TAXES: HOUSE PASSES TAX EXTENDERS BILL

By an overwhelming vote of 378-46, the House passed H.R. 5771 Wednesday, December 3, 2014. The bill extends over 50 expired tax breaks for a year through the end of 2014. Thus allowing taxpayers to take advantage of the tax credits and deductions for this tax year. The Senate is also expected to pass the $41.6 billion package.

Among the tax credits and deductions extended are:
- the deduction for certain expenses of elementary and secondary school teachers. This provision would cost $214 million over 2015-2024.
- the treatment of qualified mortgage insurance premiums as interest for purposes of the mortgage interest deduction. The provision would cost $919 million.
- the above-the-line deduction for qualified tuition and related expenses for higher education. The deduction is capped at $4,000 for an individual whose adjusted gross income (AGI) does not exceed $65,000 ($130,000 for joint filers) or $2,000 for an individual whose AGI does not exceed $80,000 ($160,000 for joint filers). This provision would reduce revenues by $300 million.
- the research and development (R&D) tax credit. The R&D credit generally allows taxpayers a 20 percent credit for qualified research expenses or a 14 percent alternative simplified credit. This provision would reduce revenues by $7.629 billion over the ten year time frame.
- the application of the temporary 9 percent minimum credit rate for the low income housing tax credit for non-Federally subsidized new buildings to allocations made before January 1, 2015. This provision would reduce revenues by less than $500,000.
- the work opportunity tax credit. This provision would reduce revenues by $1.375 billion.
- qualified zone academy bonds. The provision would authorize the issuance of $400 million of qualified zone academy bonds during 2014. The bond proceeds are used for school renovations, equipment, teacher training, and course materials at a qualified zone academy, provided that private entities have promised to donate certain property and services to the academy with a value equal to at least 10 percent of the bond proceeds. This provision would reduce revenues by $126 million.
- the 50 percent bonus depreciation to property acquired and placed in service during 2014 (2015 for certain property with a longer production period). This provision would continue to allow taxpayers to elect to accelerate the use of AMT credits in lieu of bonus depreciation under special rules for property placed in service during 2014. The provision would also continue a special accounting rule involving long-term contracts and a special rule for regulated utilities. This provision would reduce revenues by $1.492 billion.

- the special expensing provision for qualified film and television productions. In general, only the first $15 million of costs may be expensed. This provision would reduce revenues by $6 million.

- the tax benefits for certain businesses and employers operating in empowerment zones. Empowerment zones are economically distressed areas, and the tax benefits available include tax-exempt bonds, employment credits, increased expensing, and gain exclusion from the sale of certain small-business stock. This provision would reduce revenues by $251 million.

- the credit for purchases of nonbusiness energy property. The provision allows a credit of 10 percent of the amount paid or incurred by the taxpayer for qualified energy improvements, up to $500. This provision would reduce revenues by $832 million.

Because the package only extends the tax deductions and credits through the end of this year, the issue will have to be dealt with again in the next Congress.

To obtain a list of all the extensions, go to: http://rules.house.gov/sites/republicans.rules.house.gov/files/113-2/PDF/113-HR5771-Sxs.pdf

RESOURCES: CALIFORNIANS INTRODUCE WATER BILL TO RELIEVE DROUGHT

Rep. David Valadao (Hanford) with the support of the other California Republicans and Democrat Jim Costa (Fresno) introduced H.R. 5781, the California Emergency Drought Relief Act of 2014. The bill is aimed at providing eighteen months of relief (two water years) while protecting the State Water Project and protecting Northern California water rights.

In introducing the bill, Valadao acknowledged that negotiations with Senator Dianne Feinstein to find a bipartisan compromise had broken down. However, he said his bill contained “no controversial measures for either Party. Not only will this legislation provide a temporary eighteen month solution, it will also help ensure negotiations between the Senate and the House continue.” He went on, “I will not let this year end without exhausting every possible option to bring relief to the Central Valley.”

The bill would allow for increasing pumping rates in the Bay-Delta in order to provide more water to the Central Valley. It would also drop water storage project authorizations.

The House is expected to take up the bill on Monday, December 8, 2014.

**IMMIGRATION: HOUSE HOMELAND SECURITY CONDUCTS HEARING ON EXECUTIVE ACTIONS; SECRETARY OF DHS DEFENDS PRESIDENT'S ACTIONS**

The House Committee on Homeland Security conducted a hearing entitled "Open Borders: The impact of Presidential Amnesty on Border Security," on Tuesday, December 2, 2014. In his opening statement, Chairman Michael McCaul (TX) criticized the President's actions announced on November 20 as a grab for power, breaking the necessary trust between the executive and legislative branches of government. The Department of Homeland Security Secretary, Jeh Johnson, testified in defense of the President's executive actions on immigration. The major issues addressed in the hearing included the constitutionality of the president's actions, whether the actions encourage more unlawful immigration, and the security of the border.

"What do you say to someone who believes that the President took action to change the law?" asked Congressman Jason Chaffetz (R-UT). Secretary Johnson replied, "We did not change the law. We acted within the law." In response to criticisms on the President's unilateral action, Secretary Johnson explained that after being tasked with creating new enforcement priorities since the spring and working with Congress and other stakeholders to no avail, "We feel like we had no choice." Finally, Secretary Johnson encouraged Congress to create a permanent solution to immigration by passing a comprehensive measure.

Secretary Johnson's testimony outlined the guidelines for the executive actions as follows: “We will offer, on a case by case basis, deferred action to individuals who (I) are not removal priorities under our new policy, (ii) have been in this country at least 5 years, (iii) have sons or daughters who are U.S. citizens or lawful permanent residents, and (iv) present no other factors that would make a grant of deferred action inappropriate.

In addition, the Deferred Action for Childhood Arrivals (DACA) program will be extended to cover all undocumented immigrants who entered the United States before age 16 and the cut-off date will be extended from June 15, 2007 to January 1, 2010. He noted that deferred action does not grant a path to legalization, such as legal permanent residence or citizenship, but it does grant temporary relief from deportation and the ability to work in the country. Work authorizations will be expanded from two to three years. The Secure Communities program will be stopped and replaced by a Southern Border Campaign Plan with added detention capability to enhance border security.

Secretary Johnson also maintained that the President's actions will allow DHS to prioritize the deportation of new arrivals and criminals rather than those who have been law-abiding members of their communities for years. Even so, Chairman McCaul disagreed with Johnson's assessment, claiming that unlawful immigrants will flood our borders in response, citing this year's spike of unaccompanied minors as a result of DACA. When pressed on the metrics used to determine the level of security at the border, Secretary Johnson noted that the Border Patrol is in the process of determining a set of metrics to assess border security and admitted "We can do better."

For more information on the hearing, please visit: http://homeland.house.gov/hearing/open-borders-impact-presidential-amnesty-border-security.

**IMMIGRATION: HOUSE COMMITTEE DEBATES CONSTITUTIONALITY OF EXECUTIVE ACTIONS ON IMMIGRATION**

On Tuesday, December 2, 2014, the House Judiciary Committee held a hearing entitled, "President Obama's Executive Overreach on Immigration" to debate President Barack Obama's executive actions taken on November 20 to defer the deportation of certain classes of undocumented immigrants. The Obama administration justifies the actions by citing prosecutorial discretion, the
executive's legal ability to decide who to investigate, arrest, detain, charge, and prosecute. The Office of Legal Counsel (OLC) maintains in their opinion that prosecutorial discretion is legal as long as protection from deportation is decided on a case-by-case basis. The committee debated the constitutionality of prosecutorial authority in the context of immigration and whether the President's executive actions on immigration have changed the law, a power reserved for Congress. While the President's executive actions addressed deportations and border security enforcement, the focus of the hearing rested on the changes to deportation proceedings. Process, rather than policy, was the subject of the hearing.

Witnesses included Mr. Ronald Rotunda, Doy and Hee Henley Chair and Distinguished Professor of Jurisprudence Chapman University, Dale E. Fowler School of Law; Mr. Jay Sekulow, Chief Counsel, American Center for Law and Justice; Mr. Thomas H. Dupree Jr., Partner at Gibson, Dunn & Crutcher LLP; and Ms. Marielena Hincapié, Executive Director, National Immigration Law Center.

"Although reasonable minds may disagree on whether the president's actions are good public policy, what is undeniable is that the status quo is unacceptable and the President has the authority to make changes to the manner in which the immigration laws are enforced," proclaimed Ms. Hincapié. Mr. Sekulow, on the other hand, argued, "While the Constitution certainly vests considerable power in both the Executive and Judicial Branches, the exclusive authority to make and change law lies with Congress. Yet despite this exclusive grant to Congress, President Obama boldly proclaimed that his recent executive action was an action he took to 'change the law.'"

Mr. Rotunda, Mr. Sekulow, and Mr. Dupree argued that the administration's justification of prosecutorial authority is unconstitutional in this situation because of the extent of its impact and the express disapproval of Congress. When pressed about the constitutionality of executive actions on immigration taken by former presidents, particularly Presidents Ronald Reagan and George H.W. Bush, Mr. Sekulow opined that those actions were also constitutionally suspect and the fact that they have been allowed to stand does not legitimize President Obama's executive actions. Objections also arose from the possibility that a future President could revoke or significantly depart from President Obama's executive action on the subject. Such a departure could expose those who qualified for deportation relief by potentially making them eligible, if not targets, for deportation.

Disagreement among the members of the House Judiciary Committee fell along party lines. Republicans claimed presidential abuse of power while Democrats responded by urging the House to take up comprehensive immigration reform, thus allowing Congress to pass a bill.

For more information on the hearing, go to: http://judiciary.house.gov/index.cfm/hearings?ID=A8F500A6-F7DA-4BCD-8C6E-DA48841B8C13

**IMMIGRATION: HOUSE PASSES BILL TO OVERTURN EXECUTIVE ACTIONS ON IMMIGRATION**

In addition to the hearing held on the constitutionality of the President’s executive actions regarding deportation deferrals, the full House on December 4, 2014 passed a bill to prevent those actions from being implemented. The vote, mostly along party lines, was 219-197, with 3 voting Present.

Rep. Ted Yoho’s bill, H.R. 5759, attempts to nullify the President’s executive orders, by prohibiting the administration from exempting or deferring certain categories of illegal immigrants. It also prevents the administration from treating undocumented immigrants as legal immigrants and from granting them visas to work in the United States.
The vote was seen as mostly symbolic, to allow Republicans to express their anger over the President’s actions, as the Democratic-controlled Senate will not take up the bill. The President has also vowed to veto it, if by chance it made it to his desk.

For more information on the bill, go to: http://rules.house.gov/bill/113/hr-5759

**RESOURCES: SENATE SUBCOMMITTEE EXAMINES LOCAL WATER TREATMENT**

On Tuesday, December 2, 2014, the Subcommittee on Water and Wildlife of the Senate Committee on Environment and Public works held a hearing entitled, "Innovation and the Utilities of the Future: How Local Water Treatment Facilities are Leading the Way to Better Manage Wastewater and Water Supplies." The committee invited testimony from witnesses on ways to improve available tools through innovative approaches to water quality improvement.

Witnesses included Mr. Jerry Johnson, General Manager of the Suburban Sanitary Commission; Mr. Harlan L. Kelly Jr., General Manager of the San Francisco Public Utilities Commission; Mr. Tom Sigmund, Executive Director of the Camden County Municipal Utilities Authority; Mr. Jeffrey Longsworth, Partner of Barnes and Thornburg LLP; and Mr. John C. Hall, Founder and President of Hall & Associates.

"Like other utilities across the nation, our infrastructure systems face critical challenges. Our systems are aging… In many cases, water or sewer main breaks or emergency failures have substantial impacts on residences, businesses, transportation routes, and the tourism industry," testified Mr. Kelly. The San Francisco Public Utilities Commission (SFPUC) is a department of the City and County of San Francisco that provides retail drinking water and wastewater services to San Francisco, wholesale water to three Bay Area counties, and green hydroelectric and solar power to San Francisco's municipal departments. It is the third largest public utility in California, with 2,300 employees working in seven California counties, and a combined operating budget of nearly $1 billion.

In order to address some of these challenges, the SFPUC has initiated two capital programs, the Water System Improvement Program (WSIP) and the Sewer System Improvement Program (SSIP). Such programs must consider infrastructure demands, environmental sustainability, ratepayer affordability, regulatory demands, and other financial considerations.

For more information, please visit: www.epw.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=df912e0e-f3e7-db99-6e83-bbc6853707b4

**HEALTH: HOUSE SUBCOMMITTEE REVIEWS CHILDREN’S HEALTH INSURANCE PROGRAM**

The Subcommittee on Health of the House Energy and Commerce Committee convened a hearing on December 3, 2014, titled, "The Future of the Children's Health Insurance Program." CHIP provides health coverage to nearly eight million children of families near poverty, including over 1.7 children in California during fiscal year 2010. The program is celebrated for its success in cutting the rate of uninsured children in half and is supported by both sides of the aisle. Funding for CHIP expires in September of 2015, although the program is authorized through 2019.

Witnessed included Evelyne Baumrucker, Health Financing Analyst for the Congressional Research Service; Alison Mitchell, Health Care Financing Analyst for the Congressional Research Service; Carolyn Yocom, Director of Health Care for the Government Accountability Office; and Anne Schwartz, PhD, Executive Director of Medicaid and CHIP Payment and Access Commission.
In anticipation of repeal to aspects of the Affordable Care Act (ACA) under the incoming Republican dominated Congress, Congressman Joe Barton (TX) asked the witnesses if they would recommend maintaining CHIP as a separate program. Dr. Schwartz responded with a recommendation to extend CHIP for two years in order to "use those two years to find a way to make sure that there is integration of children into other forms of coverage, to ensure that the coverage works well for children, and that there is not a loss of coverage." Furthermore, Rep. Leonard Lance (NJ) added that should the Supreme Court rule federally-run state exchanges unconstitutional, the ACA would be sent into a tailspin. Therefore, he argued, Congress should be careful not to conflate ACA and CHIP and that action on CHIP should be decided separately.

In formal responses to the House Committee on Energy and Commerce and the Senate Finance Committee, governors from 39 states expressed support for CHIP and urged Congress to extend the program, noting the role the program plays in providing affordable and comprehensive coverage to children. As one of the states in support, the letter from California's Health and Human Services Agency declares, "If federal CHIP funds are not renewed for Federal Fiscal Year 2015, California could lose upwards of $533 million annually. Renewal of federal CHIP funding is extraordinarily important to California's fiscal stability and the ability to offer cost-effective affordable coverage for children and pregnant women." In support of states and their ability to initiate stable budget planning in January, among other reasons, Chairman Joe Pitts (PA) supported extension of funding for CHIP.

If CHIP funding is not extended, nearly two million children throughout the nation are expected to lose health care coverage.

For more information on the hearing, go to: