House approves $1.1 trillion government funding package

The House of Representatives on December 11 approved a $1.1 trillion omnibus spending package for fiscal year 2015 that would, among other provisions, cut funding to the Internal Revenue Service, temporarily extend the moratorium on Internet access taxes, and place narrow limits on the government’s authority to award federal contracts to certain former US-incorporated businesses that relocate offshore.

The Consolidated and Further Continuing Appropriations Act, 2015 (H.R. 83), which cleared the House by a vote of 219-206, generally would provide funding for federal government operations through October 1, 2015. Funding specifically for the Department of Homeland Security, however, would expire on February 27, 2015. (House Republicans insisted on the shorter funding window for that agency so that they could revisit, early next year, the president’s executive order on immigration.)

The spending package now heads to the Senate, where debate is expected to begin December 12 after lawmakers in that chamber complete work on the National Defense Reauthorization Act. To address the fact that government funding was scheduled to expire at midnight on December 11 – before both chambers of Congress could approve the appropriations package and send it to the president – the House and Senate quickly approved a two-day stop-gap measure to keep the government running through December 13. Shortly before press time, the House approved a second stop-gap measure that would extend government funding until December 16 to give the Senate additional time to consider the larger spending package. The Senate had not yet acted on the second stop-gap measure at press time.

IRS budget

The spending measure provides roughly $10.95 billion to fund the Internal Revenue Service – down $346 million from the amount Congress allocated for fiscal 2014 and $1.5 billion from the amount President Obama proposed in his fiscal year 2015 budget blueprint. Overall, the measure provides for $2.16 billion for taxpayer services, $4.86 billion for enforcement activities, $3.64 billion for operations support, and $290 million for business systems modernization.

Similar to last year, Congress included a number of administrative provisions that, among other things, prohibit the IRS from using funds to “target citizens of the United States for exercising any right guaranteed under the First Amendment to the Constitution of the United States” and “target groups for regulatory scrutiny based on their ideological beliefs.” It also prohibits the IRS from using funds in contravention of the section 6103 rules relating to confidentiality and disclosure of tax returns and return information. It also directs the Service to maintain an employee training program to address “taxpayer rights, dealing courteously with taxpayers, cross-cultural relations, and the impartial application of the tax law.”

The legislation also includes provisions that direct the Service to:
Allocate funds to improve facilities and increase staffing for its toll-free taxpayer help line;

Make improvements to the taxpayer help line service a priority and “allocate resources necessary to enhance the response time to taxpayer communications, particularly with regard to victims of tax-related crimes; and

Develop and enforce “policies and procedures that will safeguard the confidentiality of taxpayer information and protect taxpayers against identity theft.”

Internet tax moratorium

The spending package extends the Internet Tax Freedom Act (ITFA) through October 1, 2015. The ITFA, which expired December 11, imposes a moratorium on Internet access taxes and on multiple and discriminatory taxes on electronic commerce and provides grandfathering protections for Internet access taxes that were levied in certain states before 1998.

Lawmakers in both chambers had hoped to approve a long-term extension of the ITFA this year. The House passed legislation (H.R. 3086) on July 15 that would permanently extend the moratorium on taxes on electronic commerce but allow the grandfathering protections for certain pre-1998 taxes to expire. It also re-approved that measure as part of an omnibus jobs package (H.R. 4) on September 18. (For prior coverage, see Tax News & Views, Vol. 15, No. 27, July 18, 2014, and Tax News & Views, Vol. 15, No. 32, Sep. 19, 2014.) In the Senate, Finance Committee Chairman Ron Wyden, D-Ore., introduced his own proposal (S. 1431) on August 1 to make the moratorium permanent and allow the grandfathering protections to sunset, but did not hold a committee mark-up. (For prior coverage, see Tax News & Views, Vol. 15, No. 29, Aug. 1, 2015.) Efforts to make the ITFA permanent became bogged down, however, after certain lawmakers in both chambers attempted to link that legislation to an unrelated bill – the Marketplace Fairness Act – that would make it easier for states to capture sales and use tax revenue from transactions involving online and other “remote” vendors that do not have an in-state physical presence.

Federal contracts for inverted corporations

The legislation includes two narrow provisions aimed at limiting the number of federal contracts that can be awarded to certain companies that have redomiciled overseas through an inversion for tax purposes. These provisions would:

- Prevent certain government agencies from awarding federal contracts to former US-incorporated businesses that subsequently reincorporated in Bermuda or the Cayman Islands. The provision would apply only to agencies funded under the Financial Services and General Government Appropriations portion of the bill. This would include, most notably, the Treasury Department, the Executive Office of the President, and the federal judiciary. The House approved a similar provision as part of the Energy and Water Development and Related Agencies Appropriations Act, 2015 (H.R. 4923) in July. (For prior coverage, see Tax News & Views, Vol. 15, No. 26 July 11, 2014.)
• Prevent all government agencies from awarding federal contracts to “any foreign incorporated entity which is treated as an inverted domestic corporation under section 835(b) of the Homeland Security Act of 2002…or any subsidiary of such an entity.” The legislation provides that “any Secretary” may waive the restriction with respect to any Federal Government contract under the authority of such Secretary if the Secretary determines that the waiver is required in the interest of national security.” An exception to the restriction would apply “to any federal government contract entered into before the [bill’s] date of the enactment…or to any task order issued pursuant to such contract.” Similar temporary restrictions have been included in various spending agreements since 2002.

Senate, White House approval expected

The bill is expected to clear the Senate and be signed into law by the president, although the timetable was unclear at press time. In a tweet posted on his Senate Web site, Majority Leader Reid stated that the bill is “not perfect,” but noted that “a longer-term funding is much better for our economy than a short-term one.”

The Obama administration indicated in a December 11 statement of administration policy that it supports the spending bill despite the inclusion of what it called “ideological and special interest riders.”

URL: http://www.whitehouse.gov/sites/default/files/omb/legislative/sap/113/saphr83h_20141211.pdf

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