Supporting America’s Restaurant Workers Act

S. 4319 (116th Congress)

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On July 27, 2020, U.S. Senator Tim Scott (R-SC) introduced the Supporting America’s Restaurant Workers Act (S.4319, 116th Congress), to allow businesses to deduct 100% of the cost of business meals in 2020, rather than the 50% deduction limitation of §274(n).

It is one of eight bills in the Health, Economic Assistance, Liability Protection and Schools (HEALS) Act which would increase funding for schools, higher learning institutions, hospitals, and provide a payroll tax credit to businesses equal to 50% of COVID expenses. The National Restaurant Association’s 2021 State of the Restaurant Industry report addresses the devastating impact of COVID-19 on the restaurant industry. The report highlights include the following:

- Among full-service restaurants, 87% had an average 36% drop in sales.
- More than 110,000 eating and drinking places were closed for business temporarily as of December 1, 2020.1

To support restaurant businesses and increase the employment level, Senator Scott introduced this bill:

The Supporting America’s Restaurant Workers Act will lead to more customers, more opportunities for hardworking waitstaff and kitchen staff, and much needed revenue for small businesses across the country.

Generally, entertainment expenses are disallowed for deduction purpose. Meal expenses can be deducted up to 50% during the tax year with several exceptions. S. 4319 will add an exception under Sec. 274(n)(2) that expenses for food or beverages provided by a restaurant and paid or incurred before January 1, 2021 are fully deductible. This change was enacted into law for such restaurant expenses paid or incurred in 2021 and 2022.2

The following section applies the twelve principles of good tax policy to Supporting America’s Restaurant Workers Act of 2020 by MST students. These principles were laid out in the AICPA’s

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Principles of Good Tax Policy Worksheet

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<tr>
<th>Criteria</th>
<th>Does the proposal satisfy the criteria? (explain)</th>
<th>Result</th>
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<tbody>
<tr>
<td><strong>Equity and Fairness</strong> – Are similarly situated taxpayers taxed similarly? Consider the tax effect as a percentage of the taxpayer’s income for different income levels of taxpayers.</td>
<td><strong>Horizontal equity:</strong> Horizontal equity requires similarly situated taxpayers to be taxed similarly. The proposal favors restaurants relative to other businesses by encouraging more people to buy meals from restaurants. The 100% meal expense deduction is only available for food or beverage purchased from a restaurant, but it is not available for other businesses, such as for those providing entertainment. In addition, no equivalent tax rule is proposed to help increase activity at other businesses adversely impacted by the pandemic. <strong>Vertical equity:</strong> The vertical equity principle is satisfied when taxpayers with higher income pay more tax than taxpayers with lower income. Generally, high-income taxpayers may purchase more expensive food than low-income taxpayers. This bill will provide a greater tax savings to higher income taxpayers, violating vertical equity.</td>
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<td><strong>Certainty</strong> – Does the rule clearly specify when the tax is owed and how the amount is determined? Are taxpayers likely to have confidence that they have applied the rule correctly.</td>
<td>The proposal is short and easy to understand, however, it does not give any clear definition of a restaurant. Generally, a restaurant is where people pay to sit and eat meals. Taxpayers can be confused when they apply this tax rule. For example, if taxpayers purchase food from food truck or cafeteria or deli counter at a grocery store, is it treated as qualified meal expenses for the 100% deduction? The proposal stated that the deduction will apply to amounts paid or incurred after the date of the enactment of this Act, and before January 1, 2021. It is also not clear for prepaid meal expenses. If businesses prepaid lunch meal from a restaurant on January 1, 2020 for the whole year, is it fully deductible on 2020 tax return? The proposal is not clear</td>
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and easy to comply for taxpayers. Thus, S.4319 does not fully meet the certainty principle.

| **Convenience of payment** – Does the rule result in tax being paid at a time that is convenient for the payor? | Taxpayers report the amount of meal expenses on their Schedule C or other business return and keep the supporting documents. Taxpayers do not need to make any payment. The deduction will offset the taxable income, and taxpayers will pay the tax due or receive refund from the IRS. The proposal does not affect the convenience of payment principle. | N/A |
| **Effective Tax Administration** – Are the costs to administer and comply with this rule at minimum level for both the government and taxpayers? | The deduction for meal expenses is not a new idea. Government and taxpayers do not need new instructions or trainings for this proposal. The only issue may be what is considered a restaurant. Therefore, S.4319 will not increase costs for both the government and taxpayers. The IRS may add a line on business returns for 100% deductible meal expenses and there is no need for any special tax form. Based on that, S.4319 does meet the effective tax administration principle. | + |
| **Information Security** – Will taxpayer information be protected from both unintended and improper disclosure? | No new information needs to be obtained by businesses as this is a change in the amount of a deduction currently 50% disallowed. | N/A |
| **Simplicity** - Can taxpayers understand the rule and comply with it correctly and in a cost-efficient manner? | No special calculations are required by this proposal. If taxpayers paid $1,000 for meals provided by a restaurant in 2020, they would report the $1,000 on their tax return. The only thing to keep in mind is that taxpayers must keep the receipts or any other supportive documents for the meal expenses. Thus, the bill does meet the principle of simplicity. | + |
| Neutrality – Is the rule unlikely to change taxpayer behavior? | S.4319 was introduced to provide more opportunity to restaurant businesses which have suffered under the pandemic since March 2020. It may encourage businesses to purchase food and beverages from restaurants. Taxpayers who used to purchase food from a food shop or food truck may change their behavior. Businesses will also make decisions between amusement which is nondeductible expense and meal which could be 100% deductible. Thus, the bill influences taxpayers’ decisions, and the neutrality principle is not met. | - |
| Economic growth and efficiency – Will the rule not unduly impede or reduce the productive capacity of the economy? | The bill could have a positive impact on the economy. There is an economic downturn since February 2020. Government have prohibited people eating inside restaurants to protect people from COVID-19. Thus, people have been staying at home instead of eating outdoors. Lots of restaurants have been closing. Real gross domestic product (GDP) – the value of goods and services produced in the United States dropped 5.0% in the second quarter of 2020, according to data from the Bureau of Economic Analysis. The national economy lost more than 22 million jobs in March and April 2020, according to data from the Bureau of Labor Statistics (BLS). S.4319 may help restaurants reopen and bring back more job opportunities. In another aspect, the proposal may have a negative impact for businesses other than restaurants. If cafeteria, food shop or food truck is not included in the definition of a restaurant, people will tend to purchase food from a restaurant rather than a food truck. These businesses may be left worse than before. Overall, the proposal does meet the economic growth and efficiency principle. | + |
| Transparency and Visibility – Will taxpayers know that the tax exists and how and when it is imposed upon them and others? | Businesses may get the information from their tax advisor. The proposal was introduced to support the restaurant businesses and increase employment. To achieve the goals, the government must spread awareness of this expanded deduction. Restaurants can also inform businesses of this expanded deduction. Thus, the transparency principle is partially met. | + |
**Minimum tax gap** – Is the likelihood of intentional and unintentional non-compliance likely to be low?

S.4319 is relatively straightforward for taxpayers to comply. The likelihood of intentional and unintentional noncompliance may be low. The bill does meet the principle of minimum tax gap.  

**Accountability to taxpayers** – Will taxpayers know the purpose of the rule, why needed and whether alternatives were considered? Can lawmakers support a rationale for the rule?

S.4319 has a strong intention to encourage businesses to purchase food from restaurants. The lawmakers may support the proposal because restaurant businesses suffer during the pandemic. The rationale for fully deductible meal expenses can be clear for the taxpayers and lawmakers. However, they may also consider if there are alternatives. The proposal is unfair for businesses other than restaurants. Taxpayers may ask for fully deduction for entertainment expenses or other nondeductible business expenses, or a tax credit to encourage purchases from other businesses that are suffering during the pandemic. Thus, the proposal mostly meets the accountability to taxpayers principle.

**Appropriate government revenues** – Will the government be able to determine how much tax revenue will likely be collected and when?

It might be difficult for the government to estimate the costs of this proposal. Existing data on the meals deduction cannot just be doubled because the pandemic has reduced the inclination of businesses to have meals with clients. However, there is some data including from the restaurant industry to estimate the drop in sales and what they think the bill might lead to regarding an increase in sales to business customers. The bill mostly does not meet the principle of appropriate government revenues.

**Summary**

Based on our analysis, S.4319 satisfies six of the twelve principles of good tax policy. We have a mixed positive/negative rating for equity and fairness principle. Several key principles, including convenience of payment, effective tax administration, simplicity, economic growth and efficiency, minimum tax gap, transparency and visibility, and accountability to taxpayers’ principles are mostly satisfied. Certainty, neutrality, and appropriate government revenues principles are not met.

Another consideration is whether this proposal is the best one to help the restaurant industry as it doesn’t do anything to help increase non-business purchases or provide assistance to remain open and retain employees. Other COVID-19 changes such as Paycheck Protection...
Program (PPP) loans and various payroll credits might help more and should be extended and broadened.

Suggestions for improvement:

1. Giving the clear definition of a restaurant. Listing out the examples of qualified restaurants and disqualified ones. The certainty principle could be satisfied.

2. To better meet the neutrality principle, lawmakers could consider making other expenses deductible, such as entertainment and transportation expenses. However, the cost of increased numbers of individuals contracting the coronavirus must also be considered.

3. Consider changes that would help more types of struggling businesses rather than just one industry.