub/irs-drop/n-05-92.pdf

Safe harbor for energy investment, production tax credits: A Treasury Department official indicated in a May 7 letter to Senate Finance Committee Chairman Grassley that the department intends to extend the continuity safe harbor under the energy production tax credit and the energy investment tax credit to accommodate the economic slowdown resulting from the coronavirus pandemic. The letter was in response to a request from a bipartisan group of senators – including Grassley – for an extension of the continuity safe harbor from four years to five years for projects that began construction in 2016 or 2017 under both tax credits. Treasury indicated it would "modify the relevant rules in the near future."
URL: https://www.finance.senate.gov/download/treasury-to-grassley-et-al_-energy-investment-tax-credit-production-tax-credit
URL: https://www.grassley.senate.gov/sites/default/files/2020-04-23%20CEG%2C%20RW%2C%20et%20al%20to%20Treasury%20%28Energy%20Tax%20Credits%20Safe%20Harbor%29.pdf

Coronavirus-related travel disruptions: The IRS in Rev. Proc. 2030 (issued May 7) clarified that certain activities that otherwise would give rise to a foreign branch separate unit for purposes of the dual consolidated loss rules under section 1503(d) or an obligation to file Form 8858 (Information Return of US Persons With Respect to Foreign Disregarded Entities and Foreign Branches) is not taken into account in the case of individuals who, because of travel restrictions and disruptions resulting from the coronavirus pandemic, must temporarily conduct activities in a country other than the United States or in a territory of the United States that would not otherwise have been conducted there.
URL: https://www.irs.gov/pub/irs-drop/rp-20-30.pdf

Safe harbor for elective cash-stock dividends for publicly offered REITs and RICs: The IRS on May 4 issued Rev. Proc. 2020-19, which temporarily reduces "the cash limitation percentage" in Rev. Proc. 2017-45 from 20 percent to 10 percent for elective cash-stock distributions declared between April 1, 2020, and December 31, 2020, by publicly offered REITs and RICs. Rev. Proc. 2017-45 created a safe harbor that allows publicly offered REITs and RICs to make elective cash-stock dividends that will qualify for the dividends paid deduction. The Service indicated the new revenue procedure was issued "in recognition of the need for enhanced liquidity during the current period of economic disruption."
URL: https://www.irs.gov/pub/irs-drop/rp-20-19.pdf
URL: https://www.irs.gov/pub/irs-drop/rp-17-45.pdf

Find out more: A running list of guidance and other resources that address significant tax issues stemming from the pandemic is available from Deloitte Tax LLP.
URL: https://newsletters.usdbriefs.com/2020/Tax/TNV/Stimulus-Resource-Table.pdf

— Michael DeHoff
Tax Policy Group
Deloitte Tax LLP

'Red lines' cloud contours, timing of next coronavirus relief bill

Uncertainty persisted this week as to the timing and content of any future coronavirus relief legislation as congressional Democrats, congressional Republicans, and President Trump continued to draw "red lines" – on policies such as relief for cash-strapped state and local governments, business liability protections related to returning workers, and a payroll tax cut – that would appear to preclude swift negotiations and a ready compromise.

Trump: Payroll tax cut a must-do

While both Democrats and Republicans have been dismissing one another's initial policy prescriptions for a possible "phase four" economic relief bill, one particular proposal – a payroll tax cut being advocated by President Trump – maintained its unique status as having detractors on both sides of the aisle.

Though vague on details, the president has pushed the payroll tax idea since the start of the current health and economic crisis, and came back to it on May 3, remarking in a virtual town hall broadcast on Fox News that it would have to be included in any deal.

"We're not doing anything without a payroll tax cut," he said.

The Coronavirus Aid, Relief, and Economic Security Act (CARES) Act (P.L. 116-136) permits deferral of the employer portion of the Social Security payroll tax through 2020, but the president appears to want broader relief such as an outright suspension of payroll taxes. Any future payroll tax relief presumably would be focused on the employee side, although it could in theory be extended to the employer portion of payroll taxes dedicated to the Medicare hospital insurance trust fund (or possibly take the form of a "negative" payroll tax – a policy idea that would in essence deliver a wage subsidy to employers through the payroll tax infrastructure).

GOP divided: The proposal has drawn criticism from congressional Democrats – House Speaker Nancy Pelosi, D-Calif., said during a May 4 interview on CNN that a payroll tax cut was unacceptable – and has divided congressional Republicans.

"I'm not a particular fan of that," said Senate Finance Committee member – and Senate Republican Whip – John Thune of South Dakota on May 5. "I guess I'm open to being persuaded that it's something that could be effective. But I think some of the things we're currently doing are having a bigger impact. The payroll tax cut only helps if you're on the payroll."

For his part, Finance Committee Chairman Charles Grassley, R-Iowa, when asked by reporters on May 5 what he thought of the president's proposal, said: "Right now, not much."

But Sen. John Cornyn, R-Texas, also a Finance Committee member and member of party leadership, tried to put a more positive spin on the divergent views about a payroll tax cut.

"I heard the speaker say 'no way' and the president said he wouldn't sign a bill without it. So it sounds like the beginning of a negotiation," Cornyn said.

And another Senate Republican taxwriter said this week that the idea should at least be part of negotiations.

"It should be on the table," said Sen. Steve Daines of Montana. "This is a way to get more dollars into the hands of employees as well as employers."

Also on the wish list: The White House reportedly is considering a number of other tax initiatives – in addition to the payroll tax cut – in the next economic recovery bill. Among them is another proposal the president has been pitching for weeks: expanding allowed deductions for business meals and entertainment expenses.

But reports this week suggest the administration is broadening its tax purview in the current round of talks to include some form of capital gains relief, an extension of 100 percent bonus depreciation (or "full expensing") beyond its scheduled phase-out after 2022 (and possibly an expansion of the policy to allow immediate write-offs for residential and commercial real estate), and staving off other scheduled tax changes such as the requirement that research expenditures be amortized after 2021.

Details on all of these potential policies – including whether they would be permanent or temporary changes – remain limited at this time.

McConnell, Pelosi stake out positions on legal liability, state and local relief

Further clouding the legislative outlook is a firm insistence by Senate Majority Leader Mitch McConnell, R-Ky., that any forthcoming package include liability protections for businesses as they transition employees back to the worksite and the equally firm insistence by House Speaker Pelosi that Congress provide substantial economic relief to state and local governments.

"[I]f there's any red line, it's on litigation," McConnell said on May 5 after being asked about the president's hardline stance on a payroll tax cut.

But Speaker Pelosi, has already indicated that such a proposal would not pass in the House.

"At the time of this coronavirus challenge, especially now, we have every reason to protect our workers and our patients in all of this," she said at an April 29 press conference. "So, we would not be inclined to be supporting any immunity from liability."

Pelosi, meanwhile, has called for as much as $1 trillion in direct aid to states and municipalities facing revenue shortfalls, which she said in a May 6 interview on MSNBC is needed to ensure continued funding of front-line services – such as fire, police, first responders, teachers, and transit workers – during the pandemic.

McConnell thus far has been reluctant to embrace that proposal unless Democrats agree to liability protections, and has said that any state and local government funding proposal Republicans might consider would have to be limited in scope to address economic losses directly tied to the coronavirus. (Speaker Pelosi said in her MSNBC interview that the aid House Democrats intend to propose would "replace the money that has been spent by states and local governments on the coronavirus and the revenue loss because of the coronavirus, specifically.")

A recent report in *The Hill* suggested that McConnell is hearing calls for state and local government aid from some of his Republican colleagues, including Sens. Mitt Romney of Utah, Susan Collins of Maine, Bill Cassidy and John Kennedy of Louisiana, Lisa Murkowski and Dan Sullivan of Alaska, and Shelley Moore Capito of West Virginia. But Majority Whip John Thune told reporters May 6 that most Republicans "would prefer allowing some additional flexibilities for the dollars that have already been appropriated [in previous recovery bills] versus a big new infusion of cash."
URL: https://thehill.com/people/willard-mitt-romney
URL: https://thehill.com/people/susan-collins
URL: https://thehill.com/people/bill-cassidy
URL: https://thehill.com/people/john-kennedy
URL: https://thehill.com/people/lisa-murkowski
URL: https://thehill.com/people/daniel-sullivan
URL: https://thehill.com/people/shelley-moore-capito

Timing unclear

The Senate came back into regular session on May 4 after an extended recess aimed at reducing the spread of the coronavirus on Capitol Hill. Most senators had been out of Washington since they cleared the CARES Act on March 25, although a few stayed in town or came to the Capitol for the regular pro forma sessions.

But in the absence of bipartisan agreement on the next round of coronavirus-related economic relief the Senate spent much of its first week back processing Trump administration nominees for the federal judiciary and other roles.

Across the Capitol, the House remained shuttered this week, although members of the Democratic majority continued to refine the details of their economic recovery proposal, which in addition to relief for state and local governments could also include other Democratic priorities such as assistance to renters and homeowners, aid for the US Postal Service, and extending certain unemployment insurance enhancements enacted as part of earlier coronavirus relief legislation.

House leaders have indicated that the proposal could be released as soon as the week of May 11, when the chamber is currently scheduled to come back into session. (At press time, the House's schedule for the coming week had not been officially confirmed.)

But even if House leaders introduce a bill in the coming days and move it quickly through the chamber, it may not receive swift consideration in the Senate, given the scope of the policy disagreements between the two chambers, as well as Majority Leader McConnell's stated preference for first measuring the effect of the relief that has already been enacted before pursuing additional measures that will further increase the deficit.

— Alex Brosseau
Tax Policy Group
Deloitte Tax LLP

Concerns over unilateral digital taxes grow as OECD tax overhaul project faces possible delay

A key meeting of the 130-plus countries working through the Organisation for Economic Co-operation and Development (OECD) to overhaul international tax rules was postponed this week from July to October, heightening speculation that political agreement on a new system won't occur by the end of 2020, as previously planned. As nations worldwide grapple with the sudden fiscal crisis stemming from the coronavirus pandemic, however, the pressure to increase taxes – especially on large technology companies – is only mounting.

The next significant milestone in the ongoing OECD project on taxing the digital economy was scheduled to be a July meeting in Berlin, where the target was to reach agreement on the key policy features of Pillar One – the project's plan to reallocate certain profits among the countries where multinationals do business. The group may still hold a virtual meeting in July, Pascal Saint-Amans, director of the OECD's Center for Tax Policy and Administration, said on a May 4 ebcast, but the goal of agreement has been moved until early October, just ahead of a meeting of the G-20 finance ministers.

Saint-Amans conceded that the path towards agreement is still unclear.

"What will be delivered in October? We don't know yet," he said. "What we can see are tensions, conflicts of views."

He also acknowledged that the overall project may take longer than initially planned, with broad political agreement bleeding into 2021 instead of being achieved by year-end.

"I don't exclude that we would have a staged process" in which some decisions would shift to next year, Saint-Amans said, adding, "We're in the midst of a negotiation. It's too early to say what's going to happen."

Progress to date

The OECD has held some briefings for the business community at which they have provided updates on their technical progress, but no technical papers have been distributed and there has not been a request for stakeholder comments on anything since last fall.

Pillar One: Negotiations on Pillar One – already considered challenging given the number of countries involved and the changes contemplated to the longstanding principles of permanent establishment and the arm's-length standard – were further complicated last December when US Treasury Secretary Steven Mnuchin suggested a "safe harbor" approach. Mnuchin and US negotiators have yet to fully clarify what that means, but some countries have interpreted

it as a proposal that the new allocation rules be optional for companies and have deemed that problematic. (For prior coverage, see *Tax News & Views*, Vol. 21, No. 4, Jan. 31, 2020, and *Tax News & Views*, Vol. 21, No. 7, Feb. 28, 2020.)
URL: https://newsletters.usdbriefs.com/2020/Tax/TNV/200131_1.html
URL: https://newsletters.usdbriefs.com/2020/Tax/TNV/200228_2.html

The current OECD Pillar One proposal calls for reallocating certain profits of consumer-facing businesses and automated digital services. US negotiators have long said a global agreement that impacts multinational companies broadly is the preferred alternative to the various unilateral digital services taxes (DSTs) that a number of countries have implemented or proposed. DSTs more narrowly target large technology companies, the vast majority of which are US based, and the US's input at the OECD has sought to broaden the scope of businesses that would be subject to new rules. Even so, the US has continued to raise concerns about the strong focus on digital companies in the OECD proposal. Saint-Amans recently reported that China has similar concerns.

For now, the impact of DSTs is generally muted. In January, Mnuchin and French Finance Minister Bruno Le Maire declared a temporary truce after the US threatened significant retaliatory tariffs in response to the implementation of France's DST. France did not delay the entry into force of its DST but has delayed collection of further company payments until the end of 2020. (For prior coverage, see *Tax News & Views*, Vol. 21, No. 3, Jan. 24, 2020.) Other DSTs, including those in Italy and the UK, have gone into effect, but no payments are due until 2021.
URL: https://newsletters.usdbriefs.com/2020/Tax/TNV/200124_1.html

Also still to be determined are many crucial details of Pillar One, including the level of profit that will be considered routine and how any nonroutine profit will be allocated. If and when global political consensus is achieved, the implementation rules and details will still have to be worked out and, in the US, it is inevitable that Congress will need to be involved in writing legislation to change current laws and/or to ratify international tax treaty changes, a potentially major hurdle to US implementation.

The leaders of the two congressional taxwriting committees have weighed in several times over the past year or so to urge a global consensus rather than unilateral action to tax technology companies, but they have not made any statements about the details of the OECD project.

Pillar Two: Pillar One has claimed more headlines over the past year, but Pillar Two, which seeks to tackle base erosion and ensure all companies pay some minimum level of tax, may be less politically fraught. The proposal for Pillar Two combines a GILTI-like minimum tax to be adopted by countries on a voluntary basis with a so-called undertaxed payment rule as a backstop.

There are still myriad details to be worked out on this aspect of the project as well, and some countries have tied negotiations on the two pillars together; but with political agreement not essential for Pillar Two (because adoption of the minimum tax is voluntary), some believe more progress may be made on this front in 2020.

Coronavirus: Both a hurdle and an incentive to action

While the global pandemic and associated economic turmoil has dominated the focus of world leaders and finance chiefs over the past several months, pushing other issues out of the spotlight – and causing the delay of the OECD's July meeting – these same factors could also increase the pressure for international tax action. During a LinkedIn Live event May 4, France's Le Maire said the health emergency has further advantaged large technology companies and that increasing taxes on those businesses is the best solution for countries in need of new revenue.

"This crisis shows that those who are [coming] out the best are the digital giants, simply because they are able to keep their businesses going, and yet they are the ones that are the least taxed," Le Maire said.

In March 2018, some members of the European Union, including France, supported proposed EU directives that would have implemented a short-term DST and then a longer-term solution revamping permanent establishment rules, but the proposals did not get the necessary unanimity within the trading bloc. The EU's member countries have since committed to working through the OECD on a global solution, but more recently European officials have said that they will return to work on their own digital tax if the OECD project is unsuccessful.

"We will not jump the gun on the European proposal during the international debate, but I am very serious in committing myself and the Commission to have our proposal next year if international consensus is not there," said then Commissioner-designate for Economy Paolo Gentiloni during his October 2019 confirmation hearing before the European Parliament.

Le Maire said this week that he has proposed to Germany's finance minister, Olaf Scholz, that they seek to accelerate work at the OECD, and that he does not want to impose any new taxes on French households or companies to raise the revenue needed to revive the economy and employment.

"My proposal to tax the digital giants is more current than ever," he said, adding that he hoped "our European partners are going to realize the absolute necessity of accelerating taxation" of such companies.

— Storme Sixeas
Tax Policy Group
Deloitte Tax LLP

JCT publishes overview of federal tax system

The Joint Committee on Taxation (JCT) staff released a report on May 1 that provides a broad overview of the various elements of the federal tax system in effect for 2020 and reflects recent changes to the tax code enacted in the Families First Coronavirus Response Act (P.L. 116-127) and the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136).
URL: https://www.jct.gov/publications.html?func=startdown&id=5258

The report looks at individual and corporate income taxes, estate and gift taxes, payroll taxes, and certain excise taxes. Dollar amounts and income thresholds in the tax code that are indexed for inflation – such as the standard deduction, tax rate brackets, and the annual gift tax exclusion – are cited at the levels in effect for 2020. The report does not reflect provisions in the tax code that are scheduled to take effect after 2020 and does not include termination dates for provisions that are due to sunset in later years, such as provisions in the 2017 tax code overhaul affecting individuals, estates, and passthrough businesses that are scheduled to expire after 2025.

In addition to describing the current system, the report provides a variety of historical tables on topics such as distribution of income and taxes, income sources for individual taxpayers, business returns by type, federal receipts by source, and the Social Security taxable wage base and rates of tax.

The JCT staff notes that, unlike similar publications released in prior years, this report does not include tax-related projections for the current tax year – such as the distribution of returns by income category and federal receipts by source of tax – because projections incorporating the impact of the coronavirus pandemic are not available. According to the JCT staff, a revised version of the report incorporating those projections may be released at a later date.

— Michael DeHoff
Tax Policy Group
Deloitte Tax LLP