



Negotiations begin on legislation to mitigate economic impact of coronavirus outbreak: Congressional tax writers seek your input

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Senior Administration and Congressional leaders have begun to negotiate legislation in an attempt to mitigate the economic impact of the coronavirus COVID-19, and while a variety of proposals will advance over the next few days, there does appear to be bipartisan agreement that some form of economic relief and/or stimulus legislation is needed sooner rather than later.

The most immediate issue is the need for business to have some input in what is being considered, particularly since we're only just now starting to understand how various industries are being impacted.

It is important to remember that policy experts in Washington don't have the granular view of company impact that those working within a company/industry have. The tax staffs are looking back at previous stimulus proposals, only some of which may be pertinent to the current economic crisis. We are currently experiencing a fairly novel global situation for which there is no precedent. There may also be some very specific aspects of the current situation that need to be addressed that the tax writers are not yet considering, or are not even aware of.

The economic/tax package could end up being narrow and targeted or could instead evolve into a fairly expansive and broad initiative, with some on Capitol Hill signaling that it could very well include some of the proposed adjustments and corrections to tax reform that have been plaguing companies for some time. In fact, specific to the latter, the ranking Republican member of the Ways and Means Committee, Kevin Brady (R-TX) suggested yesterday that some of the corrections to tax reform would have the effect of removing some uncertainties in the tax system and allowing more capital to flow into the economy.

At this juncture, the top line of stimulus measures being considered includes provisions that have been utilized in years past, as well as others typically more prevalent in natural disaster-type circumstances, such as hurricanes. However, keep in mind that the economic repercussions we are seeing arise from an atypical event. Novel policy ideas are being explored to address these concerns in a targeted fashion.

As of today, the following are among the stimulus proposals being considered that we're hearing about:

- **Employee Retention Tax Credit (ERTC):** Employers would receive a tax credit to subsidize wages paid to employees retained on their payrolls despite a notable downturn in their revenues. Used previously for weather disasters, the ERTC was equal to 40 percent of the first \$6,000 in wages paid to a retained employee from the date the disaster occurred to the first of a date certain or the date on which the business was back to its pre-disaster levels of revenues or production. Again, application of this provision to the current scenario is quite different than a natural disaster event that comes and goes with relative speed, so the above figures/details that have been used in the past are likely to be altered in order to reflect the longevity and pervasiveness of the current circumstances.
- **Employer Payroll Tax Holiday:** Used most recently in the Hire Act of 2010, the Hire Act forgave the OASDI (Old Age, Survivors and Disability Insurance) tax (but not the Medicare tax) on workers hired during 2010, along with a credit for up to \$1,000 for existing workers. The OASDI rate is 6.2 percent.
- **Net Operating Loss (NOL) relief in some form:** Congress is considering allowing companies greater flexibility to carry NOLs forward or backward to generate tax refunds and build capital and make up for current losses.
- **Enhanced tax credits/deductions for equipment:** This type of provision would assist in both stimulating the economy from a buyer standpoint, as well as assist in the cost to businesses of purchasing equipment to help address the health aspects of the coronavirus (safety equipment, handwashing stations, on-site medical equipment).
- **Non-tax related financial relief for lending/borrowing:** The negotiators are considering lending relief either by encouraging lenders to allow longer grace periods for loan repayments, or setting up a federal loan facility as was done in the 2009 stimulus bill.
- **Economic development tax credits and/or increased bond authority:** Special investment credits are being considered to subsidize new investment and new bonding authority, which could be used to finance business expansion (the 2009 stimulus bill contained the Build American Bonds program among others).

The negotiators are also considering industry specific relief proposals and are focusing heavily on the travel and tourism sector, which appears to be in swift decline. Ideas range from loan facilities (given that banks have frozen loans in this sector) until the economic effects are better understood, to a credit for individuals against their personal travel expenses to encourage people to travel again.

The Administration has been and will continue to float some proposals this week and Congressional tax writers are as well. **They badly need private sector input in two different, but equally important forms:** input regarding how onset of the virus has impacted company operations to date and what you might anticipate in the near future; and specific ideas you may have (if any) as to what specific type of assistance/relief would be most impactful to helping smooth over the economic impact of this event.

To learn more about providing input to the tax writers, contact either of the authors.

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