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Insight

Tax Provisions in the HEALS Act

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Executive Summary

- The Health, Economic Assistance, Liability Protection, and Schools (HEALS) Act includes a second round of direct payments to individuals.
- The Act also includes four new business tax provisions, including two expansions of hiring credits, a new tax credit against employers' investments to mitigate workplace health risks, and tax changes to facilitate assistance to gig workers.
- Combined, the individual and business tax provisions provide significant incentives for maintaining household liquidity and returning to work.

Introduction

On July 27, Senate Republicans introduced the Health, Economic Assistance, Liability Protection, and Schools (HEALS) Act, an opening bid in the congressional debate over the path of the next federal fiscal response to the COVID-19 pandemic. Among other provisions, the act contains a second round of direct payments to individuals. The bill also includes four major business tax relief provisions, including the expansion of two tax credits to incentivize firms to hire and retain employees, a new tax credit for employers investing in protections against the spread of COVD-19 in the workplace, and tax assistance for independent contractors. The act also contains a number of adjustments and technical tweaks.

Direct Payments to Individuals

The HEALS Act conspicuously provides a second round of direct payments to individuals and families. The HEALS provision largely mirrors the CARES Act payments: For individuals with incomes up to $75,000, the act provides a $1,200 payment, phasing out at a rate of 5 percent for every $100 in income above $75,000. The payment is thus phased out entirely for an individual making $99,000. Married couples with combined incomes up to $150,000 would receive $2,400, subject to the same phaseout as that applying to individuals. Thus, for married couples making $198,000, the payment would be phased out. The provision also provides an additional $500 per dependent, though also subject to phaseout. This is a key distinction from the CARES Act provision, which limited the additional payment to children under 17. Eligibility and benefit levels would be based on 2019 income tax filings, where possible. 2018 tax data and Social Security data can be used in lieu of 2019 data if it is unavailable. Individuals will not be required to repay any overpayment when filing their 2020 taxes.

The act shields payments from garnishment except for recipients behind on child-support payments. HEALS would also explicitly bar decedents from receiving the payments, as well as prisoners incarcerated at the time payments are processed by Treasury.

According to the Joint Committee on Taxation (JCT), the direct payments provision in CARES cost $293 billion over the next decade. Given the expansion of the $500 payment to dependents, this provision would likely cost more than was estimated for the similar CARES provision.

Business Provisions

The HEALS Act contains four major business tax provisions largely directed at incentivizing workforce retention and hiring. The CARES Act created a new employee retention tax credit (ERTC) to incentivize firms to retain their workforce, which is available through the end of the year. This provision provides employers with a refundable tax credit against payroll taxes equal to 50 percent of employee wages up to $10,000 per employee. Employers are eligible for the ERTC if their operations were fully or partially suspended due to a COVID-19-related shutdown order, or if their gross receipts declined by more than 50 percent when compared to the same quarter in the previous year. For employers of 100 employees or greater, the credit is creditable only against the portion of qualified employees' wages paid for not performing services – i.e. the share of wages employers are paying employees who nevertheless are lost due to the economic shock of the pandemic. For employers with less than 100 employees, employers may apply the credit against the full amount of qualified wages. The HEALS Act would expand this policy to cover 65 percent of wages of up to $10,000 per employee per quarter (capped at $30,000). JCT estimated that the CARES Act ERTC would cost $54 billion. This policy would significantly expand the cost of this policy.

HEALS would also expand the Work Opportunity Tax Credit (WOTC). Under current law, the WOTC provides a credit to employers on 40 percent of an eligible new hire's first $6,000 in wages. The credit is available to employers who hire individuals from nine specified groups

– including veterans, families receiving federal assistance under certain programs, qualified ex-felons, at-risk youth, and other vulnerable populations. The HEALS Act would expand the credit to include a 10th group, anyone receiving unemployment insurance immediately prior to their hiring and before next year. The credit for this group is also more generous, providing employers with a credit on 50 percent of the employee's first $10,000 in wages. Under current law, the WOTC costs about $3 billion over 10 years. This policy could substantially increase this cost.

The act also provides businesses with a new tax credit of 50 percent of an employer's "qualified employee protection expenses," which could include testing for COVID-19, protective personal equipment, and cleaning supplies. The credit would also available for "qualified workplace reconfiguration expenses" and "qualified workplace technology expenses." Qualified workplace reconfiguration expenses and qualified workplace technology expenses must have a primary purpose of preventing the spread of COVID-19, among other requirements. Qualified expenses are limited to a cap equal to $1,000 for each of the first 500 employees, plus $750 for each employee between 500 and 1,000, plus $500 for each employee that exceeds 1,000. The self-employed are also eligible.

The HEALS Act also includes a provision that provides a legal safe-harbor for marketplace platform firms that rely primarily on independent contractors, i.e. the gig-economy. This provision allows such firms to provide additional non-cash benefits – such as testing, PPE, or health care – to their contractors without jeopardizing the employment status of those workers. All else equal, providing additional benefits beyond 1099 wages could result in a worker losing independent contractor status, which could have adverse implications for that worker.

Conclusion

The HEALS Act contains significant new and expanded tax provisions designed to provide continued household assistance, while reorienting federal policy toward economic recovery over relief. The business tax provisions in particular are designed to incentivize hiring, while recognizing the health risks that COVID-19 continues to pose to society in general and the workplace in particular.