CONGRESSIONAL BUDGET OFFICE
U.S. Congress
Washington, DC 20515

Phillip L. Swagel, Director

July 16, 2021

Honorable Mark R. Warner
United States Senate
Washington, DC 20510

Re: The Budgetary Effects of the Tax Credit for Employer-Paid Sick and Family Leave During the Coronavirus Pandemic

Dear Senator:

As you requested, I am writing to provide information about the budgetary effects of the tax credit for employer-paid sick and family leave.

Original Cost Estimates

The Families First Coronavirus Response Act (FFCRA) required qualifying businesses to provide paid leave to employees for absences related to the coronavirus pandemic. That act also established a tax credit to cover employers' expenditures on coronavirus-related paid leave taken by employees between April 1, 2020, and December 31, 2020. On April 2, 2020, the Congressional Budget Office and the staff of the Joint Committee on Taxation (JCT) estimated that the provision would increase federal deficits by $105 billion over fiscal years 2020 to 2031.[1]

Subsequent legislation—the Coronavirus Aid, Relief, and the Economic Security (CARES) Act; the Consolidated Appropriations Act, 2021 (CAA); and the American Rescue Plan Act (ARPA)—modified the credit and extended it through September 30, 2021. JCT estimated that those changes would increase the cost of the tax credit by about $8 billion.[2]

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1. That cost was expected to be incurred mostly as a reduction in revenues, but also in part as an increase in direct spending. See Congressional Budget Office, letter to the Honorable Nita M. Lowey concerning CBO's preliminary estimate of the effects of H.R. 6201, the Families First Coronavirus Response Act, www.cbo.gov/publication/56316.

2. See Joint Committee on Taxation, Estimated Revenue Effects of H.R. 1319, the "American Rescue Plan Act of 2021, as Amended by the Senate, Scheduled for Consideration by the House of Representatives, JCX-14-21 (March 9, 2021), www.jct.gov/publications/2021/jcx-14-21, and Estimated Budget Effects of the Revenue Provisions Contained in Rules Committee Print 116-18, the "Consolidated Appropriations Act, 2021" (December 21, 2020), www.jct.gov/publications/2020/jcx-24-20.

The tax credit equals 100 percent of qualified wages plus the employer's contributions for health insurance premiums, subject to specific limits, and they are allowed against the employer's share of payroll taxes. The credit is available to private employers with fewer than 500 employees and to self-employed people. Eligible expenditures include leave payments for employees unable to work or telework because of the coronavirus, with less than two-thirds to full-wage replacement for 10 days to 12 weeks, depending on the reason for the leave.

CBO's estimates of the credit's effects on revenues and outlays prepared near the time of FFCRA's enactment were reflected in its budget projections (often called its baseline) over the past year. On the basis of those original estimates of claims for the credit and the related behavioral responses, CBO increased projected deficits by approximately $113 billion in total—$105 billion upon the enactment of FFCRA and an additional $8 billion following the enactment of the CARES Act, the CAA, and ARPA. Those amounts were attributed to legislative changes in CBO's updates to the baseline following those enactments.

Implications of Recent Information

Since then, some additional information has become available. Over the past year, tax revenues have been significantly stronger than CBO anticipated. CBO's most recent report on the budget outlook noted that tax collections in 2020 and 2021 have been more than would be expected given current data on economic activity.[3] The specific reasons for those greater-than-anticipated collections will become clearer as detailed information from tax returns becomes available.

Recent information from Internal Revenue Service (IRS) administrative records indicates that as of July 15, 2021, the IRS has processed employers' claims for this credit totaling $5.4 billion in the second, third, and fourth quarters of 2020 and $1.3 billion in the first quarter of 2021.

The actual budgetary cost of the provisions that provided this credit remains uncertain, however. Data on self-employed individual claims of this credit are not yet available, and, similar to what was reported by the Government Accountability Office in March 2021, the "IRS continues to process a paper return backlog, which makes the data … incomplete,

3. See Congressional Budget Office, *An Update to the Budget and Economic Outlook* (July 2021), www.cbo.gov/publication/57218.

particularly for small employers."[4] In addition, taxpayers may still file additional claims and update the amounts on prior claims.

This recent information is not directly comparable with the original estimate for FFCRA for several reasons. Subsequent legislation is one reason that the use of tax credit for paid leave may be less than was anticipated near the time of FFCRA's enactment. The incentives to claim this credit are complicated because of the interaction between it and other policies put in place in response to the pandemic, such as enhanced unemployment insurance and the Paycheck Protection Program (PPP). In particular, higher payments for unemployment insurance reduced the need for employees to seek and employers to offer paid leave, and businesses were not allowed claim credits under the FFCRA provision for wages paid with the proceeds of a loan forgiven under the PPP. Those interactions were accounted for in estimates of the later legislation. In addition, CBO's projections of the economy have changed significantly since the provision was first enacted.

CBO's most recent baseline projections, which reflect current law and incorporate information available through May 18, 2021, show larger-than-anticipated receipts. Less use of this credit than was anticipated near the time of enactment may be one of the factors supporting the recent strength in revenues.

Differences in outcomes from earlier estimates for legislation are not unusual, and those differences may be reflected in increases or decreases in the estimated costs of various provisions. That type of change, like other changes for economic and technical factors, is regularly reflected by CBO as a baseline adjustment and is not attributed to legislation. CBO regularly assesses the reasons actual collections differ from those previously projected.[5]

4. See Government Accountability Office, *COVID-19: Sustained Federal Action Is Crucial as Pandemic Enters Its Second Year,* GAO-21-387, p. 421 (March 2021), www.gao.gov/products/gao-21-387.

5. See Congressional Budget Office, *The Accuracy of CBO's Budget Projections for Fiscal Year 2020* (December 2020), www.cbo.gov/publication/56885, and *An Evaluation of CBO's Past Revenue Projections* (August 2020), www.cbo.gov/publication/56499.

I hope this information is useful. If you have any questions, please contact me.

Sincerely,

Phillip L. Swagel
Director

cc: Honorable Ron Wyden
Chairman, Committee on Finance

Honorable Mike Crapo
Ranking Member

Honorable Bernie Sanders
Chairman, Committee on the Budget

Honorable Lindsey Graham
Ranking Member

Honorable Kyrsten Sinema