

CQ TODAY ONLINE NEWS—TAXES

May 20, 2010—Updated 1:54 p.m.

Tax and Benefit Extensions Ready for Floor Action

By Richard Rubin, CQ Staff

The chairmen of the House and Senate tax-writing committees unveiled a compromise package of tax cuts and benefit extensions Thursday as Democrats began a tough push to clear the measure before the Memorial Day recess.

The release of the bill summary, with full bill text to follow, could allow the House to consider the measure (HR 4213) as early as Friday, if leaders can persuade moderate Democrats to vote for a measure that would increase the federal budget deficit. It also remains unclear whether Senate Democrats will be able to muster the 60 votes they will need to advance the package.

“We’re optimistic here, and I believe this is such a strong bill that it should and will receive the necessary votes in the Senate,” said House Ways and Means Chairman Sander M. Levin, D-Mich.

The bill is the product of months of negotiations that transformed a \$31 billion package of tax-cut extensions passed by the House in December into a measure that could approach \$200 billion and include everything from assistance for disaster-stricken farmers to extra pay for some veterans and a \$1 billion contribution for the National Housing Trust Fund. It also now includes money for the Wool Trust Fund sought by Sen. Charles E. Schumer, D-N.Y.; a cotton-industry provision favored by Sen. Arlen Specter, D-Pa., and Rep. Bob Etheridge, D-N.C.; and a reallocation of receipts from geothermal energy projects on federal land sought by Senate Majority Leader Harry Reid, D-Nev.

The core of the bill would extend through this year dozens of tax breaks that expired at the end of 2009, along with expanded unemployment benefits and eligibility for COBRA health insurance subsidies for jobless workers.

Among the tax breaks the bill would extend through 2010 are the research and development tax credit, the state sales tax deduction and incentives for biodiesel production. The bill also would extend some tax provisions from the 2009 economic stimulus law (PL 111-5), namely the Build America Bonds program that provides financing assistance to state and local governments for infrastructure projects.

It would extend special Medicaid assistance to states through June 30, 2011, at a cost of \$24 billion over 10 years, and extend an emergency fund for low-income families.

The bill would prevent scheduled cuts to doctors’ reimbursement rates under Medicare through 2013 while allowing for possible increases for primary and preventive care. The extension is shorter than the five-year physician payment adjustment that many House Democrats had sought, and it was pared back over the past few days to make Senate passage easier.

Senate Finance Chairman Max Baucus, D-Mont., said in a statement, “This bill is the jump start our economy needs to help create new job opportunities for American workers and get our economy moving again.”

The legislation could still encounter trouble over the amount and content of its revenue-raising offsets, particularly among moderate House Democrats and Senate Republicans. Democrats will need support from at least one GOP senator to surmount a filibuster.

Only about \$50 billion of the measure is expected to be offset, and that is paired with the tax breaks. The safety-net spending is treated as emergency spending, and the physician-payment change is exempt from the pay-as-you-go law (PL 111-139). A summary released early Thursday did not include final cost estimates for several major provisions, including the so-called doc fix, making a calculation of the total cost impossible for now.

Offsets for Tax Extenders

Some of the proposed offsets are controversial, particularly a change in the tax treatment of the “carried interest” earned by real estate investors, venture capitalists and private equity fund managers that the Senate has opposed in the past.

Instead of being considered as capital gains, 75 percent of carried interest would henceforth be treated as ordinary income for tax purposes. The remainder would be taxed as capital gains. The bill would provide transition relief until 2013 but that may be enough to satisfy wary Senate Democrats who were seeking an exception for venture capital firms. The summary of the bill does not include a revenue estimate.

Mark Heesen, president of the National Venture Capital Association, said in a statement, “While this provision is movement away from a pure change to ordinary income, evidencing a House recognition that this type of long term investment is critical to U.S. economic growth, it by no means creates enough of a differential to continue to encourage long term investment in America’s start up companies.”

In addition to the modified tax treatment of carried interest, proposed offsets include changes designed to limit corporations’ ability to use foreign tax credits. The changes, which would yield \$14.5 billion in new revenue, are complex and include provisions that have not passed either chamber.

“This bill is going to be rammed through the House and the Senate in the next week, and there is no opportunity for the affected taxpayers to be heard by their respective representatives on the issues,” said Catherine Schultz, vice president of tax policy at the National Foreign Trade Council. “It is death by a thousand cuts for many taxpayers and will lead many worldwide American companies to pay higher taxes and to therefore be less competitive.”

Another \$9.6 billion offset would place new limits on the ability of small professional service companies structured as S corporations to avoid employment taxes that they would pay if their earnings were received as wages instead of profits.

As part of the congressional response to the oil spill in the Gulf of Mexico, the measure would increase or eliminate the \$1 billion liability cap in the Oil Spill Liability Trust Fund and raise the 8-cent-per-barrel tax that oil companies pay into the fund. A summary released by lawmakers early Thursday was not clear on the details or the amount of money that would be raised by those changes.

“I’m going to look very closely at what they’ve done on this oil pollution piece and see how high they want to raise it,” said Sen. Mary L. Landrieu, D-La. “But some of the provisions in that bill are going to be very helpful for the recovery of the Gulf Coast states.”

The bill also would raise money by making pension-funding changes designed to give companies more flexibility in meeting their obligations.

Other Provisions

The bill includes a \$1 billion summer jobs program and a change to the highway funding formula that House Transportation and Infrastructure Committee Chairman James L. Oberstar, D-Minn., has been seeking.

The legislation would provide almost \$4.6 billion to fund settlements with black farmers and American Indians of long-running class action lawsuits. The \$1.15 billion settlement in a case originally titled *Pigford v. Glickman* ends a decades-old discrimination lawsuit brought by black farmers against the Department of Agriculture. The bill also would provide \$3.4 billion to fund a settlement of *Cobell v. Salazar*, a case spanning three administrations that involved the government’s management and accounting for more than 300,000 American Indians’ trust accounts.

Dave Camp, R-Mich., ranking Republican on the House Ways and Means Committee, denounced the compromise extenders bill.

“The massive and unprecedented deficit spending in the stimulus bill didn’t create jobs and neither will this bill,” he said in a statement. “This is just more spending on the same failed policies and no net tax relief. This isn’t a tax-extender bill; it is a deficit-extender bill.”

Joseph J. Schatz and Coral Davenport contributed to this story.

First posted May 20, 2010 10:19 a.m.