Hughes Hubbard & Reed

CARES Act Developments and Newly Proposed Fiscal Stimulus Legislation as of December 23, 2020

Client Advisories

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December 23, 2020 – This week Congress passed a much-anticipated $900 billion stimulus package as part of a $1.4 trillion omnibus spending bill, although it faces the prospect of a presidential veto. There were no significant regulatory developments relating to the pandemic.

Regulatory Developments Relating to the Pandemic

Legislative Proposals

The Coronavirus Response and Relief Supplemental Appropriations Act

On December 22, after months of negotiations, Republican and Democratic lawmakers reached an eleventh hour agreement to pass a $900 billion economic relief and fiscal stimulus package. Unexpectedly, President Trump then threatened to veto the legislation because it does not provide larger direct payments to individuals. The legislation, which was attached to a $1.4 trillion omnibus spending bill (the Consolidated Appropriations Act of 2021), provides for $166 billion in direct payments to individuals, $120 billion in expanded unemployment benefits, and billions of dollars for struggling industries, among a host of other provisions. The legislation allocates $45 billion to transportation industries including $15 billion to help commercial airlines maintain their payrolls, $14 billion for mass transit and another $13 billion for infrastructure projects.

The legislation prevents the Treasury Department from restarting emergency lending programs created by the CARES Act unless Congress specifically authorizes program funding. It also allocates $284 billion for additional Paycheck Protection Program (PPP) loans for small businesses and another $41 billion for other forms of aid to small businesses. It increases the amount of the employee retention payroll tax credit established by the CARES Act

and expands the scope of employers eligible for this credit to include PPP loan recipients. The legislation permits recipients of PPP loans (and certain other grants and loans provided by the CARES Act) to deduct eligible expenses that were covered by loan forgiveness, overriding prior Treasury guidance. Among its other tax provisions are provisions (i) increasing the tax deduction for business meals from 50% to 100% for the next two years, (ii) extending a payroll tax subsidy for employers offering workers paid sick leave, and (iii) extending the application of a number of tax provisions that are set to expire at the end of 2020 (including the look-thru rule for controlled foreign corporations under Internal Revenue Code Section 954(c)(6)).

In order to reach agreement on the legislation, Republican leaders dropped their demand for pandemic-related liability protections for businesses, and Democratic leaders abandoned their demand for expanded federal aid to state and local governments.

- Text of Act
- Consolidated Appropriations Act of 2021

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