

TAX TAKE: Time After Time: JCT Issues Report as Concerns Grow Over the Fate of Extenders

Tax Alert

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As the fate of the Build Back Better Act (BBBA) remains uncertain, attention has turned to other legislative priorities, including the fate of the so-called "extenders" package. The extenders package is a collection of temporary individual and business tax relief provisions that Congress needs to extend on a regular basis. To aid policymakers in their consideration of the extenders package, the Joint Committee on Taxation (JCT) recently released its annual "[List of Expiring Tax Provisions](#)," which provides a comprehensive list of every provision expiring each year. Importantly, the 2021 extenders package (*i.e.*, those temporary provisions that expired as of December 31, 2021) were not addressed last year and will need to be enacted, as extenders packages often are, on a retroactive basis.

The 2021 "extenders" package primarily includes green energy tax incentive provisions, a number of which were proposed to be extended by the pending BBBA, as well as the expanded child tax credit that has generated significant recent attention from Senator Joe Manchin (D-WV). Also included are pending changes resulting from the Tax Cuts and Jobs Act (TCJA), including the transition from the full deductibility of research and development expenditures to a five- or 15-year amortization schedule (which was also addressed in the pending BBBA bill) and the shift from EBITDA to EBIT when calculating adjusted taxable income for purposes of determining the amount of allowable interest expense that can be deducted under section 163(j).

Looking forward, the 2022 extenders package consisting of temporary provisions scheduled to expire as of the end of the year currently includes a more modest list of provisions, although that list could grow if the 2021 package is only extended for one year. The highest priority item in the 2022 package would address the beginning of the scheduled phase-out of 100 percent bonus depreciation scheduled to begin in 2023.

As for potential vehicles for the extenders package (outside the inclusion of some provisions in the BBBA, if it moves forward), interested parties are hopeful that the pending omnibus appropriations legislation to fund the federal government when the current continuing resolution expires on February 18 presents an opportunity for an extenders package, given that it traditionally enjoys bipartisan support. Outside of the omnibus, other opportunities may be limited during the year given the pending mid-term elections. Extenders may have to wait for a potential year-end lame duck legislative vehicle, although the likelihood and scope of such lame duck legislation is highly dependent on the mid-term election results. **#TaxTake**

Upcoming Speaking Engagements and Events

Marc will present, "[Tax Legislative Review and Outlook](#)," to the Tax Executives Institute (TEI) Nebraska Chapter on January 25.

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