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STAND BY

Congress has not finished worked on its “mini” jobs bill, H.R. 2847. This is the one that includes a jobs tax credit, an increase in the direct expensing allowance, extension of some infrastructure spending and expansion of the “Build America Bond” program.

While the bill has a House number, the substance of the legislation actually originated in the Senate. The Senate just stripped down a House-passed bill on another issue and added in their bill.

You may recall we got to this point because Senate Majority Leader Harry Reid (D-NV) decided to take a smaller piece of a larger bi-partisan draft bill put together by Senate Finance Committee Chairman Max Baucus (D-MT) and Committee Ranking Republican Charles Grassley (R-IA) and try to pass it. He made the decision before the Presidents’ Day recess and we waited a week to see who would blink.

Upon the Senate’s return, the Republicans blinked, and the Senate passed H.R. 2847. As I suspected last week, the House could not leave good enough alone, and they

made changes to it before passing it. The bill is back in the Senate. This time I think they will pass it as is.

The House did not change the direct expensing allowance provision, which is a temporary increase for the rest of this year to \$250,000 from \$125,000.

The House made some minor changes to the job credit. As far as I can tell, none of them are significant. For example, currently there are actually two incentives. The first is “forgiveness” of the employer’s share of social security portion (6.2 percent) of the Federal Income Contributions Act (FICA) taxes if the employer hires someone who has been unemployed.

The second part of incentive is a \$1,000 credit if the employer keeps the person on the payroll for a year. It was a flat credit in the Senate’s original version. Now in the House version it is the lesser of \$1,000 or the equivalent of 6.2 percent of the employee’s wages for the year. If I have done my addition correctly, this means if you paid the employee wages of less than \$16,129 for the year you would not get the full \$1,000, so I would think most employers would get the full \$1,000 credit anyway.

Just to confuse us, the Senate is also considering a “maxi” jobs bill, H.R.4213, too. It is really not a jobs bill but this is what we call everything now. It is a bill to extend various expired and expiring tax credits and deductions. (Well, it does more than that now.) And believe it or not, it is a germane tax extender bill passed by House.

In reality, it is undergoing a major face-lift in the Senate. Senators Baucus and Grassley’s pre-Presidential Day draft bill had many of the House provisions in it so those will remain the same. But Baucus and Grassley had agreed upon some other items. Since then, the Senate Majority Leader and Senator Baucus decided to add some other items and modify some of the Baucus/Grassley items. Reid and Baucus introduced an amendment doing all that, which is the pending business. Senator Grassley did not agree with some of those last modifications so it is no longer a bi-partisan effort. There have been a few amendments by others on the floor that have been approved. So what is in this bill? (And yes, it will be traveling back to the House IF passed by the Senate. I suspect they will get the 60 votes.) The Reid/Baucus amendment included:

TITLE I—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Energy

Sec. 101. Alternative motor vehicle credit for new qualified hybrid motor vehicles other than passenger automobiles and light trucks.
Sec. 102. Incentives for biodiesel and renewable diesel.
Sec. 103. Credit for electricity produced at certain open-loop biomass facilities.
Sec. 104. Credit for refined coal facilities.
Sec. 105. Credit for production of low sulfur diesel fuel.
Sec. 106. Credit for producing fuel from coke or coke gas.
Sec. 107. New energy efficient home credit.
Sec. 108. Excise tax credits and outlay payments for alternative fuel and alternative fuel mixtures.
Sec. 109. Special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities.
Sec. 110. Suspension of limitation on percentage depletion for oil and gas from marginal wells.

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

Sec. 111. Deduction for certain expenses of elementary and secondary school teachers.
Sec. 112. Additional standard deduction for State and local real property taxes.
Sec. 113. Deduction of State and local sales taxes.
Sec. 114. Contributions of capital gain real property made for conservation purposes.
Sec. 115. Above-the-line deduction for qualified tuition and related expenses.
Sec. 116. Tax-free distributions from individual retirement plans for charitable purposes.
Sec. 117. Look-thru of certain regulated investment company stock in determining gross estate of nonresidents.

PART II—LOW-INCOME HOUSING CREDITS

Sec. 121. Election for refundable low-income housing credit for 2010.

Subtitle C—Business Tax Relief

Sec. 131. Research credit.
Sec. 132. Indian employment tax credit.
Sec. 133. New markets tax credit.
Sec. 134. Railroad track maintenance credit.
Sec. 135. Mine rescue team training credit.

Sec. 136. Employer wage credit for employees who are active duty members of the uniformed services.

Sec. 137. 5-year depreciation for farming business machinery and equipment.

Sec. 138. 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements.

Sec. 139. 7-year recovery period for motorsports entertainment complexes.

Sec. 140. Accelerated depreciation for business property on an Indian reservation.

Sec. 141. Enhanced charitable deduction for contributions of food inventory.

Sec. 142. Enhanced charitable deduction for contributions of book inventories to public schools.

Sec. 143. Enhanced charitable deduction for corporate contributions of computer inventory for educational purposes.

Sec. 144. Election to expense mine safety equipment.

Sec. 145. Special expensing rules for certain film and television productions.

Sec. 146. Expensing of environmental remediation costs.

Sec. 147. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.

Sec. 148. Modification of tax treatment of certain payments to controlling exempt organizations.

Sec. 149. Exclusion of gain or loss on sale or exchange of certain brownfield sites from unrelated business income.

Sec. 150. Timber REIT modernization.

Sec. 151. Treatment of certain dividends and assets of regulated investment companies.

Sec. 152. RIC qualified investment entity treatment under FIRPTA.

Sec. 153. Exceptions for active financing income.

Sec. 154. Look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company rules.

Sec. 155. Reduction in corporate rate for qualified timber gain.

Sec. 156. Basis adjustment to stock of S corps making charitable contributions of property.

Sec. 157. Empowerment zone tax incentives.

Sec. 158. Tax incentives for investment in the District of Columbia.

Sec. 159. Renewal community tax incentives.

Sec. 160. Temporary increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands.

Sec. 161. American Samoa economic development credit.

Subtitle D—Temporary Disaster Relief Provisions

PART I—NATIONAL DISASTER RELIEF

Sec. 171. Waiver of certain mortgage revenue bond requirements.

Sec. 172. Losses attributable to federally declared disasters.

Sec. 173. Special depreciation allowance for qualified disaster property.

Sec. 174. Net operating losses attributable to federally declared disasters.

Sec. 175. Expensing of qualified disaster expenses.

PART II—REGIONAL PROVISIONS

SUBPART A—NEW YORK LIBERTY ZONE

Sec. 181. Special depreciation allowance for nonresidential and residential real property.

Sec. 182. Tax-exempt bond financing.

SUBPART B—GO ZONE

Sec. 183. Special depreciation allowance.

Sec. 184. Increase in rehabilitation credit.

Sec. 185. Work opportunity tax credit with respect to certain individuals affected by Hurricane Katrina for employers inside disaster areas.

SUBPART C—MIDWESTERN DISASTER AREAS

Sec. 191. Special rules for use of retirement funds.

Sec. 192. Exclusion of cancellation of mortgage indebtedness.

TITLE II—UNEMPLOYMENT INSURANCE, HEALTH, AND OTHER PROVISIONS

Subtitle A—Unemployment Insurance
Sec. 201. Extension of unemployment insurance provisions.

Subtitle B—Health Provisions

Sec. 211. Extension and improvement of premium assistance for COBRA benefits.

Sec. 212. Extension of therapy caps exceptions process.

Sec. 213. Treatment of pharmacies under durable medical equipment accreditation requirements.

Sec. 214. Enhanced payment for mental health services.

Sec. 215. Extension of ambulance additions.
Sec. 216. Extension of geographic floor for work.
Sec. 217. Extension of payment for technical component of certain physician pathology services.
Sec. 218. Extension of outpatient hold harmless provision.
Sec. 219. EHR Clarification.
Sec. 220. Extension of reimbursement for all Medicare part B services furnished by certain Indian hospitals and clinics.
Sec. 221. Extension of certain payment rules for long-term care hospital services and of moratorium on the establishment of certain hospitals and facilities.
Sec. 222. Extension of the Medicare rural hospital flexibility program.
Sec. 223. Extension of section 508 hospital reclassifications.
Sec. 224. Technical correction related to critical access hospital services.
Sec. 225. Extension for specialized MA plans for special needs individuals.
Sec. 226. Extension of reasonable cost contracts.
Sec. 227. Extension of particular waiver policy for employer group plans.
Sec. 228. Extension of continuing care retirement community program.
Sec. 229. Funding outreach and assistance for low-income programs.
Sec. 230. Family-to-family health information centers.
Sec. 231. Implementation funding.
Sec. 232. Extension of ARRA increase in FMAP.
Sec. 233. Extension of gainsharing demonstration.
Subtitle C—Other Provisions
Sec. 241. Extension of use of 2009 poverty guidelines.
Sec. 242. Refunds disregarded in the administration of Federal programs and federally assisted programs.
Sec. 243. State court improvement program.
Sec. 244. Extension of national flood insurance program.
Sec. 245. Emergency disaster assistance.
Sec. 246. Small business loan guarantee enhancement extensions.
TITLE III—PENSION FUNDING RELIEF
Subtitle A—Single Employer Plans
Sec. 301. Extended period for single-employer defined benefit plans to amortize certain shortfall amortization bases.

Sec. 302. Application of extended amortization period to plans subject to prior law funding rules.
Sec. 303. Lookback for certain benefit restrictions.
Subtitle B—Multiemployer Plans
Sec. 311. Adjustments to funding standard account rules.
TITLE IV—OFFSET PROVISIONS
Subtitle A—Black Liquor
Sec. 401. Exclusion of unprocessed fuels from the cellulosic biofuel producer credit.
Sec. 402. Prohibition on alternative fuel credit and alternative fuel mixture credit for black liquor.
Subtitle B—Homebuyer Credit
Sec. 411. Technical modifications to homebuyer credit.
Subtitle C—Economic Substance
Sec. 421. Codification of economic substance doctrine; penalties.
Subtitle D—Additional Provisions
Sec. 431. Revision to the Medicare Improvement Fund.
TITLE V—SATELLITE TELEVISION EXTENSION
Sec. 501. Short title.
Subtitle A—Statutory Licenses
Sec. 501. Reference.
Sec. 502. Modifications to statutory license for satellite carriers.
Sec. 503. Modifications to statutory license for satellite carriers in local markets.
Sec. 504. Modifications to cable system secondary transmission rights under section 111.
Sec. 505. Certain waivers granted to providers of local-into-local service for all DMAs.
Sec. 506. Copyright Office fees.
Sec. 507. Termination of license.
Sec. 508. Construction.
Subtitle B—Communications Provisions
Sec. 521. Reference.
Sec. 522. Extension of authority.
Sec. 523. Significantly viewed stations.
Sec. 524. Digital television transition conforming amendments.
Sec. 525. Application pending completion of rulemakings.
Sec. 526. Process for issuing qualified carrier certification.
Sec. 527. Nondiscrimination in carriage of high definition digital signals of noncommercial educational television stations.
Sec. 528. Savings clause regarding definitions.
Sec. 529. State public affairs broadcasts.

Subtitle C—Reports and Savings Provision
Sec. 531. Definition.
Sec. 532. Report on market based alternatives to statutory licensing.
Sec. 533. Report on communications implications of statutory licensing modifications.
Sec. 534. Report on in-state broadcast programming.
Sec. 535. Local network channel broadcast reports.
Sec. 536. Savings provision regarding use of negotiated licenses.
Sec. 537. Effective date; noninfringement of copyright.
Subtitle D—Severability
Sec. 541. Severability.
TITLE VI—OTHER PROVISIONS
Sec. 601. Increase in the Medicare physician payment update.
TITLE VII—DETERMINATION OF BUDGETARY EFFECTS
Sec. 701. Determination of budgetary effects.

FINE PRINT

Sorry for the laundry list but I thought it was the best way to illustrate how difficult it is to follow the bouncing ball in the legislative process these days.