FCA INTERNATIONAL LEGISLATIVE Update
Building a Better Future for Our Families

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Congressional Overview

Congress returned this week after a two-week recess with only a few days to prevent a looming government shutdown at the end of the week. These budget negotiations were hindered by healthcare subsidy payments, funding for a U.S.-Mexico border wall, and increased Defense spending. Additionally, the House is only scheduled to be in session for two weeks before another 10-day recess starting on May 5. The House passed a short-term resolution to keep the government funded another week (until Friday, May 5) to buy lawmakers more time to pass a longer-term spending package. The Senate passed the stopgap funding bill Friday afternoon, sending it to the President's desk. Pushing the vote on a longer-term spending bill to next week adds pressure on lawmakers to pass it to avoid canceling the May recess.

Meanwhile, the House voted on noncontroversial legislation. The Senate confirmed, Labor Secretary Alexander Acosta, USDA Secretary Sonny Perdue, Deputy Attorney General Rod J. Rosenstein, and advanced FDA Nominee Scott Gottlieb for Senate vote. With Acosta's confirmation, President Trump has his full slate of the 15 Cabinet-level heads.

Republicans Unable to Pass ACA Repeal During President Trump's First 100 Days

House Republicans attempted to revive the Affordable Care Act (ACA) repeal legislation with an amendment to let states obtain a waiver to opt out of many of the ACA's insurance regulations, which has been a major issue for most conservative members. However, the bill still failed to garner the support it needed, with 21 Republicans coming out against the bill and several more undecided. House Majority Leader Kevin McCarthy confirmed to reporters Thursday night that House GOP leadership would not bring the legislation to the floor for a vote this week. The failure to vote on the legislation means that the ACA will not be repealed or replaced during President Trump's first 100 days in office.

Senators Promoting Tax Proposal to Ensure Pass-Through Businesses Don't Pay Higher Tax than Corporations

Sens. Susan Collins (R-ME) and Bill Nelson (D-FL) are promoting the Senate version (S 707) of a House proposal (HR 116) by Rep. Vern Buchannan (R-FL) that would ensure pass-through businesses do not pay a higher tax rate than corporations. For these small-business owners, whose income is taxed at levels that individuals pay, that would mean a tax cut of 4.6 percentage points so they do not pay more than the current top corporate rate of 35 percent.

The bill would ensure that tax cuts would be distributed equally to corporations and pass-through businesses, which include sole proprietorships, S corporations and partnerships. That idea has gained traction in both chambers, as Republican leaders and the White House try to craft tax overhaul legislation. More than 90 percent of U.S. companies are pass-through businesses, and they employ a majority of the private sector workforce. Last fall, President Trump unveiled a tax plan that called for a 15 percent tax rate both for corporations and owners of pass-through businesses. President Trump also proposed a top individual rate of 33 percent.

Budget Reconciliation Instructions Impact on Legislation

Many lawmakers interested in overhauling both healthcare and taxes are proceeding on the assumption that FY 17 budget reconciliation instructions will remain in effect until a new budget resolution is adopted; this issue is important because the instructions were written to ensure that a GOP healthcare bill in the Republican-controlled

Senate could be passed with a simple majority, and there's no definitive answer yet to this question of how long the reconciliation instructions would last. The lack of clarity adds another element of uncertainty as House Republicans try to determine if they can salvage their drive to partly repeal and replace the 2010 healthcare law before Congress moves on to the FY 18 budget process.

Budget experts said it is unclear from a reading of the 1974 budget law, which created the modern budget process, how long reconciliation instructions survive and the Senate Parliamentarian has not yet offered an opinion. Budget experts said the question of when instructions expire has not been an issue because there have not been two fiscal years of budget resolutions under construction at the same time. Reconciliation, an expedited process that allows budget-related legislation to avoid a filibuster in the Senate and therefore pass with a simple majority, has been the tool of choice to try to repeal or replace the 2010 healthcare law.

GOP leaders also view reconciliation as necessary to overhaul the tax code. However, with no success in gaining enough Republican support to pass a healthcare bill, GOP leaders and the White House are wondering how long they have to use reconciliation for healthcare, and whether they will still have time to use a second round of reconciliation for taxes.

The House and Senate adopted a pared-down FY 17 budget resolution in January containing reconciliation instructions and two reserve funds aimed at repealing and replacing the healthcare law. Budget experts have speculated, and some lawmakers have said it is their understanding, that the current reconciliation instructions would lose their authority as soon as the House and Senate together adopt a FY 18 budget resolution. If no new budget resolution were adopted, the assumption appears to be that the instructions would last until the end of the 115th Congress, which continues through 2018 or that the instructions would last at least until the end of the current fiscal year. There are still other possibilities, and it would ultimately be the Senate parliamentarian's call.

Trump Signs Executive Order to Restrict Immigrant Workers and Enforce "Buy American" Laws

President Trump signed an executive order on April 18 advancing his campaign themes of restricting U.S. companies' use of skilled immigrant workers and of enforcing federal "Buy American" laws for goods and services used in taxpayer-funded projects. Actual changes to federal programs and policies are months away, but senior administration officials said Monday there will be "culture changes immediately across the agencies" once the president signs the order. The order is expected to launch reviews of so-called "Hire-American", "Buy-American" practices in federal agencies, identify changes that can be made administratively and recommend legislative changes that might be necessary.

In addition to targeting visa programs that allow companies to hire foreign workers, officials said the order will put trading partners on notice that the Trump Administration will scrutinize government procurement provisions in trade agreements. The pacts allow the United States and its trading partners to waive requirements that procurement contracts for government-funded projects can only go to domestic companies. The United States can select foreign companies that successfully bid on government projects, and trading partners can do the same with American companies. Per a Government Accountability Office Report, "foreign countries have awarded contracts to American companies less frequently than the United States has awarded to the companies of its trading partners."

President Trump's "Buy American" and "Hire American"

President Donald Trump has made "Buy American" and "Hire American," a signature of his Administration - it is the essence of the 'America First' policy: the idea that promoting U.S. production and the hiring of U.S. labor is the right policy for America to be strong, united and prosperous. These reforms have long been called for by America's labor unions and labor community.

It makes it clear that it is the policy of the executive branch to fully enforce the laws governing the entry of foreign workers into the United States economy in order to promote rising wages and higher employment rates, including for millions of disadvantaged minority workers who are among those displaced by the improper use of guest worker programs. Further, the executive order calls for those same Departments to propose suggested reforms to the H-1B program in order to conform the program back to its original intent by awarding visas to the most skilled and highest paid applicants. Crucially, at such time as these reforms are eventually implemented, it will prevent the program from being used to displace American workers.

EPA Hosting Meetings on Chemical Safety and Pollution Prevention

Consistent with Executive Order 13777, the U.S. Environmental Protection Agency's Office of Chemical Safety and Pollution Prevention (OCSPP) is hosting two meetings on May 1 to solicit input on regulations promulgated under the Toxic Substances Control Act (TSCA) and the Emergency Planning and Community Right-to-Know Act (EPCRA) that could be repealed, replaced, or modified to make them less burdensome. On Feb. 24, President Donald Trump issued Executive Order 13777 on Enforcing the Regulatory Agenda. The executive order establishes the "policy of the United States to alleviate unnecessary regulatory burdens placed on the American people." Among other items, it requires each agency to create a Regulatory Reform Task Force to evaluate existing regulations and to identify regulations that should be repealed, replaced or modified.

OCSPP is holding two public meetings (both of which the public is invited to participate in person or via teleconference) on May 1, 2017 so that it can listen and learn from those directly impacted by OSCPP regulations. The first meeting will be held from 9 AM-Noon. and will address regulations promulgated under TSCA Subchapters I (Control of Toxic Substances), II (Asbestos Hazard Emergency Response), VI (Formaldehyde Standards for Composite Wood Products), as well as EPCRA Subchapter II §11023 (Toxic chemical release forms), commonly referred to as the Toxics Release Inventory (TRI). These are regulations addressing chemical risk review and reduction programs including new and existing chemicals, polychlorinated biphenyls, asbestos, mercury and formaldehyde, as well as regulations implementing the TRI.

The second meeting will be held from 1-2:30 PM and will address regulations promulgated under TSCA Subchapter IV (Lead Exposure Reduction). These regulations address implementation of the Lead Renovation, Repair and Painting Program, Lead Abatement Program, Residential Lead-based Paint Disclosure Rule, and Residential Hazard Standards for Lead in Paint, Dust and Soil.

The EPA invites individuals to provide input on these actions during the public meeting/teleconference or by submitting written comments to the EPA-wide docket using docket number: EPA-HQ-OA-2017-0190. The docket, which is accessible through www.regulations.gov, will remain open through May 15, 2017. The OCSPP will give equal consideration to input provided through either of these methods.

Exxon Denied Russian Drilling

The Trump Administration has denied a request from ExxonMobil to waive U.S. sanctions against Russia to allow the company to resume oil drilling around the Black Sea. On April 21, U.S. Treasury Secretary Steven Mnuchin said that the administration "will not be issuing waivers to U.S. companies, including Exxon, authorizing drilling prohibited by current Russian sanctions."

U.S. Shale Production Continues Increasing

Per the Energy Information Administration (EIA), U.S. drillers are expected to boost shale production by 123,000 barrels per day to 5.19 million barrels per day in May. This surge is the largest in output since Feb. 2015 and the highest production level since Nov. 2015. Natural gas production is also poised to increase by .5 billion cubic feet per day to a record 50.1 billion cubic feet per day in May.