Final Update – Congress 2019 Tax Agreement

In the early hours this morning, negotiations finally concluded between the White House, congressional Republicans, and congressional Democrats on assembly of a limited tax package that will be added to a spending bill. This legislation is expected to pass Congress and be signed into law later this week.

The Association, our members, and you -- our state partners -- advocated for a variety of issues important to the restaurant industry. Below is our assessment of the substance of the agreement.

Technical Corrections to the Tax Cut and Jobs Act

- **No Action on QIP:** The color commentary on the fate of QIP was actually quite dramatic during the tax talks, with negotiations on QIP and other similarly-situated technical corrections lasting far longer than anticipated. Democrats sought to pair these corrections, collectively, with their priority of significant expansion of the Earned Income Tax Credit and the Child Tax Credit. The White House (including President Trump personally, it is rumored) asserted that the budgetary cost of the expansion was too high a price to pay for what they consider straight-forward technical corrections.

  This was literally one of the last items under negotiation this morning, but an agreement couldn't be reached. If you're a fan of schadenfreude, an array of energy tax breaks (investment tax credits for wind, etc.) was to be hitched to a QIP fix and other technical errors. When the QIP agreement failed to materialize, the White House pulled the energy tax breaks as well.

<u>Repeal of Health Care Taxes</u>

- **Full Repeal of Health Insurance Tax:** Permanently repeals, under the Affordable Care Act, the estimated $15.5 billion annual fee imposed on health insurance providers.

- **Full Repeal of "Cadillac Tax":** Permanently repeals, under the Affordable Care Act, the tax intended to target high-cost health care plans, which is scheduled to take effect in 2022. The tax was originally set to take effect in 2018 and apply to employer-sponsored health plans that in that year cost more than $10,200 for individuals and $27,500 for families; the rate was set at 40% of coverage costs that exceeded those thresholds and adjusted annually for inflation.

<u>Finding, Training, and Retaining Employees</u>

- **One-Year Extension of the Work Opportunity Tax Credit (WOTC):** WOTC is a federal tax credit available to employers for hiring individuals from certain target groups who have consistently faced significant barriers to employment. The restaurant industry is the second largest beneficiary of this tax credit, which was worth $3.6 billion, for all industries, in 2019.

- **H-2B Visas:** Authorizes the Secretary of Homeland Security, after consultation with the Secretary of Labor, to increase the cap on the number of temporary foreign workers who can enter the U.S. through the H-2B visa program, after determination that the needs of American businesses cannot be satisfied in fiscal year 2020.

- **E-Verify:** Extended to allow employers to verify the eligibility of prospective employees to work in the U.S.

- **Expansion of Apprenticeship Funds:** Contains $175 million, an increase of $15 million, to expand opportunities through apprenticeships only registered under the National Apprenticeships Act (NPA). This provision and increase will benefit the National Restaurant Association Educational Foundation's Hospitality Apprenticeship Program, which is a registered program under the NPA.

Sustaining and Increasing Business through Travel and Tourism

- **Reauthorization of Brand USA:** Reauthorizes and funds the Brand USA program, which promotes international travel to the U.S. Brand USA was established as a public-private partnership and is funded through a combination of private-sector donations and matching funds collected from foreign travelers visiting the U.S. The agreement would extend, through fiscal 2027, the program's authority to receive funds from the Visa Waiver Program. In 2018, international travelers spent $256 billion in the U.S., creating a $69 billion trade surplus.

Press Reaction from National Restaurant Association

- **Letter to the Hill:** We are working on a letter to the Hill with our reaction to the package, centering largely on QIP. We may partner with other associations.
  Press Statement: We are using the text below with outlets.
  - "The government spending and tax bills include several priorities for the nation's one million restaurants. The Health Insurance Tax and 'Cadillac Tax' were both repealed, and funding was restored for Brand USA, which promotes international travel to the United States.

    "On the tax front, the Work Opportunity Tax Credit (WOTC) was extended for a year. WOTC helps restaurants hire, train and retain employees from target groups that have faced significant barriers to employment. This is good news.

    "The Qualified Improvement Property tax glitch fix, however, was not included even though lawmakers, on both sides of the aisle, agree it should be fixed. Until then, businesses, employees, customers and dependent industries will continue to pay the price. Fixing the QIP glitch remains a critical priority for our industry, and our grassroots activists around the country are ready to ramp up this fight until the QIP glitch is fixed." – Sean Kennedy, Executive Vice President, Public Affairs

Next Steps

- A fix on QIP was not held up because of lack of advocacy investment, engagement from our industry, or inadequate champions. The lack of action on QIP was more based on the intransigence of both parties to reach agreement.
- From a process perspective, a QIP fix didn't occur because Democrats insisted that they "get" something in exchange for Republicans "fixing" an earlier bill that was produced with no Democratic support or input. There is precedent to the Democratic position (eg, the GOP response under Obama to requested technical corrections to the Affordable Care Act). Republicans argue that it is unreasonable to pair correction of technical errors (that have no budgetary impact) with a Democratic tax priority that increases federal spending.
- There are a number of steps the restaurant industry and its allies could take in trying to force a vote on a QIP fix. We are mindful of further making this a partisan issue in an election year.
- We will consult with our partners, stakeholders, and Hill champions – and follow up with a plan of action for 1Q 2020.

As always, I welcome your input and perspective. Thank you for everything you and your teams did on this issue this year. The fight isn't over yet. Have a great holiday and see you in the new year.

Sean Kennedy

Executive Vice President of Public Affairs
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