support for the compromise expansion in the deal.

"Although I am disappointed their proposal isn't a return to the American Family Act, eighty percent of children currently left out of the full Child Tax Credit will benefit from this deal," Bennet said in a January 16 statement. "We need to get this done, and after we do, I'll keep fighting to make the expanded Child Tax Credit permanent."

Adam Ruben of the Economic Security Project encouraged lawmakers to move quickly on finalizing and passing the deal into law to provide families "much-needed support."

"We applaud congressional leaders for the proposed Child Tax Credit (CTC) expansion that will provide critical tax breaks for the parents of 16 million children in low-income families," Ruben said in a January 16 statement. "We remain committed to working with members of Congress to strengthen the CTC and recognize the unfortunate tradeoff being made that positions corporate tax breaks in parity with our nation's families and children." ■

Tax Deal Would Bring ERC Claims To Earlier End and Curb Abuse

by Lauren Loricchio

A tax package announced by congressional taxwriters would bring an early end to the employee retention credit and expand IRS enforcement tools for reining in its abuse.

The tax framework announced January 16 by Senate Finance Committee Chair Ron Wyden, D-Ore., and House Ways and Means Committee Chair Jason Smith, R-Mo., would cut off all ERC claims after January 31, 2024 — a change that the lawmakers said would save more than $70 billion to help pay for other parts of the deal. Under current law, 2020 claims for the ERC can be filed until April 15, 2024, and 2021 claims can be filed until April 15, 2025.

The ERC was created by the Coronavirus Aid, Relief, and Economic Security Act to help struggling businesses pay their employees during the COVID-19 pandemic by establishing a refundable credit against employer taxes, but it has been much more costly than expected and has been the target of aggressive marketing and fraud.

The deal comes after IRS Commissioner Daniel Werfel recently met with members of the Senate Finance Committee to ask for more enforcement tools related to the credit.

Some tax professionals cautioned that cutting off the program early could hurt businesses that are eligible for the credit but haven't yet filed a claim.

"There are still lots of eligible businesses out there that have legitimate claims that aren't aware that they're eligible," Rebecca Sheppard of Frost Law told *Tax Notes*. "Some people were very cautious and wanted to make sure they're building out their files before submission, and so that's why they are later to the game."

This announcement will encourage firms to mobilize to get legitimate claims filed by the end of the month, said Daniel Mayo of Withum Smith+Brown PC. "Because it was announced publicly, I think everyone should assume that's the date for planning purposes, because no one wants to miss out because they didn't file by the deadline," he said.

Enforcement Tools

The framework also proposes to extend to six years the statute of limitations period for the IRS to pursue ERC claims, which would cover the entire credit.

The framework would increase some civil penalties for promoters of the credit. It defines a promoter as a person who charges fees based on the amount of the credit or who meets a gross receipts test. The gross receipts test would be met if aggregate gross receipts from ERC-related aid, assistance, or advice are equal to or greater than half the person's gross receipts for the relevant year, or if aggregate gross receipts from ERC-related work for the relevant year are more than 20 percent of gross receipts and are over $500,000. Professional employer organizations would be excluded from the definition of ERC promoter.

Mary E. Wood of Meadows, Collier, Reed, Cousins, Crouch & Ungerman LLP told *Tax Notes* that Congress is sending a clear message that ERC claims continue to be a high priority for IRS enforcement.

"The substantial increase in potential penalties for promoters and paid tax return preparers is a sign that Congress wants to strongly deter companies and/or individuals that are inappropriately soliciting or assisting taxpayers in filing fraudulent ERC claims," Wood said.

Kathy Enstrom of Moore Tax Law Group LLC said that as a former special agent in the IRS Criminal Investigation division, she was pleasantly surprised to learn that Werfel wanted Congress to act in response to ongoing problems with ERC fraud — and that Congress listened to him. "They put together something that I feel will help combat the ERC fraud that is out there that I have seen and heard about in the last few years," she said.

Promoters of the ERC would also have to file return disclosures to the IRS and provide lists of clients to the IRS as requested.

Enstrom said she thinks it will be challenging to force promoters to do that. "There's probably promoters out there that were fly-by-night that are no longer in business and will never turn over those records," she said.

A spokesperson for the IRS said the agency doesn't comment on legislation. ■

Taiwan Tax Fix Tucked Into Congress's Tax Package Framework

by Cady Stanton

Taxwriters included a long-negotiated double taxation fix between the United States and Taiwan in the framework for a bipartisan, bicameral tax package deal, raising the chances for passage of the tax agreement this Congress.

The Taiwan tax agreement add-on to the deal — which focuses primarily on the enhancement of the child tax credit and rolling back the tightening of three business tax breaks from the Tax Cuts and Jobs Act — is likely to mirror language from the United States Expedited Double Tax Relief Act (H.R. 5988), based on the framework language for the package released January 16.

That legislation received unanimous support in the House Ways and Means Committee at a November 30, 2023, markup and has been endorsed by the top lawmakers on the Ways and Means, Senate Finance, and Senate Foreign Relations committees.

Two Senate committee chairs had previously been at odds over whether to address remediating the issue of double taxation with Taiwan by directly amending the tax code or by authorizing the White House to enter into negotiations on an agreement. The United States can't negotiate a traditional tax treaty with Taiwan because the two countries don't have formal diplomatic relations.

The compromise legislation combines a change to the tax code that would provide treatylike benefits to Taiwan residents — provided a reciprocal set of benefits is provided to U.S. citizens with income subject to tax in Taiwan — with an authorization for the negotiation of a tax agreement between the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States.

The announcement comes days after Taiwan elected a president from its incumbent Democratic Progressive Party over a more pro-China candidate.

The tax deal as a whole has an uncertain future for passage, either as a stand-alone bill on the floor of the House and Senate or attached to future fiscal 2024 spending legislation.

But the overtones to the Taiwan legislation — centered on staying competitive with China and