The bipartisan, bicameral team of congressional negotiators led by Vice President Joe Biden continued its deficit reduction deliberations last week, meeting three times and targeting the Independence Day recess to reach agreement on a proposal. Although group members have generally remained tight-lipped about their discussions, it was revealed that the agenda included discretionary spending, spending caps and budget triggers, and non-entitlement mandatory spending.

The group, which was formed in April as part of President Obama’s deficit reduction strategy, is ostensibly formulating the plan in order to win congressional approval of an increase in the federal borrowing limit. (Treasury Secretary Timothy Geithner has indicated that the nation risks defaulting on its debt if the federal borrowing limit is not increased by August 2.)

On the topic of budget triggers, Biden group negotiator Rep. Chris Van Hollen, D-Md., indicated that although there was consensus that a trigger of some kind was required to ensure future action on deficit reduction, the parties remain at odds as to how such an enforcement device should operate. Republicans generally want any such device to apply only to spending, while Democrats believe it should apply to both spending and revenues.

“The difference is they want a spending cap only; we have said it should be a debt cap. We are interested in reducing the deficit and that means we think we should be able to get deficit reduction by closing special-interest tax loopholes, getting rid of oil subsidies, that kind of thing,” Van Hollen told reporters.

After the group’s June 15 meeting, Van Hollen also indicated that Democrats had offered a “menu” of tax expenditures for elimination, although he did not identify specific provisions. Republican negotiators, however, maintain they will not accept revenue increases as part of a deal to raise the debt ceiling.

Other lawmakers not on the negotiating team continue to weigh in with their suggestions. Rep. Earl Blumenauer, D-Ore., sent a letter to Biden urging the repeal of oil and gas subsidies as part of a debt ceiling compromise. Blumenauer, a member of the House Ways and Means and Budget committees, was joined by 45 House Democrats in calling on the Biden group to eliminate $8 billion in oil and gas tax incentives. The Oregon Democrat previously introduced legislation (H.R. 601) that would use the revenue raised by eliminating the subsidies to pay down the deficit.

Biden indicated the group will resume its deliberations this week and is planning to meet in as many as four extended sessions as it looks to reach...
Payroll Tax Holiday Questions Linger

Meanwhile, rumors swirled over the possibility of a new payroll tax holiday. After broaching the subject earlier this month, the White House continues to indicate it may support extending the temporary 2 percent holiday for employees enacted in 2010 and set to expire at the end of this year or providing an employer-side payroll tax break in an effort to stimulate the economy.

Congressional support for a further tax stimulus, however, remains unclear. While it may be difficult for House Republicans to turn down a tax cut, their position against further stimulus and government spending may serve to deter members from backing another expensive stimulus program. House Speaker John Boehner, R-Ohio, told reporters last week that he would prefer to focus on tax reform rather than additional short-term stimulus.

House Budget Committee Chairman Paul Ryan, R-Wis., added that “temporary tax rebates don’t work to create economic growth -- permanent tax changes do,” further dampening prospects that Congress approves additional payroll tax breaks in the near term.

Senate Rejects, Then Approves Repeal of Ethanol Subsidies

While the debt ceiling debate continued behind the scenes, the Senate found itself embroiled in a fight over the repeal of ethanol tax subsidies in the wake of a move by Sen. Tom Coburn, R-Okla., to end debate on an amendment he offered to the Economic Development Revitalization Act (S. 782) that would repeal the 45-cent-per-gallon ethanol blenders tax credit and the 54-cents-per-gallon tariff on ethanol imports. Senate Democrats aligned against the amendment on June 14 to protest Coburn’s procedural tactics and the measure failed to gain the 60 votes required for approval.

Two days later, however, Sen. Dianne Feinstein, D-Calif., revived the effort to repeal the ethanol provisions, introducing an amendment identical to the earlier Coburn proposal. The Feinstein amendment was approved by a 73-27 margin.

Despite the strong show of support for repeal in the Senate, the amendment must be attached to a bill that originated in the House to stand a chance of being enacted into law. The outlook on the other side of the Capitol, however, is unclear: House Republicans continue to insist that they will consider rolling back certain tax subsidies, but only as part of a broader tax reform debate.

FUTA Surtax Set to Expire June 30

In other developments, House Ways and Means Select Revenue Measures Subcommittee Chairman Pat Tiberi, R-Ohio, told reporters last week that the Federal Unemployment Tax Act surtax likely will be allowed to expire as scheduled on June 30. The 0.2 percent tax was imposed in 1976 to repay government loans during a period of high unemployment. Congress has repeatedly extended the surtax, long after the loans were repaid, as a means to offset other legislation. More recently, in his fiscal year 2012 budget, the president proposed to make the surtax permanent, with the Joint Committee on Taxation estimating that it would raise approximately
$14.5 billion over 10 years.

**Colorado: New Laws Extend Time Frame for Filing ‘Point of Purchase’ Refund Claims, Restore E-Delivery Software Exemption**

Effective immediately, a new Colorado law (H.B. 1265) enacted May 27 explains that "within three years after the due date of the return showing the overpayment or one year after the date of overpayment, whichever is later," vendors can file refund/credit claims dealing with certain “point of purchase” disputes with the state’s department of revenue. Previously, state law only allowed 60 days for refund/credit claims regarding such disputes to be filed. The law also explains when a vendor may claim a refund on behalf of a purchaser, as well as penalties for willfully failing to collect or truthfully account for such taxes.

**E-Delivery Software Exemption Restored**

Another new law (H.B. 1293) essentially restores the previous administrative exemption for computer software delivered electronically which was repealed last year (H.B. 1192) by now statutorily exempting from taxation certain computer software that is not delivered to the customer in a tangible medium -- that is, software provided through an application service provider, delivered by electronic computer software delivery, or transferred by “load and leave” computer software delivery. Under the new law, state sales/use tax will only be assessed on standardized computer software that is: (1) prepackaged for repeated sale or license, (2) governed by a tear-open nonnegotiable license agreement, and (3) delivered to customers in a tangible medium.

H.B. 1293 becomes effective on July 1, 2012.


Alabama Gov. Robert Bentley (R) recently signed House Bill 434 which, effective for tax years beginning on or after December 31, 2010, modifies Alabama’s corporate income tax by:

- Amending the apportionment formula to double-weight the sales factor;
- Requiring market sourcing for sales other than sales of tangible personal property; and
- Creating a “throwout” rule for sales other than sales of tangible personal property.

This Multistate Tax Alert summarizes these Alabama law changes.

**Multistate Tax Alert: New Jersey Technical Advice Memorandum Expands Scope of Related Company Transaction Rule**
The New Jersey Division of Taxation (Division) recently issued Technical Advice Memorandum 17 (TAM-17), stating the Division’s interpretation of its authority to make adjustments in arriving at what it considers a fair and reasonable determination of tax payable under the Corporate Business Tax Act. In particular, TAM-17 focuses on intercompany transfer pricing arrangements.

This Multistate Tax Alert summarizes the information provided in TAM-17.

**Featured Insights: California Sales Tax on Software – The Latest on Nortel Networks, Inc. v. State Board of Equalization**

The recent California Court of Appeal decision in Nortel Networks, Inc. v. State Board of Equalization confirms that software may be excluded from California sales tax if sold in technology transfer agreements. What does this decision mean to your organization now and what’s next?

Find out in this week’s Featured Insights.