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Legislative Update: House to unveil “phase 3” bill, response to coronavirus (COVID-19)

U.S. House Speaker Nancy Pelosi stated this afternoon that House Democrats will unveil today a “phase 3” COVID-19 response bill—the “Take Responsibility for Workers and Families Act.”

Read a [release](#) from the Speaker’s office.

Possible tax title

Official text of the bill has not yet been released and details may still be in flux. However, based upon developments at this time, it is understood that the bill may include a tax title with provisions such as the following:

- **Elective five-year carryback of NOLs** arising in tax years beginning after 2017 and before 2021, and temporary suspension of taxable income limit for those years, with exceptions for some corporations that engaged in distributions (including redemptions/stock buybacks) exceeding certain limits, some corporations that paid “excessive compensation” under Code section 162(m), and some corporations that have certain golden parachute arrangements under Code section 280G. Also coordinating modifications to Code section 965(n), and rules for life insurance companies, REITs, and excess interest loss.
- **Elective refundable payroll credit for certain employers affected by COVID-19**, generally, a credit against the tax imposed by Code section 3111(a) or 3221(a) for 80% of qualified wages allocable to “inoperable” trade or business, up to \$10,000 per employee, with “inoperable” defined by reference to gross receipts for a quarter being less than 80% of gross receipts for the same quarter in the prior year. Eligible employers generally must have had no more than 1,500 full-time equivalent employees or no more than \$41.5 million in gross receipts in calendar year 2019, taking into account aggregation rules, and must have been engaged in an active trade or business on January 31, 2020.
- **Employer payroll credits for COVID-19 charity care provided by hospitals and hospital facility expenditures** incurred by eligible hospitals

- **Extension through 2021 of the credits for paid sick and family leave** that were enacted as part of “phase 2” COVID-19 response legislation and other **significant modifications to those credits as well as to the underlying paid leave programs** (including eliminating the reduced rate of credit for certain paid sick leave; allowing federal, state, and local governments the tax credits; and providing a definition of “eligible employer” for those programs that refers to the section 4980H rules but substitutes “500” for “50” in various places in that Code section)
- **Various qualified plan provisions** including temporary waiver of required minimum distribution rules for certain retirement plans and accounts and special rules for certain coronavirus-related distributions
- **Package of rules relating to rehabilitation for multiemployer plans**
- **Statutory rules delaying filing deadlines** for any return required to be filed for a tax year ending in 2019 as well as for individual estimated tax payments for periods ending before October 15, 2020
- **Increase in exclusion for employer-provided dependent care assistance**
- **Economic assistance payments to individuals**, refundable tax credits for 2020 up to \$1,500 single/\$3,000 joint, plus \$1,500 for each qualifying child up to three children, and an “income supplement amount” for individuals falling below certain income thresholds. Credits would be subject to phase-out based on adjusted gross income (AGI). Also includes rules for payments to individuals who are “federal beneficiaries.”
- **Fully refundable child tax credit for 2020 through 2025**, with increased credit for children under six years old
- **Modifications to Code section 36B rules** (relating to refundable credits for coverage under qualified health plans)
- **Expansions and modifications to EITC** (some just for 2020 and 2021, others permanent)
- **Refundability and enhancement of child and dependent care tax credit**

KPMG observation

Parts of the bill other than the tax title might also include provisions relevant to tax.

Given that the bill has not yet been formally released, changes may be made to the tax provisions before introduction. Stay tuned for more details.

Senate activity

Earlier today, the Senate failed for the second time on a procedural vote to begin debate on a Senate version of the COVID-19 “phase 3” response bill. It is being reported that negotiations are ongoing in an effort to develop legislation with bipartisan support. Read about the tax provisions in the version of the Senate bill that was released yesterday: [TaxNewsFlash](#)

Revenue effects

The staff of the Joint Committee on Taxation (JCT) has not yet issued revenue estimates for any of the “phase 3” legislative proposals.

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