

Government Relations Update – State of Play - September 2017

Congressional Outlook

The White House and Congressional leaders have engaged in negotiations on a number of key fiscal policy priorities in September, including the Debt Limit, fiscal year (FY) 2018 federal spending, and comprehensive tax reform.

The Debt Limit and federal funding were the first priorities Congress addressed when they returned from August recess. A move that surprised many in Washington, President Trump struck a deal with Minority Leader Nancy Pelosi (D-CA) and Senate Minority Leader Chuck Schumer (D-NY) to fund the government and suspend the Debt Limit for three months. Speaker Paul Ryan (R-WI) and Senate Majority Leader Mitch McConnell (R-KY) originally had rejected the Democrats' offer, but decided to move forward with the "President's deal."

On Friday, September 8, the House cleared the package by a vote 316-90, providing more than \$15 billion in disaster aid for victims of Hurricane Harvey, suspending the Debt Limit and funding the government through December 8. The Senate had passed the bill a day earlier by a vote of 80 - 17. President Trump swiftly signed the bill the same day as House passage.

Congress will need to approve another spending package before December 8 to extend federal funding while Treasury can use internal measures to extend borrowing authority and possibly delay further Congressional action on the Debt Limit until early 2018.

The House Freedom Caucus, unhappy with this latest move by the President, promised a spirited fight on the Debt Limit while President Trump suggested that votes to raise the Debt Limit are unproductive and should be done away with altogether.

In August, the "Big Six" tax reform negotiators – Senate Leader McConnell, House Speaker Ryan, Finance Chair Orrin Hatch, Ways & Means Chair Kevin Brady, National Economic Council (NEC) Director Gary Cohn, and Treasury Secretary Mnuchin – released a joint statement on tax reform to serve as a consensus messaging tool for the White House and Republican congressional leaders as they seek to generate public support for tax reform. The statement also provided House and Senate tax-writing committees a framework to develop legislative language this fall reflecting these broad principles. The statement made it clear that the border adjustability tax (BAT) – and transition to a consumption-based tax system - was politically unviable and that tax-writers are now pursuing a traditional income tax reform approach, leaving border adjustability behind.

On September 13, the House Republican Conference published high-level [details](#) about the individual and small business proposals. The proposals outlined are very similar to those in the House Blueprint with no mention of the much discussed tax-deferred retirement savings proposal. Additional information regarding tax reform is expected to be released the week of September 25.

The "Big Six" remain committed to finishing tax reform before the end of the year. Realistically, negotiations and floor consideration – particularly in the Senate – could extend until early 2018. The Administration is hopeful that they can get support from House/Senate Democrats for their plan and President Trump has been actively pursuing votes from moderate Senate Democrats, particularly those up for re-election in 2018.

Fiduciary update

The Department of Labor proposed an 18-month delay of the applicability date for certain provisions of the fiduciary rule from January 1, 2018 to July 1, 2019. The extension would apply to the best interest contract exemption, principal transactions exemption, and prohibited transaction exemption 84-24.

The rule – which greatly expands the definition of who counts as a fiduciary under the Employee Retirement Income Security act and the Internal Revenue Code – took effect on June 9, 2017, though most provisions of the exemptions had a compliance date of Jan. 1, 2018.

Healthcare update

Although the Senate healthcare bill was defeated before the August recess, reform remains on the table through reconciliation. Congressional Republicans are now opening the doors to bipartisan talks, with efforts being led by Senate HELP Committee chairman Lamar Alexander (R-TN) and ranking member Patty Murray (D-WA), who have a history of working together. Senate Finance Committee Chairman Orrin Hatch (R-UT) also announced that the Senate Finance Committee will hold a healthcare hearing in September to provide members of both parties the opportunity to discuss the healthcare law, striving to return to regular order and the committee process.

Efforts on the House side are being led by Freedom Caucus members who during an August 11 pro forma session, launched a discharge petition to pull legislation out of committee and force a vote on Obamacare repeal with a two-year delay in implementation, language that already passed Congress in 2015. The petition will require 218 signatures and with the 240 republicans in the House, the effort could prove successful; however, this would not have the support necessary to pass the Senate.