Omnibus FY 2023 appropriations package—with retirement security provisions—becomes law

President Biden on December 29 signed into law a roughly $1.7 trillion omnibus spending package that funds federal departments and agencies for the remainder of fiscal year 2023.

The Consolidated Appropriations Act, 2023 (P.L. 117-328) cleared the Senate on December 22 by a vote of 68-29 and was approved in the House on December 23 by a vote of 225-201. House passage came just hours before a continuing resolution that had been funding government operations (at fiscal year 2022 levels) was set to expire. Because it appeared doubtful that the administrative processes necessary to transmit the measure to the White House could be completed by midnight on December 23, however, lawmakers also approved a one-week stopgap, through December 30, to prevent a funding lapse.
URL: https://www.congress.gov/117/bills/hr2617/BILLS-117hr2617enr.pdf

Retirement security dominates a narrow tax title

The omnibus measure, which came together during the post-election lame duck legislative session, was the last major bill to move in the closing days of the 117th Congress. Various groups of lawmakers in both parties had hoped at the start of the lame duck that the funding bill would provide a vehicle for a robust set of tax provisions such as deferral or repeal of mandatory amortization of research expenses, relief from stricter information reporting requirements for third-party settlement organizations, relief from tighter limitations on business interest expense deductions, and an extension of some now-expired enhancements to the child tax credit. (For prior coverage of these and other tax items that many lawmakers had sought to advance as part of the year-end legislative agenda, see *Tax News & Views*, Vol. 23, No. 38, Nov. 16, 2022. It's worth noting that even though relief from the stricter reporting threshold for 1099-K notices was not included in the omnibus legislation, the Treasury Department separately announced late last month that it would delay enforcement of the new rules until after 2023. See related coverage of notable year-end guidance from Treasury and the IRS in this edition).
URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/TNV/221115_1.html

But prospects for a broad bipartisan deal on taxes eroded as the year-end session wore on and the omnibus measure as enacted includes only a limited tax title focusing primarily on retirement security provisions that build on earlier retirement legislation—dubbed the "SECURE Act"—that was enacted in 2019.

At a high level, the new retirement security package—known as the SECURE 2.0 Act of 2022 and found in Division T of the omnibus legislation—includes provisions to:

- Allow plan participants nearing retirement to contribute more to their retirement accounts by increasing the limits on catch-up contributions for certain employees and indexing the limit on IRA catch-up contributions for inflation;
- Allow plan participants to take advantage of the benefits of tax-deferred earnings over a longer period of time by raising the age for taking mandatory minimum distributions from plans and IRAs;

- Expand the universe of workers that participate in employer-sponsored retirement plans—for example, by requiring automatic enrollment of employees in new employer plans (subject to an employee opt-out), allowing employers to treat student loan payments made by their employees as elective deferrals for purposes of determining retirement plan matching contributions, and reducing the service requirements for part-time employees to participate in an employer plan;
- Modify certain retirement plan design rules to ease administrative burdens for plan sponsors and provide additional flexibility and other relief for plan participants; and
- Remove barriers to offering certain types of annuity products within a defined contribution plan.

These provisions are offset largely by expanding "Roth" treatment of certain retirement accounts and contributions. ("Roth"-style retirement accounts, named for former Senate Finance Committee Chairman William Roth, R-Del., require contributions to be made with after-tax funds rather than on a pre-tax basis, with distributions paid out tax-free during retirement.) Another notable offset generally will curb perceived abuses of certain conservation easement arrangements by denying a tax deduction for conservation contributions made by certain passthrough entities if the contribution amount exceeds specified thresholds.

The Joint Committee on Taxation staff has estimated that the retirement security provisions will decrease federal receipts by some $38.2 billion between 2023 and 2032, while the revenue provisions will increase receipts by roughly $38.8 billion over the same period.
URL: https://www.jct.gov/publications/2022/jcx-21-22/

Small budget cut for the IRS

On the appropriations front, the omnibus bill provides the IRS with $12.3 billion for fiscal 2023—$1.3 billion short of what House Democrats passed in funding legislation last summer (and what Senate Democratic appropriators approved in legislation that was never taken up by the Senate), $1.8 billion below what the Biden administration requested in its fiscal year 2023 budget blueprint, and $275 million less than what was enacted in the previous fiscal year.

The $275 million cut relative to fiscal year 2022 was achieved by zeroing out the Service's business systems modernization accounts—a change that congressional Republicans demanded in the wake of the recently enacted Inflation Reduction Act (P.L. 117-169), which provided the IRS with nearly $80 billion in mandatory funding over the next 10 years, including about $5 billion for systems modernization.

Additional details available

For additional details on the omnibus measure, see *Tax News & Views*, Vol. 23, No. 44, Dec. 23, 2022.
URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/TNV/221223_1.html

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