

President declares National Emergency; House passes COVID-19 relief bill; talks continue on additional tax measures

March 14, 2020

In brief

President Trump on March 13 declared a national emergency to address COVID-19. The President's declaration instructs the Treasury and the IRS to provide relief from tax filing deadlines to individuals and businesses, as appropriate. Specific details on disaster tax relief, including new filing deadlines and eligibility requirements, are expected to be announced by the Treasury Department and the IRS.

The House late on March 13 voted 363 to 40 to pass legislation (H.R. 6201) to provide relief for families and communities affected by the COVID-19 public health emergency and additional funding for tests and other measures to prevent the spread of COVID-19. The House-passed bill requires certain employers to provide expanded emergency family and medical leave and establishes a new business tax credit for certain employer-provided paid leave benefits through the end of 2020. H.R. 6201 also provides funding for emergency unemployment compensation and food assistance for certain individuals affected by the COVID-19 emergency. The legislation follows the March 6 enactment of an \$8.3 billion supplemental appropriations for public health agencies responding to COVID-19.

President Trump announced his support for H.R. 6201 following negotiations on the bill between House Speaker Nancy Pelosi (D-CA) and Treasury Secretary Steven Mnuchin. Senate leaders have delayed a recess previously scheduled for the week of March 16 so that the Senate can consider the House-passed bill. In a statement, Senate Majority Leader Mitch McConnell (R-KY) noted that Senators will need to review the House-passed bill but he believes 'the vast majority of Senators in both parties will agree we must act swiftly to secure relief for American workers, families, and small businesses.' President Trump has stated that he will sign the bill as soon as it is approved by Congress.

Administration officials and Congressional leaders are discussing options for additional stimulus legislation to respond to the economic effects of COVID-19. President Trump has expressed support for some form of payroll tax relief and potential direct assistance to certain industries impacted by the public health emergency. Additional measures reportedly under consideration include various tax measures to provide relief for individuals and businesses affected by the economic effects of COVID-19 and tariff reductions to address supply chain concerns.

In detail

National emergency declaration

President Trump declared a national emergency under the Stafford Act, the federal law that governs disaster-relief efforts. In addition to directing health and public safety agencies to take action, President Trump has directed Treasury Secretary Mnuchin to provide relief from tax deadlines to Americans who have been adversely affected by the COVID-19 emergency.

Specific details on disaster tax relief, including the new filing deadlines and eligibility requirements, are expected to be announced soon by the Treasury Department and the IRS. With the President's declaration, current law provides the IRS with authority to postpone certain income, estate, gift, employment, and excise tax filing and payment deadlines for qualified taxpayers. The IRS also may postpone the due dates for filing a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by the Tax Court; allowance of a credit or refund of any tax; filing a claim for credit or refund of any tax; bringing suit upon any such claim for credit or refund; assessment of any tax; giving or making any notice or demand for the payment of any tax, or with respect to any liability to the United States in respect of any tax; collection of the amount of any liability in respect of any tax; and bringing suit by the United States in respect of any liability in respect of any tax.

Families First Coronavirus Response Act (H.R. 6201)

In addition to providing funding for COVID-19 medical tests, H.R. 6201 provides for emergency paid leave, a new business tax credit for certain mandated employer-provided paid leave, expanded unemployment compensation, and food assistance for certain individuals affected by the COVID-19 public health emergency.

Key provisions include:

- Expanded emergency family and medical leave is provided for employees of employers with fewer than 500 employees and government employers. Eligible employees who have been on the job for at least 30 days have the right to take up to 12 weeks of job-protected leave if the employee is following a requirement or recommendation to quarantine due to the coronavirus, is caring for an at-risk family member who is following a quarantine requirement or recommendation, or is caring for a child whose school or place of care has been closed. After two weeks of paid leave, employees will receive a benefit from their employers that will be no less than two-thirds of the employee's usual pay. This requirement expires on December 31, 2020.
- A new temporary federal emergency paid sick leave benefit program is provided for certain individuals who are unable to work due to qualifying COVID-19-related reasons. Employers with fewer than 500 employees and government employers must provide eligible employees two weeks of paid sick leave, paid at the employee's regular rate, to quarantine or seek a diagnosis or preventative care for coronavirus; or paid at two-thirds the employee's regular rate to care for a family member for such reasons, or to care for a child whose school or place of care has been closed due to the coronavirus. This requirement expires on December 31, 2020.
- A new business tax credit is provided for amounts equal to 100% of qualified sick leave wages paid by employers with fewer than 500 employees during each quarter. The credit is allowed against the employer portion of Social Security payroll taxes. The amount of daily sick leave wages eligible for the credit is limited to \$511 per day for an employee who must self-isolate, obtain a diagnosis, or comply with a self-isolation recommendation with respect to coronavirus. The amount of daily sick leave wages eligible for the credit is limited to \$200 per day for an employee caring for a family member or for a child whose school or place of care has been closed. The number of aggregate days eligible for the credit is limited to 10 days per quarter. Special rules are provided for certain credit limitations and the refundability of certain excess credit amounts. Self-employed individuals would be eligible for a qualified sick leave wage credit. This new business tax credit is applicable only to wages paid as of a date to be selected by the Treasury Secretary, and the credit expires on December 31, 2020.
- A refundable business payroll tax credit is provided for required paid family leave. The credit is equal to 100% of qualified family leave wages paid by an employer with fewer than 500 employees for each calendar quarter. The amount of qualified family leave wages taken into account for each employee is capped at \$200 per day and

\$11,000 for all calendar quarters. Certain self-employed individuals would be eligible for a refundable tax credit equal to 100% of a qualified paid family leave equivalent amount and this credit would be allowed against income taxes. As with the sick leave credit, these paid family leave wage credits are effective only for qualifying wages paid as of a date to be selected by the Treasury Secretary, and the credit expires on December 31, 2020.

- Increased federal funding for emergency unemployment insurance compensation is provided by state governments to individuals, including full federal funding of extended unemployment compensation for states that experience high levels of unemployment.
- Expanded food assistance is provided to certain low-income individuals who lose jobs or are laid off due to the COVID-19 emergency and to certain low-income households with children whose schools have been closed.

Additional economic stimulus measures expected

Administration officials and Congressional leaders are discussing options for additional legislation to respond to the economic effects of COVID-19. Speaker Pelosi has said the House will begin work on an additional emergency bill that "will take further effective action that protects the health, economic security and well-being of the American people." In a March 13 interview, Treasury Secretary Mnuchin said the Administration will be coming back very quickly with a request for legislation to provide liquidity to the airline industry and is looking at an economic stimulus package that could be in the form of a payroll tax cut or some other means. The Federal Reserve also has been taking actions intended to ensure liquidity in the US financial system as business activity is impacted by the spread of the coronavirus.

Observation: The US economy ended 2019 with 2.1% annual GDP growth in the fourth quarter. Entering the year, projections had been for roughly 2% growth in 2020. However, earlier projections of US and global economic growth have become outdated given the impact of the coronavirus and the increased risk of recession in the United States and other countries affected by the COVID-19 pandemic. Many economists have noted the disruption of the travel and hospitality sectors and potential multiplier effect from cutbacks in those industries. Consumer spending accounts for roughly 70% of US economic activity and could be affected significantly by efforts to contain the spread of the coronavirus. Increased economic uncertainty may reduce business investment and supply chain issues may affect some businesses. Policymakers will be weighing these risks as they consider additional measures intended to avoid a more protracted and severe economic downturn.

President Trump has called for Congress to suspend certain payroll taxes for the remainder of 2020. According to some White House officials, one option would be to suspend the 6.2% Social Security tax and the 1.45% Medicare tax. The corresponding payroll taxes paid by employers on behalf of their employees also would be suspended. Self-employed individuals would have the combined 15.3% in payroll taxes suspended.

Observation: Some Congressional leaders have questioned whether suspending federal payroll taxes would be the most effective response to the economic effects of the COVID-19 emergency. Social Security taxes were reduced temporarily by 2% in 2011 and 2012 in response to the prolonged recession that followed the 2008 financial markets crisis.

Additional temporary economic stimulus measures under discussion include:

- Employer tax credits for hiring or retaining employees.
- Net operating loss (NOL) carryback relief from a 2017 tax reform act provision that eliminated the NOL carryback option for most taxpayers and haircut carryforwards by 20%.
- Relief from scheduled tax law changes going into effect in 2022 that would increase the cost of debt financing and US research activity.
- Exclusion of debt repurchases from cancellation of indebtedness income.
- Reduction of pension funding requirements.
- Waiver of penalties for failure to make mandatory withdrawals from retirement plans.
- Reduction or elimination of recently imposed trade tariffs.

Some members of Congress have suggested that future COVID-19 economic stimulus legislation could provide an opportunity to address other tax issues, including technical corrections to the 2017 tax reform act and proposals to expand the refundability of the child tax credit and earned income tax credit.

The takeaway

The COVID-19 pandemic and measures to control its spread are having a significant economic impact on individuals and businesses in the United States and around the world. The characteristics of COVID-19 and its impacts on global business activity are difficult to assess, and circumstances are changing rapidly. President Trump and Congress are responding to this developing situation with specific proposals that warrant careful review. Additional legislative and administrative measures are likely to be developed to address the economic effects of COVID-19. Stakeholders should be prepared to engage with policymakers to ensure that issues and proposals affecting their business operations and employees are carefully considered.

Additional information

For a House staff summary of H.R. 6201, the House-passed COVID-19 relief bill, click [here](#), and click [here](#) for the legislative text.

Let's talk

For a deeper discussion of how this might affect your business, please contact:

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