NATIONAL TAXPAYERS UNION

September 8, 2020

Dear Senators and Representatives:

On behalf of National Taxpayers Union, the nation's oldest taxpayer advocacy organization, we write to you on a number of pressing issues you may address in the coming weeks. As you consider legislation to fund the government for fiscal year (FY) 2021, address the impacts of the COVID-19 pandemic, and tackle a number of policy concerns that have arisen this summer, we ask that you keep the American taxpayer's voice in mind with any and all legislation you vote on this month.

Perhaps the most discussed deadline is the end of the fiscal year on September 30. It is very disappointing that, in all likelihood, Congress will once again fail to fund the government through the regular budget process. However, at this point, we recognize that there may be too little time on the calendar for the House to pass its remaining appropriations bills, for the Senate to pass all 12 appropriations bills, and for the chambers to then reconcile their differences. A continuing resolution (CR) is never the perfect solution, since it represents a failure in the regular budget process and since this CR would put the unsustainable spending practices of FY 2020 on autopilot. That said, a CR may be the best option for Congress at this time for two reasons: 1) government shutdowns can cost the economy and taxpayers billions of dollars,[1] and 2) a set of last-minute appropriations bills would spend at FY 2021 budget levels that are even less sustainable than FY 2020. **Congress should pass a CR** that gives lawmakers in both chambers time later this year to pass regular appropriations bills and reconcile the differences. The CR should be structured in a way that it reduces the likelihood Congress tries to appropriate in crisis mode this fall or winter.

Media reporting indicates that negotiations over a fourth major COVID-19 relief or recovery package continue in earnest as well. NTU has written plenty on the subject, and we will summarize our key recommendations to lawmakers below, but one thing should be made clear: **Congress should not try to attach COVID-19 emergency spending to a CR**. While voting separately on a CR and a COVID bill would take more time and effort than attempting to combine the two efforts, there are several compelling reasons to keep the matters separate: 1) taxpayers and their advocates must have the time to analyze and consider *both* a CR and a COVID bill, and attempting to combine the two could give stakeholders less time to weigh the pros and cons of each piece of legislation; 2) adding hundreds of billions of dollars or even trillions of dollars in emergency spending to a CR would set a dangerous precedent for future budget and appropriations bills, and 3) committing to COVID relief in the CR increases the chance that a final legislative product is rolled out at the last minute, giving lawmakers little time or chance to register their support or opposition to distinct portions of the bill.

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[1] Gardner, Parker. "Senator Lankford Scores Again with Another Edition of Federal Fumbles." National Taxpayers Union, March 8, 2019. Retrieved from: https://www.ntu.org/publications/detail/senator-lankford-scores-again-with-another-edition-of-federal-fumbles

As for negotiations over a COVID-19 relief or recovery package, NTU continues to believe that due to the ongoing public health and economic impacts of the pandemic - including government prohibitions or limits on economic activity - **a narrow COVID relief and recovery bill is necessary**.

NTU laid out three principles on Phase 4 legislation back in June, and we stand by those principles today:

- *Relief* efforts should be temporary, and targeted at the workers, businesses, and families most impacted by the pandemic and economic downturn;
- *Recovery* efforts should make broad changes to the tax code that do not seek to benefit one industry or interest over others and have a material effect that spurs economic activity;
- *All* efforts in a fourth COVID-19 bill should come with prudent guardrails to prevent taxpayer dollars from flowing to unrelated or unproductive causes or to projects that have nothing to do with the pandemic and recession.[2]

To that end, we support the following provisions in Phase 4 legislation:

- A **limited and temporary** extension of the federal boost to unemployment insurance (UI), at a rate much lower than the $600 per week benefit passed in the CARES Act. The need for an extension of the federal UI boost became more important after the Trump Administration sought to unilaterally extend a portion of these federal benefits.[3] It's critical Congress reassert its power of the purse here, and it can do so by passing a prudent and short extension of a federal UI boost at a more sustainable level, such as $300 per week, for a few months.
- **Expansion of the Employee Retention Tax Credit (ERTC)**, which is a more prudent path forward for lawmakers than additional appropriations for the Paycheck Protection Program (PPP). After tens of billions of dollars of PPP funding sat unused for several months this summer, and some lawmakers expressed concerns about the lack of program transparency, it is not clear that Congress needs to revive PPP in future legislation. The ERTC, on the other hand, has a simpler application process and cuts down the number of distinct parties involved in employee retention efforts. NTU has identified several ways Congress can expand the ERTC and make it easier for employers to participate.[4]
- **Pro-growth tax policy** that does not favor one industry or sector over others, but makes broad changes that spur economic, job, and wage growth across the U.S. economy. Strong proposals include expanding full and immediate expensing or neutral cost recovery to structures, extending the full and immediate expensing provisions in the Tax Cuts and Jobs Act (TCJA) for short-lived assets, and correcting the TCJA's mistreatment of research and development costs.[5] The Tax Foundation estimates the combined effects of these three proposals would be extraordinary: a four-percent increase in gross domestic

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[2] Lautz, Andrew, and Duppler, Mattie. "COVID "Phase 4" Legislation: How Congress Can Best Support Workers, Businesses, and States." National Taxpayers Union, June 23, 2020. Retrieved from:
https://www.ntu.org/publications/detail/covid-phase-4-legislation-how-congress-can-best-support-workers-businesses-and-states
[3] Lautz, Andrew. "Administration's FEMA Unemployment Insurance Action Raises Fresh Questions for Taxpayers." National Taxpayers Union, August 11, 2020. Retrieved from:
https://www.ntu.org/publications/detail/administrations-fema-unemployment-insurance-action-raises-fresh-questions-for-taxpayers
[4] Duppler, Mattie. "NTU on Phase 4: The Good and Bad of Policy Recommendations to Support Employers." National Taxpayers Union, July 27, 2020. Retrieved from:
https://www.ntu.org/publications/detail/ntu-on-phase-4-the-good-and-bad-of-policy-recommendations-to-support-employers
[5] *Ibid*.

product (GDP), a 10.1-percent increase in capital stock, a 3.4-percent increase in wages, and 802,000 new full-time equivalent jobs.[6] That is precisely the kind of recovery America's economy needs.

The tax provisions above could have the added benefit of convincing the Trump Administration to rescind its payroll tax executive order (EO), which has bred confusion throughout the government and among employers large and small.[7] **Lawmakers, especially the President's allies, would be wise to encourage the President to rescind his payroll tax EO and instead work with Congress on some of the pro-growth tax policies outlined above**. More importantly, such measures should be enacted in legislation and not by executive order or federal regulation.

Amidst a heightened focus on the operations at the United States Postal Service (USPS) and its potentially significant role in the November general election, it is possible lawmakers may try and push for a general bailout of this agency in the end-of-year appropriations package. We view this approach as flawed, unnecessary, and foolish. The poor financial standing of the USPS is entirely self-inflicted: due to expensive salaries and benefits, its labor costs continue to skyrocket despite revenue remaining virtually flat. In order for this important agency to remain economically viable in the years ahead it is vital Congress implement reforms as soon as possible.[8] While some additional funding may be necessary to modernize operations, as a condition of that funding, Congress should give USPS greater flexibility to cut costs and raise revenue either through office closures, delivery schedule and pricing adjustments, or streamlining operating costs as a means to future success. In the end, USPS needs reform, not bailouts that kick the can marked "insolvency" down the road toward the not-so-distant future.

Taxpayers benefit from a transparent, regular budget and appropriations process, and from emergency spending that is targeted, limited, and temporary. Unfortunately, a regular appropriations process seems out of the question for the coming months. Even worse, some lawmakers continue to press for emergency legislation that would cost more than $3 trillion and contain hundreds of billions of dollars in wasteful spending.[9] We hope that as lawmakers return to Washington, D.C. and start many contentious political and policy debates, they keep the above principles in mind as they vote on all sorts of legislation that may come up this month. It has never been more important to keep the taxpayer's perspective in mind.

Thank you for your consideration, and should you have any questions we are happy to answer them.

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[6] York, Erica. "Details and Analysis of The CREATE JOBS Act." Tax Foundation, July 30, 2020. Retrieved from: https://taxfoundation.org/details-analysis-create-jobs-act/ (Accessed August 26, 2020.)

[7] Bishop-Henchman, Joe. "Suspending the Payroll Tax By Executive Order Raises As Many Questions As It Answers." National Taxpayers Union Foundation, August 7, 2020. Retrieved from: https://www.ntu.org/foundation/detail/suspending-the-payroll-tax-by-executive-order-raises-as-many-questions-as-it-answers

[8] Aiello, Thomas. "Open Letter to Congress: Save USPS by Enacting Long-term Reforms." National Taxpayers Union, August 17, 2020. Retrieved from: https://www.ntu.org/publications/detail/open-letter-to-congress-save-usps-by-enacting-long-term-reforms

[9] Arnold, Brandon; Aiello, Thomas; Lautz, Andrew. "Pelosi Phase 4 Legislation Contains $400 Billion In Unrelated Provisions." National Taxpayers Union, May 14, 2020. Retrieved from: https://www.ntu.org/publications/detail/pelosi-phase-4-legislation-contains-400-billion-in-unnecessary-or-wasteful-provisions

Sincerely,

Brandon Arnold
Executive Vice President

Thomas Aiello
Policy and Government Affairs Manager

Andrew Lautz
Policy and Government Affairs Manager