Summary: April 24, 2018

In this week's Tax Credit Tuesday Podcast, Michael J. Novogradac, CPA, discusses the latest efforts to rescind parts of the $1.3 trillion omnibus spending bill for fiscal year 2018. After that, he briefly touches on a package of bills developed to improve administration of the IRS. Then, he discusses a scheduled hearing on the new tax law and a recent House Ways and Means Tax Policy Subcommittee roundtable on expiring tax provisions. After that, he shares news on new opportunity zone designations, a California housing bill (S.B. 827) and the recently released inflation adjustments for the renewable energy production tax credit.

Summaries of each topic:

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GENERAL NEWS

Omnibus Rollback

- So I'll start off with some ominous news about the omnibus.
- In last week's podcast, I mentioned efforts to rescind some of the appropriations dollars that were passed just a few weeks ago in the fiscal year 2018 omnibus bill.
- Now among those pushing to claw back spending from the $1.3 trillion bill are both President Donald Trump, as well as House Majority Leader Kevin McCarthy.
- And more specifically, President Trump has asked Office of Management and Budget Director Mick Mulvaney to develop a rescission proposal, develop such a proposal within the next couple of weeks.
- Now at this point, it's not entirely clear where the administration will propose making cuts.
- However, if past actions are any indication of what to expect, then we can expect housing and community development funding to take a hit in the Trump administration rescission proposal.
- You may recall that Trump's fiscal year 2019 budget request called to eliminate the Community Development Block Grant and HOME Investment Partnerships programs, as well as public housing capital fund.
- Now again, we don't know yet what the rescission proposal will entail, but it's probably not going to be favorable.
- But first, let's describe how a rescission proposal works.
    - I like to detail.
- Now in describing how a rescission proposal works, I want to thank the Bipartisan Policy Center for an excellent description of the process, and that's a description from which this discussion is excerpted.
- I'll tweet out a link to the Policy Center's analysis as to how a rescission would work.
- So a rescission proposal is first submitted by the president and to the Congress, and it's technically an appropriation measure, which is then sent to the appropriation committees in the House and Senate.
- Now these committees then have 25 days to either approve, disapprove or amend the measure.
- Now if the committees take no action within that 25 days, then measure is subject to discharge from the committee and can go to the full House and Senate for action.
- Now if either of the committees, both the House or Senate disapproves the measure, then the process stops.
- Now Congress has a total of 45 days, defined as 45 consecutive days of session, to act on the rescission package.
- Now if Congress doesn't approve the president's rescissions within 45 days, then the president then has to release the rescinded monies to the agencies.
- So the President needs a positive vote from Congress in order for the rescission to take effect.
- But I should note, that positive vote is a simple majority in the House and a majority in the Senate.
    - You can't filibuster this in the Senate.
- So the question of course is, is there a consensus among Republican leaders in the Congress about rescission?

  - The answer is a simple one.
    - No, there is not consensus.
- Most notably, Senate Majority Leader Mitch McConnell told Fox News last week that his chamber would *not* consider a spending cuts package on the Senate floor.
- Without McConnell's support, it does not come as any surprise that any rescission package has little chance of passing.
- But it could be even more difficult because any rescission package would also need support from House Appropriations Committee Chairman Rodney Frelinghuysen and Senate Appropriations Committee Chairman Richard Shelby.
  - Both chairmen have suggested that a rescission would be unlikely to pass.
- Now I'll keep you posted in future podcast episodes to the extent that conditions change such that a further update is warranted.
- We're hopeful it's not going to change too dramatically, but we'll see.

Bills to Improve IRS

- Now I wanted to turn to the IRS.
- Now the recent April 17th filing deadline, or I should say the April 18th filing deadline for individuals given the mix up and the hardware failure at the IRS.
- But with the filing deadline behind us, I wanted to briefly discuss a recent bill about the IRS.
- Now the House last week unanimously passed a package of bipartisan tax-related bills that are intended to improve IRS administration and operations.
- These proposals, these bills, were combined into one final bill that the House advanced to the Senate.
- Now this legislation has been referred to the Senate Finance Committee in the Senate for consideration.
- We'll give you more details on this IRS administration bill in future podcasts as it gains momentum to the extent that it does.

Tax Law Hearing

- Meanwhile, staying with the Senate Finance Committee for the moment, the Senate Finance Committee is holding a hearing today on early impressions of the new tax law, the tax law that was enacted at the end of last year.
- Now witnesses are going to include representatives from a material handling equipment company, from the American Action Forum and from two law professors.
  - One from NYU and one from Brooklyn Law School.
- In the House, I would note, the Housing and Insurance Subcommittee is going to hold a hearing on HUD rent reform tomorrow.
- And the Transportation-HUD Appropriations Subcommittee is going to hold a hearing on the Federal Housing Administration (FHA) at the same time.
- Now I'll report back in next week's podcast about any notable highlights from the Senate hearing on the tax bill, from the House hearing on HUD rent reform and from the Transportation-HUD Appropriations Subcommittee on the FHA.
- Once again, I'll report back next week to the extent that there are notable highlights from those hearings.

Expiring Tax Provisions Roundtable

- Let's stay with Congress for the moment, because there is other Congressional news.
- Last week, last Wednesday to be exact, the House Ways and Means Committee held a closed-door roundtable meeting to discuss tax extenders with a focus on tax extenders that expired at the end of 2017.
- After the meeting, Rep. Mike Thompson noted that there were a couple of areas that got particular attention:
  - Recovery period for motor sports facilities and
  - The income tax exclusion benefits for volunteer firefighters and emergency responders.
- Now Tax Policy Subcommittee Chairman Vern Buchanan presided over the meeting, since tax extenders are part of the Tax Policy Subcommittee.
- While the meeting was broader, the meeting was open to all House lawmakers.
- It was lead by the Tax Policy Subcommittee Chairman Vern Buchanan.
- Reportedly about a dozen lawmakers participated in the roundtable.
- Participants discussed which expiring tax provisions should be made permanent, which should be phased out or which should be eliminated more immediately or simply not extended again.
- Now Chairman Brady noted that it was hard for some members to quote, "let go" of extenders given the quote, "annual tradition" of extending them.
- That said, according to Bloomberg, Brady hinted that certain industries benefiting from the new tax law could see extenders that benefit them, eliminated.
- Which also implies that many of these extenders are likely to be extended once again.

OTHER NEWS

- Now let's turn to other news.
- We'll start with opportunity zones.
- The Treasury Department last week designated qualified opportunity zones in five states and one territory.
- The states that now have official designations from Treasury are:
    - Alabama,
    - Delaware,
    - Missouri,
    - Ohio and
    - Texas.
    - As well as the territory Northern Mariana Islands.
        - I should note these are the new designations.
- There are 15 states that have previously been designated.
- So now we have 20 states and a total of four territories with designated qualified opportunity zones.
- Now as you know, investors in qualified opportunity funds that in turn make equity investments or own property in qualified opportunity zones can qualify for a three-part tax incentive.
- Namely, one, investors can defer tax on prior gains until no later than Dec. 31, 2026, as well as get to exclude up to 15 percent of the gain if they hold their investments for more than 7 years.
- And lastly, any additional gains on the investments will be not subject to tax to the extent that they hold the investments for 10 years.
- To reinforce their support for the opportunity zones legislation and the opportunity zones law, the White House last week released a roundup of quotes from senators, governors and state leaders in support of the opportunity zones concept, including a quite from Senate Majority Leader Mitch McConnell.
- Now we expect more opportunity zone designations will be announced over the next 30 days.
- The deadline for states and territories to nominate zones within their state or territory was last Friday.
- And we believe all states did submit a request for designation of opportunity zones if they hadn't done so previously.
- Treasury has 30 days from when they received the nominations, or the designations, from the state to certify them.
- So we expect within 30 days to know all the opportunity zones that will be available.
- Now in the meantime, you can learn more about the opportunity zone incentive by watching a recording of our Novogradac Investing in Opportunity Act Webinar that aired this past Friday.
- I was fortunate enough to be able to moderate the discussion.
- This recording is now available on the Novogradac website.
- Also, you can also purchase the 2018 Novogradac Tax Reform Resource Guide that has a section dedicated to the opportunity zone incentive.
- I should note this guide is free, a PDF version is free to clients of the firm, so if you're a client of the firm reach out to your Novogradac professional.

- Now I've included links to both the webinar recording and the tax reform resource guide in today's show notes.
- I'll also tweet the links through my Twitter handle, @Novogradac.
- We at Novogradac & Company are very excited about the opportunity zone legislation and how it can help distressed areas, and look forward to working with you, our listeners and others, to help implement the law.
- Now, I'd like to turn to state news, most particularly, California.
- I'd like to discuss an affordable housing bill that unfortunately went down in defeat.
- The California state Senate Transportation and Housing Committee recently voted down a bill that would have allowed higher density housing with affordability restrictions to be built near transit stations.
    - The bill was Senate Bill 827 and was then granted though, reconsideration and is going to be discussed at a hearing tomorrow.
- Now the bill is a good fit with the low-income housing tax credit (LIHTC) program as California awards extra points in its qualified allocation plan for transit-oriented development.
- If you are interested in reading the bill, you can find the link to it in today's show notes.
- And once again, the bill was granted reconsideration and will be discussed further tomorrow at a hearing, so we'll keep you updated through Twitter as to what happens.
- Finally, turning to energy for a moment, the IRS last week released calendar year 2018 inflation adjustment factors and reference prices.
- Now these adjustment factors and reference prices are used to determine the availability and amount of production tax credits (PTCs) for renewable electricity production.
- The IRS stated that the calendar year 2018 inflation adjustment factor for qualified energy resources and refined coal is 1.6072.
- And the 2018 reference price for facilities that produce electricity from wind is 4.85 cents per kilowatt-hour.
    - Now, that's a bunch of numbers.
- These reference prices and inflation adjustment factors and the like are used to determine whether or not there is going to be a phase out of the credits.
- The good news is the phase out of the credits won't apply to wind-produced electricity sold during 2018.
- As a result, the 2018 credit rate for wind is unchanged from the previous year at 2.4 cents per kilowatt hour.
- If you want to learn more, go to www.energytaxcredits.com, or reach out to a Novogradac professional.

RELATED RESOURCES

Opportunity Zone Designations

Designated qualified opportunity zones (as of April 18, 2018)
Novogradac Investing in Opportunity Act Webinar recording
2018 Novogradac Tax Reform Resource Guide

California Housing Bill

Senate Bill 827

CY 2018 Inflation Adjustment Factor for PTC

Publication of inflation adjustment factor and reference prices for calendar year 2018

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