

NEWSSTAND

Congressional Update: Tax Cut Extension Debate - Legislative Wrap Up - Fiscal Commission

December 6, 2010

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Members of the House and Senate returned to Capitol Hill last week to continue the post-election lame-duck session. In addition to the remaining congressional agenda, the House GOP Steering Committee began its vetting process to put together committee leadership for the upcoming 112th Congress, Republican and Democratic leaders gathered at the White House to discuss extending current tax cuts, and the President's bipartisan fiscal commission officially released and voted on its debt reduction proposal.

TAX CUT EXTENSION DEBATE

On November 30, House leaders joined President Obama at the White House for the rescheduled summit to discuss the remaining legislative agenda and to attempt to chart a path forward in a bipartisan manner. The nearly two hour meeting focused largely on how to handle the extension of the 2001 and 2003 income tax cuts that will expire on December 31.

Despite promises to work together, no breakthrough was reached, as both parties continued to press for their preferred solution. Most Democrats are arguing for the permanent extension of "middle class" tax cuts while allowing the cuts for higher income brackets to expire after two years, citing the high cost of an across-the-board extension. Republicans are insisting that all of the 2001 and 2003 cuts be extended, citing the negative impact that anything less could have on small businesses and the economy.

On December 2, the House passed [legislation](#) that would make permanent the soon-to-expire cuts on taxable income under \$200,000 for individuals and \$250,000 for married couples, extend certain small business asset depreciation expensing provisions, and extend the AMT fix through 2011. The bill was approved largely along party lines by a vote of 234-188, but the approval is seen as mainly symbolic – as there is virtually no chance that it will attract the 60 votes needed in the Senate in order to break a filibuster.

The same day, Senate Finance Committee Chairman Max Baucus (D-MT) formally unveiled his own tax cut extension legislation, though it is not yet clear what level of support the proposal will garner. The Senate stayed in session over the weekend in order to debate two proposals that would have extended tax cuts for those making up to \$250,000 in one proposal and up to \$1 million in the other, but neither proposal garnered the 60 votes necessary to move forward. Negotiations continue this week on a bipartisan compromise that could include a temporary extension of tax cuts across-the-board.

LEGISLATIVE WRAP UP

In addition to the vote on tax cut extensions, the House also passed a comprehensive child nutrition bill and approved a new Continuing Resolution (CR) that will keep the federal government running through December 18, giving congressional leaders two more weeks to decide on a path forward for the current Fiscal Year (FY) 2011 appropriations. Current options include a long-term CR that lasts into the new Congress, with the possibility of an agreement on several free-standing appropriations bills -- such as Defense, Homeland Security and Veterans Affairs.

The Senate also approved comprehensive food safety legislation last week, though a procedural snafu may sideline completion of the bill for the remainder of the year. [Details available on request]

With only a short period of time remaining in the 111th Congress, Senate Republicans made their priorities clear on December 1, when all 42 GOP Senators sent a letter to Majority Leader Harry Reid (D-NV), vowing to filibuster any legislation brought to the floor before Congress tackles the issue of the expiring tax cuts and FY 2011 appropriations, stalling initiatives such as the START treaty. This has left little choice for Senate leaders but to move forward with work on those two agenda items.

FISCAL COMMISSION

The President's bipartisan fiscal commission released its final [report](#) on December 1. Written by the commission's co-chairmen and based on discussions with the other 16 members, the proposal would reduce the federal deficit by nearly \$3.9 trillion over the next 10 years.

In order to achieve that level of savings, the commission's proposal calls for \$50 billion in spending cuts in the near term and nearly \$200 billion in cuts (both military and non-military) by 2015. The plan also calls for the reduction or elimination of various tax breaks for businesses and individuals in order to meet its deficit reduction goals. Also recommended were changes to entitlement programs, such as raising the Social Security retirement age and overhauling the Medicare program.

While few embraced every recommendation in the report, a surprising 11 of the 18 member commission voted in support of advancing the report to Congress for a vote. This fell short of the statutorily required 14 votes needed to force action. Five Republicans, five Democrats and one independent voted in favor, giving hope that this could be the beginning of a bipartisan solution to the federal government's deficit spending. It is hoped that the ideas put forth by the commission will jump start discussions in the 112th Congress on ways to move forward on the difficult choices the government will need to make to bring our budget into balance.

NEXT STEPS

As the 111th Congress draws to a close, we will continue to bring you the latest on the tax policy debate, appropriations strategies, committee leadership decisions and other news from Capitol Hill.

This advisory is for guidance only and is not intended to be a substitute for specific legal advice. If you would like further information, please contact the Edwards Angell Palmer & Dodge LLP attorney responsible for your matters or one of the attorneys listed below:

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