What are tax extenders?

Several dozen temporary tax breaks are scheduled to expire at the end of 2016. They are collectively known as the "tax extenders" because lawmakers likely will consider extending most or all of them. The temporary-but-not-temporary character of these provisions complicates tax policy and budgeting.

THE TAX EXTENDERS

Congress often enacts temporary tax provisions, almost all of which are tax cuts. Some of these are made temporary to force review when they're scheduled to expire or "sunset." Some are temporary because Congress intended them to address temporary needs, such as recession, mortgage market collapse, or regional weather disasters. And some are temporary because proponents want them to be permanent but cannot muster the budgetary resources to offset the cost for more than a year or two at a time.

These temporary tax provisions are often known as the "expiring provisions," since they are scheduled to expire or, in some years, already have. Of particular importance are several dozen temporary tax cuts that will expire this year. Most reward business and consumer investments in energy efficiency and production, and use of alternative fuels. Other business provisions provide tax reductions for auto racetracks and race horses. The largest individual extender excludes mortgage forgiveness from income. These provisions are collectively known as the "tax extenders" because of the expectation that lawmakers will consider extending most or all of them either this year or in 2017.

THE 2015 DEAL ON TAX EXTENDERS

At the end of 2015, lawmakers made permanent many provisions that had previously been temporary. Those included the research and experimentation credit (which had been temporarily renewed 16 times since 1981), the "subpart F exceptions" that allow financial firms to defer tax on some international income (renewed seven times since 1998), the personal deduction for state and local sales taxes (renewed four times since 2004), and more than a dozen other expired provisions. The law also made permanent expansions of the Earned Income Tax Credit, the Child Tax Credit, and the American Opportunity Tax Credit that were scheduled to expire at the end of 2017. Originally enacted as part of the economic stimulus in 2009 and extended in the fiscal cliff deal

at the close of 2012, these provisions help working families with kids, encourage work, reduce marriage penalties, and help with education expenses.

The law thus made permanent many of the largest and most politically important expiring provisions. Dozens of temporary provisions remain, but future tax extender deliberations will have lower stakes than in recent years.

OTHER EXPIRING PROVISIONS

Several other tax breaks are scheduled to expire between 2017 and 2025. Most important are a group of provisions expiring at the end of 2019, including the Work Opportunity Tax Credit and the New Markets Tax Credit.

POLICY IMPLICATIONS

There are often good reasons for making some tax provisions temporary. If Congress enacts tax cuts to soften the blow from disasters and recessions, it makes sense to limit their duration. Sunsetting tax breaks after several years can also inspire more congressional oversight than permanent features of the tax code may receive.

In practice, though, Congress often extends tax breaks a year or two at a time merely to meet the letter of the law governing congressional budget procedures. Budget rules often (but not always) require lawmakers to find offsetting revenue increases or spending cuts to pay for extending a tax break. Finding such offsets is easier for a temporary extension than for a permanent one.

It should be no surprise, then, that the number of expiring provisions snowballed, with over 50 identified as extenders before the recent law and more than 30 still remaining. The large number makes it less likely that Congress will consider their merits as individual provisions.

BUDGET IMPLICATIONS

The Congressional Budget Office (CBO) must assume that these temporary-but-not-temporary laws will expire as scheduled when it compiles the budget baseline that serves as a starting point for congressional budget deliberations. This makes the baseline unrealistic, since temporary tax laws are almost always extended. Moreover, because most extenders involve tax cuts, the assumption that these provisions will expire leads CBO to project a healthier budget balance than is likely to occur. There is one exception to the rule: Temporary taxes whose revenue is deposited in trust funds are assumed to continue.

FURTHER READING

Austin, Lydia, and Eric Toder. 2015. "Expiring Provisions with Perpetual Life." *Tax Notes*. May 21.

Joint Committee on Taxation. 2016. "List of Expiring Federal Tax Provisions 2016–2025." JCX-1-15. Washington, DC: Joint Committee on Taxation.

Marron, Donald. 2012. "The Tax 'Expirers.'" Testimony before the Subcommittee on Select Revenue Measures of the House Committee on Ways and Means, June 8.

Williams, Roberton. 2014. "My Favorite (Expired) Tax Breaks." *TaxVox* (blog). December 1.