Some Background

FEDERAL BUDGET OUTLOOK

What are tax extenders?

Q. What are tax extenders?

A. Several dozen tax breaks are authorized for only a limited number of years. When these temporary provisions are scheduled to expire, they become collectively known as the "tax extenders" because lawmakers likely will consider extending most or all of them. Recently these extensions have often been retroactive, taking place well after the provisions officially expired. 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 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," because they are scheduled to expire or, in some years, already have. An important recent example were several dozen temporary tax cuts that expired at the end of 2017 and a few that expired at the end of 2018. Most reward business and consumer investments in energy efficiency and production, as well as use of alternative fuels. Other business provisions reduce taxes for auto racetracks and racehorses. The largest individual extender excludes mortgage forgiveness from income. These provisions were collectively known as the "tax extenders" because of the expectation that lawmakers will consider extending most or all of them. Lawmakers did, but not until December 2019, almost two years after many had expired.

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 tax extender deliberations have lower stakes now than several years ago.

PROVISIONS EXPIRING IN THE FUTURE

More tax provisions are scheduled to expire in coming years. The 2020 cohort of expirations includes almost three dozen provisions, including prominent tax breaks such as the Work Opportunity Tax Credit and the New Markets Tax Credit. But the most important expirations are scheduled for 2025, when key provisions of the 2017 tax bill expire. These include lower individual tax rates, the expanded Child Tax Credit, limits on the Alternative Minimum Tax, and the deduction for qualified pass-through business income.

POLICY IMPLICATIONS

Some tax provisions are temporary for good reasons. 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 more than 30 still set to expire at the end of 2020. The large number makes Congress less likely to consider their merits as individual provisions.

BUDGET IMPLICATIONS

The Congressional Budget Office 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. Such assumptions make the baseline unrealistic, since temporary tax laws are typically extended. Moreover, because most extenders involve tax cuts, the assumption that these provisions will expire leads the Congressional Budget Office to project higher than likely revenues. There is one exception to the rule: temporary taxes whose revenue is deposited in trust funds are assumed to continue.

Updated May 2020

Further Reading

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

Joint Committee on Taxation. 2020. "List of Expiring Federal Tax Provisions 2020-2029." JCX-1-20. Washington, DC: Joint Committee on Taxation.

Some Background

What are tax extenders?

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.