



December 2, 2020

Dear Members of Congress:

On behalf of National Taxpayers Union, the nation's oldest taxpayer advocacy organization, we write urging you to work together on several important initiatives during the lame duck session. This year has brought unique and unprecedented hardships to the doorsteps of American workers, families, and businesses. We continue to believe that Congress can play a major role in offering targeted relief for those struggling, and in the process help Americans get through a winter of public health and economic challenges.

To that end, we respectfully request that you consider the following legislative principles in these final weeks of the 116th Congress:

- **Avoid a government shutdown:** We believe that lawmakers should make avoiding a government shutdown on December 11 their top priority. Shutdowns have massive and permanent costs for the economy¹ and taxpayers.² A shutdown would be particularly disruptive during a global pandemic, an economic downturn, and a transition of power between presidential administrations. While we have strongly criticized the fiscal year (FY) 2021 Budget Control Act (BCA) cap increases approved by Congress in the Bipartisan Budget Act (BBA) of 2019, and we will continue to remind Congress that nothing requires them to appropriate up to the authorized caps, we believe that a shutdown over spending levels is inappropriate and would do far more harm than good. Congress should work to pass a clean spending bill that is free of extraneous provisions that have not been fully vetted. However, if Congress cannot agree on a comprehensive spending package in the coming days, lawmakers should pass a CR that gives negotiators sufficient time to hash out their disagreements after the holiday season.
- **Ensure \$12.5 billion in VA spending is subject to BCA caps:** We agree with House Republican Leader Kevin McCarthy's push to ensure that cost increases at the Department of Veterans Affairs (VA) are *not* exempt from BCA/BBA caps.³ Exempting more than \$12 billion in VA costs from the caps would allow appropriators to avoid difficult, but necessary choices when budgeting. As *Roll Call* put it, “[o]verall nondefense accounts would see increases greater than 2 percent on average for the budget year that began Oct. 1, as opposed to a less than 0.5 percent boost without the veterans health care carve-out.”⁴

¹ Mui, Ylan. “The government shutdown cost the economy \$11 billion, including a permanent \$3 billion loss, Congressional Budget Office says.” *CNBC*, January 28, 2019. Retrieved from:

<https://www.cnbc.com/2019/01/28/government-shutdown-cost-the-economy-11-billion-cbo.html> (Accessed December 1, 2020.)

² United States Senate Committee on Homeland Security and Governmental Affairs Permanent Subcommittee on Investigations. (September 17, 2019). “The True Cost of Government Shutdowns.” Retrieved from:

<https://www.hsgac.senate.gov/imo/media/doc/2019-09-17%20PSI%20Staff%20Report%20-%20Government%20Shutdowns.pdf> (Accessed December 1, 2020.)

³ Lerman, David, and Shutt, Jennifer. “Spat over veterans health care emergency funds stalls spending deal.” *Roll Call*, November 21, 2020. Retrieved from: <https://www.rollcall.com/2020/11/21/spat-over-veterans-health-care-emergency-funds-stalls-spending-deal/> (Accessed December 1, 2020.)

⁴ *Ibid.*

Leader McCarthy is right to assert that this move -- coming from appropriators on both sides of the aisle -- is a violation of the agreement House and Senate leaders reached over spending bills last year. While this issue should certainly not lead to a shutdown, lawmakers should make the responsible decision by *not* exempting the \$12.5 billion in VA spending from the caps and instead making do with lower spending increases than they would otherwise be able to make with the carve-out.

- **Pass targeted COVID relief for struggling families and businesses:** For months, NTU has shared with lawmakers consistent principles that Congress should follow in passing any new COVID relief package.⁵ We continue to believe that additional relief is necessary, given the widespread impact the virus and the economic downturn continue to have on American families and businesses. We ask that Congress ensure that relief efforts are *temporary* and *targeted* at the workers, businesses, and families most impacted by the pandemic and economic downturn. To that end, Congress could extend the federal boost to unemployment insurance (UI) for several months (albeit at a level lower than \$600 per week) and support small businesses through expansion of the Employee Retention Tax Credit (ERTC). As an alternative to ERTC, extension or expansion of the Paycheck Protection Program (PPP) -- though it is a flawed program -- would also support many small businesses and workers. State and local aid has been a contentious topic of relief package negotiations. We believe that state and local aid should, at a minimum, be limited to states' expected revenue losses and/or added costs due to COVID-19. Any state and local aid should come with strict reporting requirements and strong guardrails that prevent states from using funds to address pre-pandemic problems like ailing public pension funds.
- **Extend expiring tax provisions that also help struggling families and businesses:** As NTU Foundation wrote in September 2019, "Not All Extenders Are Created Equal."⁶ To that end, we ask lawmakers to prioritize expiring tax provisions that either allow for proper cost recovery of business investments and expenses or would directly help the families and businesses struggling through COVID-19, including: 1) permanent reductions in excise taxes levied on alcohol producers; the lower rates were originally passed in the Tax Cuts and Jobs Act and is supported by a bipartisan group of lawmakers,⁷ 2) extension of the "Look Through Rule," which is critical to fostering a coherent approach to the taxation of Controlled Foreign Corporations (CFCs),⁸ and 3) extension of the deduction for medical expenses above 7.5 percent of a taxpayer's gross income (if not reduced, the floor will rise to 10 percent of a taxpayer's gross income).⁹
- **Keep Section 230 out of year-end negotiations:** It is deeply troubling that some in the Trump Administration have expressed interest in repealing Section 230 of the Communications Decency Act before the end of the year, possibly in the National Defense Authorization Act (NDAA). This debate is complex and will require care and caution from lawmakers, and jamming Section 230 repeal in a year-end package would make for terrible policy.

⁵ 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>

⁶ Kaeding, Nicole. "Not All Extenders Are Created Equal." NTU Foundation, September 25, 2019. Retrieved from:

<https://www.ntu.org/foundation/detail/not-all-extend-ers-are-created-equal>

⁷ Jagoda, Naomi. "Senators call for passage of bill to cement alcohol excise tax relief." *The Hill*, December 1, 2020. Retrieved from: <https://thehill.com/policy/finance/528108-senators-call-for-passage-of-bill-to-cement-alcohol-excise-tax-relief> (Accessed December 1, 2020.)

⁸ Sepp, Pete. "Congress Should Extend Look-Through Rule to Provide Certainty for Businesses." National Taxpayers Union, November 5, 2020. Retrieved from:

<https://www.ntu.org/publications/detail/congress-should-extend-look-through-rule-to-provide-certainty-for-businesses>

⁹ 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>

- **Ensure transparency and oversight of taxpayer dollars remains a priority:** While the first and second priorities for Congress should be avoiding a shutdown and passing targeted COVID relief, it is always important that Congress continue its rigorous oversight of taxpayer dollars. In recent months, NTU has advocated for the Treasury Department to disclose more data on PPP¹⁰ and for states and municipalities to fully report on how they spend CARES Act funds.¹¹ We have also continued our decades-long work to build a more transparent and efficient Pentagon budget and bureaucracy. To that end, we believe Congressional conferees to the NDAA should retain several good-government provisions in the House and Senate bills aimed at fostering greater oversight of the large Department of Defense budget.¹² We also believe that Congress should follow the Government Accountability Office's (GAO) recent recommendation to designate "all executive agency programs and activities making more than \$100 million in payments from COVID-19 relief funds as 'susceptible to significant improper payments,'" which will help Congress better identify fraud and waste in COVID relief programming.¹³ Any new and existing federal COVID relief programs should come with reporting requirements, especially for public agencies and programs that are ultimately accountable to taxpayers. Reporting requirements for the private entities receiving funds should balance the public's interest in robust oversight with the need to protect the privacy and proprietary information of private individuals and businesses.

Thank you for your consideration of the aforementioned legislative principles, and for your ongoing work to combat the public health and economic impacts of COVID-19. Should you have any questions or an interest in discussing these matters with us further, we are at your service.

Sincerely,

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¹⁰ 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>

¹¹ Bydlak, Jonathan. "Coalition Letter: federal response to state and local budget strain caused by COVID-19." R Street Institute, July 6, 2020. Retrieved from:

<https://www.rstreet.org/2020/07/06/coalition-letter-federal-response-to-state-and-local-budget-strain-caused-by-covid-19/> (Accessed December 1, 2020.)

¹² More here: Lautz, Andrew. "NDAA Conferees Should Retain Several Good-Government Provisions." National Taxpayers Union, September 8, 2020. Retrieved from:

<https://www.ntu.org/publications/detail/ndaa-conferees-should-retain-several-good-government-provisions>

¹³ Government Accountability Office. (November 30, 2020). "COVID-19: Urgent Actions Needed to Better Ensure an Effective Federal Response." GAO-21-191. Retrieved from: <https://www.gao.gov/reports/GAO-21-191/?source=email#Recommendations> (Accessed December 1, 2020.)