

Congress approves FY 2022 omnibus—and a four-day stopgap to buy time for its enactment

The House and Senate this week advanced a sweeping 2,700-page, \$1.5 trillion omnibus appropriations measure—largely free of changes to the tax code—that would fund the government for the remainder of fiscal year 2022 and provide roughly \$14 billion in military and humanitarian aid to Ukraine, as well as a four-day stopgap bill to ensure there is no lapse in funding before the larger package can be signed into law.

Squabble over COVID relief funds leads to another CR

President Biden’s signature on the omnibus (H.R. 2471)—which is now expected early in the week of March 14—would come after lawmakers have resorted to a series of four so-called continuing resolutions (CRs) to keep the government’s doors open during fiscal year 2022, which began on October 1, 2021. That includes the extremely short-term CR passed by the House and Senate this week that extended previously enacted funding levels for only four days—from March 12 through March 15—in order to ensure the chambers had sufficient time to formally enroll the massive omnibus bill and get it to Biden’s desk without triggering a government shutdown. (The penultimate CR was signed into law on February 18 and was scheduled to expire at midnight on March 11.)

Leaders of the House and Senate Appropriations committees unveiled the omnibus agreement on March 9 and lawmakers in both chambers had hoped to quickly clear the measure ahead of the prior March 11 funding deadline. But doubts over whether that could happen arose after a significant bloc of House Democrats revolted against provisions in the bill that would have clawed back certain unspent COVID relief funds that had already been appropriated in order to offset the cost of roughly \$15 billion in supplemental relief funds going forward.

Some members argued that the proposed clawback could have a negative and disproportionate impact on certain states.

“Somebody needs to figure out how we do this in a more fair manner,” said Rep. Angie Craig, D-Minn. “Thirty of the 50 states just had some of their COVID relief money that’s already been put in a plan put into a clawback position. So either 50 of the states need to participate here, or we need to figure out another way to do this more fairly.”

To resolve that dispute, the House on March 9 approved two appropriations-related measures: the fiscal 2022 omnibus spending bill (minus the supplemental coronavirus relief funds) and the four-day CR to avert a potential lapse in funding. In a procedural move during consideration of the omnibus, House leaders employed a tactic known as “dividing the question”—which resulted in the domestic-focused components of the bill passing on a 260-171 vote and the defense-focused parts passing by a wider margin of 361-69.

The Senate cleared the omnibus package and the CR late on March 10. President Biden was expected to sign the CR into law ahead of the March 11 funding deadline to avert a government shutdown.

A stand-alone bill including the \$15 billion in COVID-relief funding stripped from the omnibus is expected to be taken up in the House during the week of March 14 (although due to GOP opposition, it is unclear if that bill can garner 60 votes to clear procedural hurdles in the evenly divided Senate).

Omnibus largely free of tax code changes

Aside from a relatively narrow provision extending an exemption for telehealth services under the health savings account rules of Internal Revenue Code section 223, the omnibus spending bill is largely free of changes to current tax rules.

That came as a disappointment to certain stakeholders, who were hoping the legislation might be a vehicle to address priorities such as renewing the clutch of expired and expiring tax “extenders” provisions and reversing, at least temporarily, a change within tax code section 174 that, as of January 1 of this year, requires certain research expenditures to be amortized over a number of years rather than deducted currently. (The change to section 174 that many lawmakers are seeking to postpone, if not undo, was enacted in the Tax Cuts and Jobs Act of 2017 (P.L. 115-97).)

Since significant tax code changes ultimately were left out of the omnibus, action on these priorities may have to wait until lawmakers take up other revenue measures later this year. Tax provisions could be included in a year-end wrap-up bill, for example, or in a modified version of Build Back Better legislation—now rebranded as “Building a Better America”—that Democrats hope to move through Congress under fast-track budget reconciliation protections. The roughly \$1.75 trillion Build Back Better Act cleared the House last November but remains stalled in the Senate as the party grapples with finding an alternative policy mix that can win the support of all 50 Senate Democrats. (For details on the latest efforts by the White House to jump-start that process, see *Tax News & Views*, Vol. 23, No. 7, Mar. 4, 2022.)

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Budget bump for IRS

On the spending side, the omnibus calls for a hike in the operating budget for the Internal Revenue Service. The final allocation for the agency—\$12.6 billion—represents an increase of roughly 6 percent over the funding level enacted for FY 2021 but falls short of the \$13.6 billion for FY 2022 that the House had approved last July as part of a Financial Services and General Government funding measure. (The Senate Appropriations Committee approved an identical amount last October as part of a companion bill that was never taken up by the full chamber.)

Across the Service’s four program areas, the \$12.6 billion allocation in the omnibus breaks down this way:

- **Taxpayer Services:** \$2.8 billion (House-passed FY 2022 proposal: \$2.9 billion; FY 2021 enacted: \$2.6 billion);
- **Enforcement:** \$5.4 billion (House-passed FY 2022 proposal: \$5.8 billion; FY 2021 enacted: \$5.2 billion);

- **Operations Support:** \$4.1 billion (House-passed FY 2022 proposal: \$4.6 billion; FY 2021 enacted: \$3.9 billion); and
- **Business Systems Modernization:** \$275 million (House-passed FY 2022 proposal: \$305 million; FY 2021 enacted: \$222.7 million).

Issues around the IRS budget—particularly for taxpayer services and business systems modernization—have been in the spotlight recently as the agency struggles to complete work on millions of income tax returns from tax year 2020 in the wake of COVID-related staffing shortages and facilities shutdowns. (For prior coverage, see *Tax News & Views*, Vol. 23, No. 5, Feb. 11, 2022, and *Tax News & Views*, Vol. 23, No. 6, Feb. 18, 2022.)

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The White House and congressional Democrats also have called for a significant long-term boost in the Service’s enforcement budget to enhance the agency’s efforts to narrow the “tax gap”—that is, the difference between the amount of tax legally owed to the government and the amount actually collected. The now-stalled Build Back Better Act would provide an \$80 billion bump in IRS enforcement funding over 10 years.

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