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GOVERNMENT CONTRACTOR WITHHOLDING

The House is expected to vote this week on legislation, H.R. 674, to repeal the first of the tax gap measures that worked its way into law several years ago. The three percent withholding provision was imposed by the Tax Increase Prevention and Reconciliation Act of 2005. It imposed a requirement on Federal, state, and local governments to withhold taxes from government contractors beginning in 2011.

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act as Public Law 111-5. The law delayed the effective date of the withholding requirement by one year to 2012.

The Internal Revenue Service earlier this year announced it is delaying implementation until 2013. Withholding and reporting requirements will apply to payments made after December 31, 2012. In addition, payments made under contracts existing on December 31, 2012, that are not materially modified, will be exempt until January 1, 2014.

The Senate engaged in a little bit of political theater last week with the government contractor withholding repeal but it was not a serious effort. (There is the little matter of "blue slipping." The Senate cannot initiative revenue matters.) The good news is that in a show of strength, the procedural motion to proceed got 57 votes of the 60 needed.

There are two back stories here. The first, putting aside the political theater, is that the bill will meet some resistance in the Senate where the "pay-go" rules prevail and they will fight over the revenue offset (or spending offset) to "pay" for repeal. In fact, it looks like it might play out like the Form 1099 scenario again. The Republicans are offering a change in the eligibility calculations for health care insurance subsidies. The Democrats are piecing together a hodge-podge of "loophole" closers.

The second is that Senator Max Baucus (D-MT), Chairman of the Finance Committee has to backtrack once again on a tax gap loophole closer. It proves once again that SBLC one of the earliest voices on the tax gap issue was correct: the "logic" behind the tax gap closers was and is fundamentally flawed.

My favorite quote last week was from Senator Minority Leader Mitch McConnell (R-KY) who said "the Senate does some of its best work on Thursday nights." Translation: The Great Motivator: We do not want to be here on Friday, especially when we are off the next week.
The Senate made amazing progress on a few items late Thursday night/early Friday.

THERE IS SOME INFLATION

There are a variety of programs and tax provisions that are adjusted for cost of living inflation. Since 2008, those benefits and provisions have remained at the same levels. It looks like 2012 will break the streak.

The Social Security Administration (SSA) has announced that the taxable wage base for the Social Security (6.2 percent) portion of the federal payroll taxes will increase to $110,100 from $106,800 for 2012.

(Occasionally, you will see the acronym OASDI (Old-Age, Survivors, and Disability Insurance) used in reference to social security tax. Also, there is no wage cap for the 1.4 percent Medicare (Hospital Insurance (HI) portion of the taxes.

The employer and the employee each pay the 6.2 percent on those wages and the self-employed pay both shares.

Just to make it confusing, employees are currently and temporarily paying only 4.2 percent on their wages. The tax relief expires at the end of the year. If I was a betting man, I would put a dollar on its extension. I might also put 50 cents on the employer's gaining the same temporary relief in 2012.

The Internal Revenue Service has announced changes to several pension and retirement provisions that are tied to COLAs.

The limitation for defined contribution plan contributions is increased in 2012 from $49,000 to $50,000.

The annual compensation limit for determining how much can included before hitting the cap increased from $245,000 to $250,000.

Effective January 1, 2012, the limitation on the annual benefit under a defined benefit plan is increased from $195,000 to $200,000.

Some pension and retirement provisions are not adjusted for COLA. For example, the dollar limitation for catch-up contributions to certain employer plans for individuals aged 50 or over remains unchanged at $5,500 and for others $2,500. The limitation regarding SIMPLE retirement accounts remains unchanged at $11,500.

The IRS also released the changes for a variety of other tax provisions tied to a COLA.

The value of each personal and dependent exemption, available to most taxpayers, will be $3,800, up $100 from 2011.

The new standard deduction will be $11,900 for married couples filing a joint return, up $300, $5,950 for singles and married individuals filing separately, up $150, and $8,700 for heads of household, up $200.

Tax-bracket thresholds will increase for each filing status. For a married couple filing a joint return, for example, the taxable-income threshold separating the 15-percent bracket from the 25-percent bracket is $70,700, up from $69,000 in 2011.

For an estate of any decedent dying during calendar year 2012, the basic exclusion from estate tax amount will be $5,120,000, up from $5,000,000 for calendar year 2011.

The monthly limit on the value of qualified transportation benefits exclusion for qualified parking provided by an employer to its employees for 2012 rises to $240, up $10 from the limit in 2011.

CPI

Still lingering around the fringes is the question of the whether the Consumer Price Index (CPI) used to calculate the cost of living adjustment (COLA) used by the government is the most accurate. There are several different models for doing so.

The index currently in use is the Consumer Price Index for All Urban Consumers (CPI-U). It measured the average change over time in the prices paid by urban consumers for a "market basket" of consumer goods and services. One of the other indices is the Chained Consumer Price Index for All Urban Consumers (C-CPI-U). The "regular" CPI uses a static basket of goods; the "chained" one reflects the effect of any substitution that consumers make across item categories in response to changes in relative prices. The common example is that when the price of beef goes up, consumers switch to chicken if it is cheaper. So if you have a static basket of goods, you are not capturing the adjustment we make in the real world when prices go up.

There are a variety of other plusses and minuses for small business if there is a switch, as the story on SSA and IRS programs illustrates.

BLUE SLIPPING

Article I, Section 7 of the Constitution states: "All Bills for raising Revenue shall originate in the House of Representatives." This is often referred to as the "origination" clause. Over the years, the House has interpreted this requirement in the broadest manner. Generally, "raising" has come to mean "affecting" The term used to describe the House's exercise of its prerogative is called "blue slipping." This refers to the color of the paper used for the resolution by which the House rejects the Senate action regarding revenues. Technically, the motion informs the Senate it has infringed upon the privileges of the House and the motion returns the bill to the Senate. As far as I know, any time the House has chosen to "blue-slip" a bill, it has been upheld.