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House approves one-year extenders package

The extenders debate took a new turn December 3 as the House of Representatives voted 378-46 to approve a one-year retroactive extension of most – but not all – of the temporary tax deductions, credits, and incentives that expired at the end of last year. Support for the Tax Increase Prevention Act of 2014 (H.R. 5771) was bipartisan, with 202 Republicans and 176 Democrats voting in favor of passage.

Permanent extenders off the table for this year

The House action came after the Obama administration threatened to veto a tentative deal reached last week between Ways and Means Committee Chairman Dave Camp, R-Mich., and Senate Majority Leader Harry Reid, D-Nev., that called for permanently extending several expired provisions such as the research credit and the increased expensing limits under section 179, extending most other expired provisions for two years, and phasing out the section 45 production tax credit for wind and other forms of alternative energy. White House officials opposed the emerging deal because it was, in the administration's view, too heavily skewed toward corporate taxpayers. One reported sore point for the administration was the fact that the deal did not include extensions of two current-law provisions that expand certain refundable benefits under the earned income tax credit and the child tax credit. Those expanded benefits are currently set to expire in 2017. (For prior coverage, see *Tax News & Views*, Vol. 15, No. 36, Nov. 26, 2014.)
URL: http://newsletters.usdbriefs.com/2014/Tax/TNV/141126_1.html

Although Ways and Means Chairman Camp and other House Republican leaders had hoped to include some permanent provisions in an extenders agreement this year, Speaker John Boehner, R-Ohio, told reporters December 2 that the administration's threat to veto the emerging Camp-Reid agreement effectively took permanent extenders off the table.

"The president killed it, period," Boehner said.

What's in – and what's not

Among the expired provisions that would be renewed through the end of 2014 under the House-passed extenders legislation are:

- The research and experimentation credit;
- Bonus depreciation and the election to accelerate alternative minimum tax credits in lieu of additional first-year depreciation;
- Increased expensing limits ($500,000/$2 million) for section 179 property and the expanded definition of section 179 property;
- The subpart F exception for active financing income;
- Lookthrough treatment of payments between related controlled foreign corporations under the foreign personal holding company rules;
- 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements;
- The production tax credit for wind and other alternative forms of energy;
- The credit for alternative fuel vehicle refueling property;
- The deduction for energy-efficiency improvements to commercial buildings;
- The credit for construction of energy-efficient new homes;
- The deduction for energy-efficiency improvements to existing homes;
- The New Markets Tax Credit;
- The Work Opportunity Tax Credit;
- The reduced recognition period for S corporation built-in gains tax;
- The basis adjustment to stock of S corporations making charitable contributions of property;
- The deduction for charitable contributions of food inventory;
- Tax-free distributions from individual retirement plans by individuals age 70-1/2 and older for charitable purposes;
- Special rules for contributions of capital gain real property made for conservation purposes;
- The deduction for state and local sales taxes; and
- The income exclusion for employer-provided mass transit and parking benefits.

As approved by the House, none of the extenders provisions is modified from prior law.

The bill would *not* renew a handful of provisions related to, among other things, expensing of certain refinery property, manufacturing of energy-efficient appliances, and health insurance tax credits for certain unemployed individuals.

A complete list of provisions that would be renewed – and those that would not – is available from Deloitte Tax LLP.
URL: http://newsletters.usdbriefs.com/2014/Tax/TNV/141203_1suppA.pdf

Other provisions

In addition to addressing most of the expired 2013 extenders, H.R. 5771 would extend through 2015 two current-law provisions scheduled to sunset at the end of this year that (1) permit multiemployer defined benefit pension plans to take an additional five years to amortize funding shortfalls and (2) provide special rules allowing severely underfunded multiemployer plans to start or stop using the shortfall funding method without obtaining approval from the Treasury Department. (These provisions were originally enacted under the Pension Protection Act of 2006.)

The House-approved bill also includes provisions that would correct technical or clerical errors in various tax laws enacted over the last several years and strike so-called “deadwood” provisions from the tax code.

No revenue offsets

The legislation includes no revenue offsets and, according to estimates from the Joint Committee on Taxation (JCT) staff, would decrease federal revenues by $45 billion over 10 years (compared to the “current law” baseline used by JCT scorekeepers, which assumes the expired provisions remain lapsed).
URL: https://www.jct.gov/publications.html?func=startdown&id=4677

Extenders merged with ABLE Act

The House subsequently combined the extenders bill with the Achieving a Better Life Experience (ABLE) Act of 2014 (H.R. 647), a popular bipartisan measure it also approved December 3 that would create tax-preferred savings accounts allowing certain individuals with disabilities and their caregivers to pay for certain qualified disability expenses. The JCT staff estimates that the tax incentives would decrease federal revenues by roughly $2 billion over 10 years. That cost would be offset by some $640 million in targeted tax revenue provisions as well as through spending reductions. (The measure will be discussed in more detail in an upcoming issue of *Tax News & Views*; a description of the bill – including the revenue offsets – is available from the House Ways and Means Committee.)
URL: https://www.jct.gov/publications.html?func=startdown&id=4676
URL: http://rules.house.gov/sites/republicans.rules.house.gov/files/113-2/PDF/113-HR647-SxS.pdf

Next steps

The merged bill now heads to the Senate, where its prospects appear to be improving. The ABLE Act has broad bipartisan support in the Senate, leading some to suggest that House Republicans linked it to the extenders legislation in order to make it difficult for Senate Democrats to vote against the combined package. Finance Committee Chairman Ron Wyden, D-Ore., told reporters early on December 2 that he would continue to push for a two-year extenders bill similar to the one Senate taxwriters approved in April. In the wake of the House vote, however, he stated through a spokesperson that “there doesn’t appear to be a procedural path forward” for a two-year deal.

For its part, the Treasury Department reiterated in a December 2 news release that the administration would not accept a deal that “permanently extends business tax credits” without also “providing critical tax benefits for middle class families.” The statement also noted, however, that “in the absence of such a deal…the administration is open to supporting shorter-term alternatives.”

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