



SMALL BUSINESS
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SMALL BUSINESS LENDING

Over the course of the last 30 years, I probably can count one hand the number of times I have written about small business lending programs. I have never been a fan of the Small Business Administration (SBA) lending programs. Now, I know some sectors represented by SBLC members (e.g. franchising, micro-business start-ups) do utilize the SBA lending programs. But, for the bulk of our constituency, an SBA loan is just not an attractive alternative – it is, after all, a loan of last resort.

Now I can get a little more excited about helping others like community banks to lend to small businesses. The problem with writing about such initiatives is that I would put you to sleep. The kinds of things one needs to do, do not make for interesting copy. We have been working on those, just not talking about it.

The newspapers are full of stories about the Administration's initiatives to improve SBA programs. Legislation will be brought to the House floor this week to "improve" the SBA programs. While I happen to think

the improvements are fine, I am not writing about them. Even with the improvements, I just do not see most of our small businesses using SBA loans. However, one thing I am always willing to do, and that is do what you want me to do. So, if you think SBA lending programs are important, let me know.

THE "PAY GO" THAT KEEPS ON GOING

So, where do I spend my time? How about that proposal to have every business send all of its vendors a Form 1099. While rooted in the tax gap closing debate, the proposal has taken on new life as a tax revenue raiser to be used as an offset against spending increases or other tax relief. It is gaining dangerous traction. In the Washington parlance, the requirement for an offset is known as a "pay-go." It has not been knocked out of the Senate Finance health care reform bill. Now, other folks have said, "Well, hey, there was no major objection to it, maybe I can use that as an offset for something I want to do."

For example, this week the Senate will consider a bill to extend unemployment benefits. The line to offer amendments to provide tax

relief is a mile long with the Senate Majority Leader Harry Reid (D-NV) at the head of the line. (He wants to extend the homebuyer's tax credit). Well, if you are going to offer a tax relief amendment, you need an offset. What better one than the Form 1099 requirement? That's what Senator Jim Bunning (R-KY) reportedly will do for an amendment he has to expand the temporary Net Operating Loss carryback relief passed earlier this year.

Now anyone can offer the Form 1099 offset. Until it passes and becomes law, it is up for grabs. So even though it is in the Senate Finance Committee health care bill, others can offer it in other debates. Other than SBLC and our friends at the Chamber and NFIB, no one is raising the red flags about the extraordinary burden and there is a growing perception on the Hill that it is okay to use it as a revenue offset.

ESTATE TAX

With each passing day, it appears the House will consider a permanent freeze of the estate tax exemption and top rate at 2009 levels. That is the good news. The bad news is that they are talking

about attaching to it legislation to create a statutory pay-go requirement. What did you say? Didn't you just talk about pay go in the last article? Isn't it law?

It is not. Congress has adopted "pay-go" budget "rules." The last statutory pay-go requirement expired in 2002. Earlier this year, during the budget debate, the fiscally conservative House Blue Dogs arrived at an agreement with the House leadership that they would let the budget resolution move forward provided the House leadership brought a statutory pay go bill to the floor. In addition, the leadership was able to convince the Blue Dogs, that if the statutory pay go bill was enacted, four items would be exempt from the requirements. The permanent estate tax freeze was one of the four.

The House passed the pay go bill, H.R. 2920, in July. The Senate has shown little interest in the bill. The main "objector" has been Senate Budget Committee Chairman Kent Conrad (D-ND) and his main objection has been an objection to the exemption of the four items. He has additional concerns about the pay go process. The statutory version requires "sequestration" as the enforcement mechanism. Under sequestration, the Office of Management keeps track of all the mandatory spending and tax actions taken, and if at the end of the year, it is not in balance or has a "positive" balance, across the board cuts are supposed to be implemented by agencies. (Congress and the President always managed to avoid a sequestration with some procedural moves.)

President Obama supports the estate tax freeze and passage of a statutory pay go regime.

Now, the House leadership plan appears to be trying to force the issue of passage of the pay go bill by tying it directly to the estate tax relief. Supposedly, a rule will be adopted by the Rules Committee so that when the estate tax relief bill is passed by House, it will automatically be "deemed" that the previously-passed statutory pay go bill will be attached to it before it is sent over to the Senate.

Part of the idea is that those of us who want to enact the permanent estate tax freeze will help put pressure on the Senate to pass the statutory pay go bill.

The other three items are some of the middle class tax cuts that expire at the end of 2010, making the Alternative Minimum Tax income level patch "permanent" and stopping the Medicare physician payment cuts that are currently automatically scheduled to be implemented at the end of the year.

You may say, "Hey, haven't I been reading about the Medicare physician payment cuts and a temporary fix in the newspapers?" Yes, you have. An effort to stop the cuts from being implemented failed in the Senate last week. Hmmm, how convenient. The statutory pay go bill brought to the House floor shortly after one of the items in the budget deal fails on its own in the Senate? Whaddya know? Another group to press the Senate to pass the statutory pay-go limit.

Clearly, a test of wills.

(PS. Yes, Form 1099 requirements could be one of the pay-go items for any of the aforementioned relief items if pay-go is not passed. It does not generate enough revenue to be the only offset, but it could be part of a package.)

UNEMPLOYMENT INSURANCE

The Senate plans to consider legislation to extend the temporary extension of unemployment benefits for another 13 weeks. Only the unemployed in states with high employment rates would be eligible. The final litmus test has not been decided but, at last check, some 25 states would be eligible. I can only assume that number will rise as senators continue to press to get their states over the extension line.

The interesting issue is that after 30 years, a temporary ☺ FUTA surtax of .2 per worker on wages up to \$7,000 (\$14) that employers paid, was set to expire at the end of 2009. (The permanent base rate is .6 percent of \$7,000 (\$42)) Renewing the surtax was one of the House's offsets. As noted, senators are trying to add other items to the unemployment benefits bill. As a result, the mix of offsets will probably change.