This Week In Congress

House – The House met in a joint session with the Senate to receive the President’s State of the Union address. The House passed the H.R. 2474, “The Protecting the Right to Organize Act,” H.R. 2382, “The USPS Fairness Act,” and H.R. 5687, a supplemental appropriations bill to provide aid to Puerto Rico.

Senate – The Senate voted to acquit President Trump on both articles of impeachment.

Next Week In Congress

House – The House is expected to consider H.R. 2546, “The Protecting America’s Wilderness Act,” and H.J. Res. 79, which would remove the deadline for the ratification of the Equal Rights Amendment.

Senate – The Senate will continue its consideration of pending judicial nominations. The Senate may consider S.J. Res. 68, a resolution directing the President to withdraw U.S. armed forces from hostilities against Iran.

TAX

House Ways and Means Committee to Hold Hearing on “The Disappearing Corporate Income Tax”

Key points:
- Democrats have expressed concern about the lower taxes large corporations have been paying since the passage of the Tax Cuts and Jobs Act.
- The hearing is scheduled for Feb. 11 and will examine the regulations implementing portions of the 2017 tax law and revenue impacts for the fiscal year.

The House Ways and Means Committee will hold a hearing on February 11, 2020 to examine regulations implementing provisions of the 2017 Tax Cuts and Jobs Act (TCJA) and how they have affected large corporations since implementation. This hearing will compare IRS audit rates of those companies against rates of low-income taxpayers who have benefitted from the income tax credit. The hearing was triggered, in part, by a New York Times article which reported that the Treasury Department issued new international provisions which would allow companies to have smaller tax bills than originally intended. Treasury Department spokesperson Monica Crowley called the article “unbalanced” and noted that the Department of Treasury met with many stakeholders when determining the new rule-making process and
that it was not meant to benefit one specific corporation.

The witnesses scheduled for the hearing include Jason Furman, Professor of the Practice of Economic Policy and the Harvard Kennedy School of Government; Rebecca Kysar, Professor of Law, Fordham University School of Law and; Chey-Ching Huang, Director of Federal Fiscal Policy, Center on Budget and Policy Priorities.

In January, Senate Finance Committee Ranking Member Ron Wyden and other Democratic colleagues sent a letter to the Department of the Treasury that raised several questions on corporate tax and the development of regulations post TCJA and indicated they were undertaking an investigation on that issue.

**Review of IRC Section 163(j) Clears OMB**

**Key Points:**
- OMB’s Office of Information and Regulatory Affairs (OIRA) completed its review of section 163(j) of the Internal Revenue Code on February 4.

In a posting released on February 4, the Office of Management and Budget (OMB) indicated that the Office of Information and Regulatory Affairs (OIRA) had completed its finalized review of section 163(j) or the Internal Revenue Code inside the 45 day constraint required by the Department of the Treasury. The TCJA amended section 163(j) in order to broadly disallow a deduction for net business interest expense of any taxpayer in excess of 30 percent of a business’s adjusted taxable income. Section 163(j) applies to all taxpayers who have business interest expenses (including domestic interest) in tax years after 2017. The final release of Section 163(j) rules could come soon, certainly in the next weeks.

**President Trump’s State of the Union Touches on a Number of Tax Issues**

**Key Points:**
- During his State of the Union speech President Trump touted his Administration’s support of economic opportunity zones across the country.
- President Trump also endorsed paid family leave; and a program to provide tax credits for attending any K-12 school, promoting school of choice.

During his speech President Trump touched on opportunity zones and touted his Administration’s work to increase the economic investment in opportunity zones. The Tax Cuts and Jobs Act passed by Congress and signed into law in 2017 established special capital gains tax benefits for those investing in opportunity zones.

President Trump also endorsed paid family leave during his speech. Legislation (H.R. 5296; S. 2976) has been proposed by Senators Cassidy (R-LA) and Sinema (D-AZ) which would allow parents the option to frontload a portion of their child tax credit to the first year of the child's life. It would essentially be a $5000 advance of the expected tax credit to new parents who qualify. This credit could be used to finance taking time off work or paying for childcare. If a parent opted to receive this credit their annual credit would be reduced by $500 a year over the following ten years. Senator Cassidy told reporters he believes Senate Finance Chairman Grassley (R-IA) needs get a revenue score for the bill before bringing it to the committee.

Lastly, President Trump called for the passage of school of choice legislation (H.R. 1434; S. 634) which would spend $5 billion per year on tax credits for donations to private school scholarships. This bill is backed by Secretary of Education Betsy Devos and according to President Trump the bill would “… allow one
million children to attend the school of their choice.”

Upcoming Hearings and Meetings

**February 11**

*Corporate Tax Rates:* The House Ways and Means Committee will hold a hearing “The Disappearing Corporate Income Tax.” The hearing will be held at 10:00am in 1100 Longworth House Office Building.

**February 12**

*2021 Budget Release:* The Senate Finance Committee will hold a hearing to examine the President’s 2021 Budget. The hearing is scheduled for 1:00pm, in 215 Dirksen Senate Office Building.

The House Ways and Means Committee is also expected to have a hearing the same day with Secretary Mnuchin to discuss the President’s 2021 Budget, very likely in the morning so that the Senate can hold its hearing in the afternoon but the time has yet to be announced.

The House Committee on the Budget will have a hearing to examine the President’s 2021 Budget. The hearing is scheduled for 10:00am in 210 Cannon House Office Building.

For more information about tax issues you may email or call Christopher Hatcher at 202-659-8201. Josh Hansma contributed to this section.

**FINANCIAL SERVICES**

**House Financial Services Committee Holds CFPB Oversight Hearing**

**Key Points:**

- Democrats criticized the CFPB’s actions regarding Unfair, Deceptive, or Abusive Acts or Practices, small-dollar lending, the Community Reinvestment Act, and fair lending enforcement.
- Republicans praised CFPB Director Kraninger, suggesting that she has brought a more balanced regulatory approach to the Bureau.

On February 6, the House Financial Services Committee held a hearing entitled “Protecting Consumers or Allowing Consumer Abuse? A Semi-Annual Review of the Consumer Financial Protection Bureau.” The Committee received testimony from Consumer Financial Protection Bureau (CFPB) Director Kathleen Kraninger.

Chairwoman Maxine Waters (D-CA) and Representative Carolyn Maloney (D-NY) criticized the CFPB’s recent policy statement regarding Unfair, Deceptive, or Abusive Acts or Practices (UDAAP). Waters stated that this policy made it harder for the CFPB to crack down on abusive acts. She suggested that she was “appalled” but not “surprised,” as Kraninger’s track record is “decidedly anti-consumer.” Maloney argued that Wells Fargo would have received a weaker penalty for the 2017 fake accounts scandal had the policy statement been in place. Republicans, including Ranking Member Patrick McHenry (R-NC) and Representatives Blaine Luetkemeyer (R-MO), Frank Lucas (R-OK), Bryan Steil (R-WI), and Andy Barr (R-KY), commended the policy statement, arguing that it provides clarity and strikes a more appropriate regulatory balance. Kraninger said the policy statement is meant to clarify the what is meant by abusiveness and
separate it from deceptive and unfair practices. She stated that the policy statement should not be read to mean that the CFPB will not bring abusiveness claims. She stated that some distinction is needed in this area. She noted that she examined the Wells Fargo case before issuing the policy statement.

Ranking Member McHenry and Representatives Bryan Steil (R-WI) and Scott Tipton (R-CO) criticized the structure of the CFPB, suggesting that it should be brought into the appropriations process and restructured as a five-member commission. McHenry suggested that Democrats should work towards a compromise which would allow the Bureau to continue to function. He contended that the Supreme Court will act on the matter by the end of the summer.

Representatives Blaine Luetkemeyer (R-MO), Trey Hollingsworth (R-IN), and William Timmons (R-SC) urged the CFPB to move forward with finalizing its proposed rule to modify the 2017 small-dollar loan rule. Kraninger said the CFPB is reviewing the extensive number of comments on the proposed rule. She said they are targeting a final rule in April. She noted that there is a petition on the payments provision, which she hopes to address at the same time. Chairwoman Waters and Representative Gregory Meeks (D-NY) spoke in opposition to the proposed rule and criticized Kraninger for the decline in the number cases brought against payday lenders during her tenure.

Chairwoman Waters and Representatives Nydia Velazquez (D-NY) and Chuy Garcia (D-IL) spoke in opposition to the proposed rule and criticized Kraninger for the decline in the number cases brought against payday lenders during her tenure. They argued that the proposed rule runs counter to the goal of combating discrimination and promoting investment in underserved communities. Kraninger said the intent of the rule is to enhance transparency and drive investment. She stressed that it is a proposal and is open to comments.

SEC Holds Small Business Capital Formation Advisory Committee Meeting

Key Point:

- The Advisory Committee held panels on the capital raising challenges of small businesses and early stage companies.

On February 4, the Securities and Exchange Commission (SEC) convened a meeting of its Small Business Capital Formation Advisory Committee. The meeting included panels and presentations on: (1) Overview of Annual Report from the SEC’s Office of the Advocate for Small Business Capital Formation; (2) Exploration of Small Business Capital Markets Data and Challenges Faced by Small Businesses and Their Investors; (3) SEC Office of Minority and Women Inclusion (OMWI); and (4) Local Capital Availability for Early Stage Companies and the Role of Regional Funds.

Chairman Jay Clayton, in a statement, called this meeting “timely” in the context of the SEC’s ongoing consideration of regulatory changes to facilitate capital formation. He praised the comprehensiveness of the Office of the Advocate for Small Business Capital Formation’s first annual report, and he encouraged all stakeholders to read the report. He explained the report details how companies are raising capital and where capital is being raised across the country. He added the report details challenges for women and minority-owned companies, including reduced access to bank financing, limited access to early stage debt, and a decline in startup activity. He
acknowledged there would also be discussion on the role of funds in supporting small businesses during critical capital raising milestones. He encouraged participants to evaluate the changes to the covered funds provisions of the Volcker rule, particularly changes intended to allow regional banking entities to more readily support local entrepreneurship. He stressed the importance promoting diversity and inclusion and consider challenges to women and minority-owned businesses.

Jenny Riegel (Special Counsel, Office of the Advocate for Small Business Capital Formation) provided a summary of the Advocate's annual report. She noted that the report lays out five recommendations for the Commission: (1) modernizing and harmonizing the exempt offering framework; (2) promoting more participants in private offerings, particularly by changing the accredited investor definition and encouraging pooled investment vehicles; (3) engaging investors via finders; (4) improving Regulation Crowdfunding rules; and (5) developing scaled obligations for smaller, less complex reporting companies. Martha Legg Miller (Director, Office of the Advocate for Small Business Capital Formation) emphasized the importance of segmenting data by geographic area and offering type. She encouraged all stakeholders to provide feedback on the report.

Upcoming Hearings and Meetings

**February 10**

*Fixed Income Market Structure:* The SEC will hold a meeting of its Fixed Income Market Structure Advisory Committee.

**February 11**

*Monetary Policy:* The House Financial Services Committee will hold a hearing entitled “Monetary Policy and the State of the Economy.” The Committee is expected to receive testimony from Federal Reserve Chairman Jerome Powell.

**February 12**

*Monetary Policy:* The Senate Banking Committee will hold a hearing entitled “The Semiannual Monetary Policy Report to the Congress.” The Committee will receive testimony from Federal Reserve Chairman Jerome Powell.

*Diversity:* The House Financial Services Committee’s Subcommittee on Diversity and Inclusion will hold a hearing entitled “A Review of Diversity and Inclusion at America’s Large Banks.”

*Artificial Intelligence:* The House Financial Services Committee’s Task Force on Artificial Intelligence will hold a hearing entitled “Equitable Algorithms: Examining Ways to Reduce AI Bias in Financial Services.”

**February 13**

*Federal Reserve and Treasury Nominations:* The Senate Banking Committee will hold a hearing to consider the nominations of: Jessie Liu to be the Under Secretary for Terrorism and Financial Crimes at the Department of the Treasury; The Honorable Judy Shelton to be a Member of the Board of Governors of the Federal Reserve System; and Dr. Christopher Waller to be a Member of the Board of Governors of the Federal Reserve System.

**February 21**

*Federal Advisory Committee on Insurance:* The Treasury Department’s Federal Insurance Office (FIO) will hold a meeting of its Federal Advisory Committee on Insurance (FACI).
February 25

**Surface Transportation:** The Senate Banking Committee will hold a hearing entitled “Surface Transportation Reauthorization: Public Transportation Stakeholders’ Perspectives.” The witnesses at the hearing will be Paul Skoutelas, President and Chief Executive Officer, American Public Transportation Association; Patrick McKenna, President, American Association of State Highway Transportation Officials; Scott Bogren, Executive Director, Community Transportation Association of America; Ed Mortimer, Vice President, Transportation and Infrastructure, Chamber of Commerce of the United States of America; and Larry Willis, President of the Transportation Trades Department, AFL-CIO.

February 26

**Debt Traps:** The House Financial Services Committee will hold a hearing entitled “Rent-A-Bank Schemes and New Debt Traps: Assessing Efforts to Evade State Consumer Protections and Interest Rate Caps (Part 2).”

**Technology Advisory Committee:** The Commodity Futures Trading Commission (CFTC) will hold a meeting of its Technology Advisory Committee (TAC). The TAC will receive presentations on stablecoins, audit trails, compliance solutions, and cryptocurrency self-regulatory organizations, insurance, and custody. The TAC will also consider a recommendation from its Cybersecurity Subcommittee regarding the Financial Services Sector Coordinating Council Cybersecurity Profile.

February 27

**Investor Advisory Committee:** The SEC will hold a meeting of its Investor Advisory Committee. The agenda for the meeting includes: (1) an update for investors regarding accounting and auditing trends; (2) a discussion regarding the potential impact of the LIBOR transition on investors; and (3) reports from subcommittees.

March 10

**Consumer Debt Relief:** The CFPB will hold an event entitled “Evolutions in Consumer Debt Relief.”

For more information about financial services issues you may email Joel Oswald or Alex Barcham.

**HEALTH**

**CMS Proposes Changes to Medicare Advantage and Medicare Part D**

**Key Points:**
- The Centers for Medicare and Medicaid Services announced a new proposed rule making changes to the Medicare Advantage and Part D programs for CY 2021.
- The proposed changes include allowing beneficiaries with end-stage renal disease to enroll in Medicare Advantage and bring greater transparency to Part D drug costs.

On February 5, the Centers for Medicare and Medicaid Services (CMS) announced two proposals to modernize Medicare Advantage (MA) and Part D to lower beneficiary cost sharing, promote the use of generics, and provide greater transparency on out-of-pocket payments for prescription drugs.

Department of Health and Human Services Secretary Alex Azar said “President Trump has been laser-focused on strengthening and protecting Medicare for our seniors, and these proposed improvements are the latest measures…” CMS Administrator Seema Verma emphasized these “proposals shed desperately
needed light on previously obscured out of pocket costs for prescription drugs.”

The proposed rule for “Contract Year 2021 and 2022 Medicare Advantage and Part D” implements several changes that would result in an estimated $4.4 billion in savings over ten years. Some of these savings will be passed on to beneficiaries in the form of increased benefits and lower premiums or cost sharing. Major proposals include: (1) codifying a statutory change to allow Medicare beneficiaries with end-stage renal disease to enroll in MA plans; (2) permitting Part D plans to create a second specialty tier option with lower cost sharing; (3) requiring Part D plans to implement a beneficiary real time benefit tool; and (4) requiring Part D plans to disclose pharmacy performance evaluation measures. The proposed rule also implements several provisions of the SUPPORT for Patients and Communities Act.

Read a fact sheet on the rule here.

Trump Criticizes Single-Payer, Calls for Drug Pricing Legislation in State of the Union

Key Points:
- President Trump, in the State of the Union Address, said he would sign any bipartisan drug pricing legislation that passed Congress.
- Trump also criticized Democrats for supporting Medicare for All legislation.

On February 4, President Donald J. Trump delivered the annual State of the Union Address to Congress. The speech covered a wide range of issues, including a substantial section on health care policy.

President Trump highlighted his Administration’s efforts to introduce short-term health plans on the Affordable Care Act (ACA) exchanges, crediting these plans with slowing the growth of insurance premiums in the past few years. He then referenced a recently signed Executive Order on price transparency, which would require most insurers to divulge the out-of-pocket costs of health care services. He noted the changes will go into effect in early 2021, and he predicted they would save Americans “massive amounts of money for substantially better care.” Trump also notably promised that his Administration would “always protect patients with pre-existing conditions.”

Drug pricing was also a significant focus in the speech, with President Trump insisting that his Administration is “taking on pharmaceutical companies.” He touted the record number of drug approvals at the Food and Drug Administration (FDA) in recent years, and he claimed drug prices dropped in 2019 for the first time in 51 years. President Trump also called on Congress quickly pass bipartisan drug pricing legislation, while expressing confidence that recent talks with legislators (specifically Senator Chuck Grassley (R-IA)), have been fruitful. He committed to “immediately” signing any bipartisan drug pricing bill that reached his desk.

President Trump called further attention to new initiatives aimed at improving care for those suffering from kidney disease, Alzheimer’s disease, childhood cancers, and mental health illnesses. He reiterated his previously stated goal of eradicating AIDS in the U.S. by the end of this decade, while also urging Congress to authorize an additional $50 million for neo-natal...
research. President Trump also assured Americans that his Administration is working with the Chinese government to contain the Coronavirus outbreak.

Upcoming Hearings and Meetings

February 11

**Infants:** The Senate Judiciary Committee will hold a hearing on “The Infant Patient: Ensuring Appropriate Medical Care for Children Born Alive.”

February 12

**Rural Health:** The Senate Aging Committee will hold a hearing on “There’s No Place Like Home: Home Health Care in Rural America.”

**Women’s Health:** The House Energy and Commerce Committee will hold a hearing on “Protecting Women’s Access to Reproductive Health Care.”

February 13

**HHS Budget:** The Senate Finance Committee will hold a hearing on “The President’s Fiscal Year 2021 Budget.” The Committee will receive testimony from Department of Health and Human Services Secretary Alex Azar.

For more information about healthcare issues you may email or call Nicole Ruzinski Bertsch or George Olsen at 202-659-8201.

TRADE

**USTR-EU Trade Chiefs Meet in Washington**

Key Points:
- European Union (EU) Trade Commissioner Phil Hogan met with United States Trade Representative (USTR) Lighthizer on Thursday.
- Talks between the two sides have been focused on whether and how to include agriculture in a bilateral deal.

EU Trade Commissioner Hogan returned to the U.S. on Thursday to meet with USTR Lighthizer. The two sides most recently met during the World Economic Forum in Switzerland last month, at which President Trump discussed trade with EU Commission President Ursula von der Leyen. Hogan also visited the Washington in mid-January, a visit during which he expressed hope for a reset of economic relations.

Talks between the U.S. and EU have been at a standstill over whether to include agricultural issues, with the U.S. insisting that such provisions are a necessary part of any agreement. The EU has also taken hard line position on excluding agriculture, however, Hogan signaled a potential softening of this stance during his visit last month. The return trip of Hogan could indicate mutual interest in pursuing as agreement to resolve some of the points of contention on sanitary and phytosanitary (SPS) standards, an issue on which U.S. Secretary of Agriculture Sonny Perdue has been particularly vocal. A modest deal on agriculture could represent a positive step in the relationship, while allowing both sides to maintain their core negotiating positions.

Other trade issues between the two trading partners remain, of course, including the
Boeing-Airbus dispute for which the WTO authorized U.S. retaliation and issues around several EU countries including France and the U.K. implanting or considering taxes on digital services (DST). Some additional update of the Boeing-Airbus retaliation could come by the end of next week. On the latter DST issue, the U.S. has proposed tariffs under Section 301 in response, and recent talks in Davos led to a detente with the French for now.

China Announces Tariff Reductions on $75 billion of U.S. Goods

Key Points:
- China pledged to reduce tariffs from 10 percent to 5 percent on some U.S. goods and from 5 percent to 2.5 percent on others.
- The cuts are seen as part of China’s efforts to ease relations with the U.S. in the aftermath of signing the "phase one" trade agreement.

China announced on Thursday it will halve tariffs on $75 billion of U.S. goods on February 14, the date that last month’s “phase one” agreement between the two countries will take effect. The cuts are a signal that China intends to lower its tariffs in concert with the U.S., which announced its tariff reductions for List 4A last month. As part of the phase one agreement, China agreed to import an additional $200 billion in U.S. goods and services (from 2017 levels). The timing of the announcement also comes during a coronavirus outbreak in China, which will likely delay China’s plan to increase imports.

U.S., India Likely to Complete Deal During Trump Visit

Key Points:
- India and the U.S. are set to sign a “mini-deal” when President Trump visits in late February.

The U.S. and India are poised to complete a trade agreement during President Trump’s upcoming visit from February 23-26. Trade officials are putting the final touches on the deal, which is expected to be limited to specific sectors and possibly restore India’s preferential trade status under the GSP regime that allows developing countries preferential tariffs for certain imports into the U.S. as a means of economic assistance.

U.S. Launches Trade Discussions with Kenya

Key Points:
- President Trump met with Kenyan President Uhuru Kenyatta in the White House Thursday.
- President Trump instructed U.S. Trade Representative Lighthizer to issue a formal notification to Congress under the TPA fast-track law.

President Donald Trump and Kenyan President Uhuru Kenyatta met on Thursday regarding a potential bilateral trade deal between the two nations. Both leaders spoke highly of the possibility for an agreement, with Trump saying it would “probably” happen and Kenyatta noting a “very clear tone of urgency…to move with speed to bring this to a conclusion.” President Kenyatta also downplayed concerns that a trade deal with the U.S. would undermine Africa’s continental free trade agreement. A bilateral agreement with Kenya would represent the U.S.’ first trade deal with a sub-Saharan nation., though there is a system of trade preferences in place with African countries under AGOA. USTR Lighthizer reportedly plans to notify Congress of the intent to proceed to negotiations under the fast track Trade Promotion Authority process.
Ways and Means Holds Hearing on Trade Infrastructure

Key Points:

- The House Ways and Means Committee held a hearing on the importance of U.S. infrastructure for global trade.
- Members of both parties decried the state of U.S. infrastructure and called for additional funding.

On February 6, 2020 the House Ways and Means Committee’s Subcommittee on Trade held a lengthy hearing titled “Trade Infrastructure for Global Competitiveness.” Topics discussed in the hearing included: (1) Freight; (2) Airports; (3) Ports; (4) Electric Vehicles; (5) Infrastructure Funding; (6) Infrastructure Models; (7) Water Infrastructure; and (8) Infrastructure Improvements.

The hearing primarily focused on the need to increase federal funding of U.S. infrastructure projects. Subcommittee Chairman Earl Blumenauer expressed concern that the U.S. has failed to adequately invest in infrastructure as compared to China. He also touted Congressional Democrats’ “Moving Forward” framework as the best way to revitalize infrastructure and invest in America workers. At the hearing, several other subcommittee members commented on ways that infrastructure in their districts contributes to U.S. trading activity.

For more information about trade issues you may email or call Christopher Hatcher at 202-659-8201. Thomas McGrath contributed to this section.

This Week in Congress was written by Alex Barcham.