
House Ways and Means Committee approves permanent extension of research credit, other select expired business tax provisions

April 29, 2014

In brief

The House Ways and Means Committee today approved six separate bills to permanently extend certain expired business tax provisions. These bills address the research credit (H.R. 4438), 'look-through' treatment for controlled foreign corporations (CFCs) (H.R. 4464), the subpart F exceptions for active financing income (H.R. 4429), increased section 179 'small business' expensing limits (H.R. 4457), a reduced recognition period for S corporation built-in gains (H.R. 4453), and basis adjustments to stock of S corporations making charitable contributions of property (H.R. 4454).

These permanent 'tax extender' bills, approved by the Ways and Means Committee without revenue offsets, are estimated by Joint Committee on Taxation (JCT) staff to reduce federal revenues altogether by \$310 billion over 10 years.

House Majority Leader Eric Cantor (R-VA) has announced that the full House will vote in May on the bill making the research credit permanent, with votes to be held in the months ahead on other permanent tax extender bills.

In the Senate, Majority Leader Harry Reid (D-NV) has said he hopes to schedule a Senate floor vote in May on an \$85 billion temporary tax extender bill (S. 2260) approved by the Finance Committee on April 3, 2014. S. 2260 would extend the research credit and more than 50 other expired and expiring business and individual provisions, including 50-percent 'bonus' depreciation, through the end of 2015. The Finance Committee on April 3 also approved a separate bill (S. 2261) providing technical corrections to tax laws enacted since 2004. For more on the Finance Committee bills, see our April 3 [WNTS Insight](#).

In detail

Ways and Means Committee Chairman Dave Camp (R-MI) announced today that the approval of six tax extender bills is an "important step" toward making the United States a "more attractive

place to invest and hire," and "puts us on a path toward comprehensive tax reform that lowers rates and makes the code simpler and fairer."

The Ways and Means Committee on April 8 held a hearing on certain expired

provisions that were addressed in the reform discussion draft released by Chairman Camp in late February. The tax extender bills approved today by the committee differ in certain respects from the provisions in Chairman Camp's draft

bill. For a detailed summary of Chairman Camp's tax reform discussion draft, see our February 28 [WNTS Insight](#).

Chairman Camp said that today's action to make permanent six provisions is only the beginning of the process of considering expired tax provisions in the House.

Research credit

H.R. 4438 makes permanent the alternative simplified method for calculating the research credit and increases the rate from 14 to 20 percent. The bill repeals the traditional 'regular' 20-percent research credit calculation method. The bill also makes permanent the credits for amounts paid for basic research and amounts paid to an energy consortium (both with credit rates of 20 percent), and changes the base period for the basic research credit from a fixed period to a three-year rolling average.

Note: The permanent research credit approved by the Ways and Means Committee does not include language from Chairman Camp's tax reform discussion draft that would have excluded amounts paid for supplies or with respect to computer software development from qualifying.

H.R. 4438 would be effective for amounts paid or incurred after December 31, 2013. Other elements of the bill are effective for taxable years beginning after December 31, 2013. JCT staff estimates that H.R. 4438 would reduce federal revenues by \$155.5 billion over 10 years.

CFC look-through

H.R. 4464 makes permanent 'look-through' treatment for CFCs, effective for taxable years of foreign corporations beginning after December 31, 2013, and for taxable years of U.S. shareholders with or

within which such taxable years of foreign corporations end. JCT staff estimates that this bill would reduce federal revenues by \$20.3 billion over 10 years.

Subpart F active financing exceptions

H.R. 4429 makes permanent the temporary exceptions from subpart F foreign personal holding company income, foreign base company services income, and insurance income for certain income that is derived in the active conduct of a banking, financing, or similar business, as a securities dealer, or in the conduct of an insurance business. The bill is effective for taxable years of foreign corporations beginning after December 31, 2013, and for taxable years of U.S. shareholders with or within which such taxable years of such foreign corporations end. JCT staff estimates that this bill would reduce federal revenues by \$58.8 billion over 10 years.

Section 179 expensing

H.R. 4457 makes permanent certain increased section 179 'small business' expensing limits. Under the bill, the maximum amount a taxpayer may expense under section 179, for taxable years beginning after 2013, is \$500,000 of the cost of qualifying property placed in service for the taxable year. The \$500,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds \$2 million. The \$500,000 and \$2 million amounts are indexed for inflation for taxable years beginning after 2014.

In addition, H.R. 4457 makes permanent, for taxable years beginning after 2013, the treatment of off-the-shelf computer software as qualifying property. The bill also makes permanent the treatment of qualified real property as eligible

section 179 property for taxable years beginning after 2013. Further, the bill removes the limitation related to the amount of qualified real property that qualifies as section 179 property for taxable years beginning after 2013. The bill also repeals a current law provision that excludes air conditioning and heating units from the definition of qualifying property. The bill permits the taxpayer to revoke without IRS consent any election made under section 179 after 2002. JCT staff estimates that this bill would reduce federal revenues by \$73.1 billion over 10 years.

S corporation built-in gain

H.R. 4453 makes permanent the five-year recognition period for built-in gains of S corporations. Under current Treasury regulations, this five-year recognition period also would apply to real estate investment trusts and regulated investment companies that do not elect 'deemed sale' treatment. JCT staff estimates that this bill would reduce federal revenues by \$1.5 billion over 10 years.

S corporation charitable contributions of property

H.R. 4454 makes permanent certain rules related to basis adjustments to the stock of S corporations making charitable contributions of property, effective for charitable contributions made in taxable years beginning after December 31, 2013. JCT staff estimates that this bill would reduce federal revenues by \$0.7 billion over 10 years.

Policy disagreements

House Ways and Means Ranking Member Sander Levin (D-MI) expressed concern that permanent extension of expired tax provisions without revenue offsets is "starting down the path of fiscal irresponsibility." In response, Chairman Camp stated that Congress

has repeatedly renewed the research credit and other expired tax provisions on a temporary basis without revenue offsets. Chairman Camp added that the cumulative cost of the previous temporary extensions of these six provisions far exceeds the projected 10-year cost of making the provisions permanent.

The Ways and Means Committee approved the six permanent tax extender bills generally on a party-line basis. Rep. Levin commented that there is bipartisan support for renewing the research credit and other expired provisions, but

Democrats in general could not support making permanent select expired provisions without offsets at a time when House leaders had allowed expanded federal unemployment insurance benefits to expire because of concerns about a lack of adequate offsets.

Rep. Levin also expressed concern that the fate of other expired provisions, including the Work Opportunity Tax Credit and renewable energy tax credits, was being left uncertain.

Click [here](#) for links to JCT descriptions and the statutory language of the tax extender bills approved by the Ways and Means Committee.

The takeaway

Congress will need to reconcile differences between tax extender bills approved by the House Ways and Means Committee and the Senate Finance Committee before final legislation can be enacted. It remains unclear when Congress may take final action to address tax extenders legislation.

Let's talk

For a deeper discussion of how this might affect your business, please contact:

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