This Week In Congress


**Senate** – The Senate confirmed the nominations of Steven Menashi to be a Circuit Court Judge, and Chad Wolf to be Undersecretary for Strategy, Policy, and Plans at the Department of Homeland Security.

Next Week In Congress

**House** – The House and Senate are expected to vote on a continuing resolution to fund the government beyond November 21, which is when the current continuing resolution is scheduled to expire. The House will hold additional public hearings in the impeachment inquiry into President Trump. The House may vote on H. Con. Res. 70, a resolution to direct the President to withdraw U.S. armed forces from Syria, and H.R. 1309, “Workplace Violence Prevention for Health Care and Social Service Workers Act.”

**Senate** – The Senate is expected to continue its consideration of judicial and ambassadorial nominations. The Senate is also expected to vote on S. 1838, “The Hong Kong Human Rights and Democracy Act.”

TAX

House Ways and Means Committee Democrats Nearing Release of SALT Cap Legislation

Key Points:
- Legislation lifting the $10,000 deduction cap on SALT is expected to be introduced before the end of November.
- Democratic Ways and Means Committee members are expecting Republicans on the Committee and in the Senate to push against the effort.
deduction as a way the federal government supported states that had higher income taxes. Republicans may have little ability to stop any legislation in the House, but Senate Republicans including Finance Committee Chairman Grassley (R-IA) remain opposed to eliminating or raising the cap.

The legislation is also expected to address the SALT marriage penalty which subjects a single person to the same deduction cap as a married couple, while unmarried couples filing separately can deduct up to $10,000.

House Ways and Means Committee Set to Release a Green Energy Tax Bill

Key Points:
- A green energy tax bill is expected to be introduced as early as next week.
- The bill package would include tax credits for clean energy, extensions for wind and solar credits, and an electric vehicle tax credit.

According to members of the House Ways and Means Committee, a green energy tax bill may be released as early as next week. While the principles of the bill have been established, Committee members are said to still be working out the specifics. Reports suggest the package would include production tax credits for clean energy, extensions for wind and solar tax credits scheduled to phase out, and an expanded electric vehicle tax credit. House Ways and Means Committee Member Pascrell (D-NJ) described the legislation as “something unusual” as it is expected to reflect the spirit of the Green New Deal.

It is expected that the draft bill will provide an opportunity to solicit the opinions of industries that would be mostly impacted. The package of energy tax incentives could be part of any tax negotiation at the end of 2019 or early 2020 on tax extenders and technical corrections.

Treasury/IRS Regulatory Guidance and Actions to be Released Soon

Key Point:
- The Treasury Department and Internal Revenue Service (IRS) will release several regulatory guidance and actions by the end of 2019 and the beginning of 2020.

By the end of the year, several regulatory proposals and final actions, as well as other guidance, are set to be released by the IRS and Treasury Department.

Within the next two weeks, expect guidance on the Base Erosion and Anti-avoidance Tax, sec. 59A (BEAT) and the final foreign tax credit regulations. Before the end of the year, the IRS will release guidance on the State and Local Tax (SALT) deduction; carried interest involving section 1601 limits that may address the use of S corporations to avoid the limits; possible limits on conservation easement syndication; section 163(j) interest regulations (potentially re-proposed); and section 267A hybrid transactions. By early 2020 there should be regulatory guidance on foreign-derived intangible income (FDII) and previously taxed earnings and profits (PTEP).
Former Vice President and Presidential Candidate Biden Releases Infrastructure Plan with Some Detail on Potential Funding Sources

Key Points:
- Former Vice President Biden released his campaign’s infrastructure plan, which is part of an effort to move the U.S. towards net-zero in greenhouse gas emissions.
- The plan lists several revenue sources, including corporate taxes and ending subsidies for fossil fuels.

On November 14, Former Vice President and Presidential Candidate Biden released a plan to invest $1.3 trillion in electric car-charging stations, high-speed railroads, clean energy research and other infrastructure. He is promoting the plan as an opportunity to help the “American middle class to compete and win in the global economy,” as well as to “to move the U.S. to net-zero greenhouse gas emissions.” The plan will be funded by $1.3 trillion of revenue raised through:

- “reversing the excesses of the Trump tax cuts for corporations;”
- “reducing incentives for tax havens, evasion, and outsourcing;”
- “ensuring corporations are properly taxed;”
- “closing loopholes in the tax code;” and
- “ending subsidies for fossil fuels.”

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

FINANCIAL SERVICES

House Passes Export-Import Bank Reauthorization Bill

Key Points:
- The House passed a bill to reauthorize the Export-Import Bank for ten years by a vote of 235-184.
- Senate Majority Leader McConnell (R-KY) has said that the Senate will not take up the House bill.
- The Export-Import Bank’s charter is set to expire on November 21, but could be extended in a continuing resolution.

On November 15, the House passed the United States Export Finance Agency Act (H.R. 4863), which would renew the operating charter of the Export-Import Bank of the United States (Ex-Im Bank) for ten years, through September 30, 2029. The bill passed by a vote of 235-184. The bill would increase the Bank’s statutory lending authority from $135 billion to $175 billion over a seven-year period, and change the name of the Ex-Im Bank to the United States Export Finance Agency. The Ex-Im Bank’s charter is currently set to expire on November 21, 2019.

H.R. 4863 has been criticized by House Republicans for failing to prohibit the Ex-Im Bank from financing transactions involving Chinese-state owned enterprises. The White House issued a statement of administration policy indicating that the President would veto the bill if it were presented to him in its current form. President Trump has called for a “clean” ten-year reauthorization of the Ex-Im Bank. Senate Banking Committee Chairman Mike Crapo (R-ID) has indicated that his Committee will take up its own reauthorization bill.

Senate Majority Leader Mitch McConnell (R-KY) said recently that the Senate will not take
up H.R. 4863. He suggested that an extension of the Ex-Im Bank’s charter could be included in a continuing resolution.

House Financial Services Committee Approves Eight Bills

Key Points:
- The Committee approved six bills dealing with debt collection practices.
- They also approved bills dealing with small business loans and housing programs for homeless veterans.

On November 13-14, the House Financial Services Committee held a markup and approved eight financial services bills:

- The Small Business Lending Fairness Act (H.R. 3490), introduced by Representative Nydia Velazquez (D-NY), which would amend the Truth in Lending Act (TILA) to restrict the use of confessions of judgment for small business owners. The Committee favorably reported H.R. 3490, as amended, by a vote of 31-23.
- The Debt Collection Practices Harmonization Act (H.R. 3948), introduced by Representative Gregory Meeks (D-NY), which would expand the definition of debt covered under the Fair Debit Collection Practices Act (FDCPA) to include money owed to a state or local government, clarifying that private debt collectors who pursue debts such as municipal utility bills, tolls, traffic tickets, and court debts are subject to the FDCPA. The Committee favorably reported H.R. 3948, as amended, by a vote of 31-23.
- The Stop Debt Collection Abuse Act (H.R. 4403), introduced by Representative Emanuel Cleaver (D-MO), which would extend FDCPA protections as it relates to debt owed to a federal agency, and it would limit the fees debt collectors can charge. The Committee favorably reported H.R. 4403, as amended, by a vote of 54-0.
- The Ending Debt Collection Harassment Act of 2019 (H.R. 5021), introduced by Representative Ayanna Pressley (D-MA), which would amend the FDCPA to prohibit a debt collector from contacting a consumer by email or text message without a consumer's consent to be contacted electronically. The Committee favorably reported H.R. 5021, as amended, by a vote of 31-23.
- A bill to amend the United States Housing Act of 1937 and title 38, United States Code, to expand eligibility for the HUD-VASH program, and to direct the Secretary of Veterans Affairs to submit annual reports to the Committees on Veterans’ Affairs of the Senate and House of Representatives regarding homeless veterans. (H.R. 2398), introduced by Representative Scott Peters (D-CA). The Committee favorably reported H.R. 2398, as amended, by a vote of 54-0.
- The Fair Debt Collection Practices for Servicemembers Act (H.R. 5003), introduced by Representative Madeleine Dean (D-PA), which would amend the FDCPA to prohibit debt collectors from threatening a servicemember with reducing their rank, having their security clearance revoked, prosecuting them under the Uniform Code of Military Justice, or otherwise communicating with the commanding officer or any other senior officer in the chain of command above a servicemember regarding an outstanding debt. The Committee
favorably reported H.R. 5003, as amended, by a vote of 54-0.

- The Non-Judicial Foreclosure Debt Collection Clarification Act (H.R. 5001), offered by Representative Lacy Clay (D-MO), which would reverse the recent Supreme Court decision in Obduskey v. McCarthy and Holthus LLP by amending FDCPA to clarify that entities in non-judicial foreclosure proceedings are covered by the law. The Committee favorably reported H.R. 5001, as amended, by a vote of 31-23.

- The Small Business Fair Debt Collection Protection Act (H.R. 5013), offered by Representative Al Lawson (D-FL), which would expand FDCPA’s protections to cover small business loans, as determined by Consumer Financial Protection Bureau (CFPB) in consultation with the Small Business Administration. The Committee favorably reported H.R. 5013, as amended, by a vote of 31-23.

The Committee did not take up H.R. 2445, which had been previously announced for the markup:

- The Self-Employed Mortgage Access Act (H.R. 2445), introduced by Representative Tom Emmer (R-MN), which would require the CFPB to amend its Ability-to-Repay/Qualified Mortgage (ATR/QM) regulations with regard to verifying a consumer’s income and debt such that lenders could either continue to utilize the standards in Appendix Q, or utilize standards put forth by the Federal Housing Administration (FHA), the Department of Veterans Affairs (VA), or the Department of Agriculture’s (USDA) Rural Housing Service.

**Upcoming Hearings and Meetings**

**November 19**

**Private Funds:** The House Financial Services Committee will hold a hearing entitled “America for Sale? An Examination of the Practices of Private Funds.”

**FDIC Board Meeting:** The Federal Deposit Insurance Corporation (FDIC) will hold an open meeting to consider three items: (1) Regulatory Capital Rule: Standardized Approach for Calculating the Exposure Amount of Derivative Contracts; (2) Notice of Proposed Rulemaking on Conversion of the Statement of Policy for Section 19 of the Federal Deposit Insurance Act to a Regulation; and (3) Notice of Proposed Rulemaking on Federal Interest Rate Authority.

**November 20**

**Nominations:** The Senate Banking Committee will hold a hearing on the following nominations: Mitchell Silk, to be an Assistant Secretary of the Treasury; The Honorable Brian Montgomery, to be Deputy Secretary of Housing and Urban Development (HUD); David Woll, Jr., to be an Assistant Secretary of HUD; and Peter Coniglio, to be Inspector General, Export-Import Bank. The Committee will also vote

**TRIA:** The Senate Banking Committee will hold a markup of the Terrorism Risk Insurance Program Reauthorization Act of 2019 (S. 2877).

**Minority Financial Institutions:** The House Financial Services Committee’s Subcommittee on Consumer Protection and Financial
Institutions will convene for a hearing entitled “An Examination of Regulators’ Efforts to Preserve and Promote Minority Depository Institutions.”

**Housing Safety:** The House Financial Services Committee’s Subcommittee on Housing, Community Development, and Insurance will convene for a hearing entitled “Safe and Decent? Examining the Current State of Residents’ Health and Safety in HUD Housing.”

**November 21**

**Big Data:** The House Financial Services Committee’s Task Force on Financial Technology will convene for a hearing entitled “Banking on Your Data: the Role of Big Data in Financial Services.”

**November 25**

**CFTC Open Meeting:** The Commodity Futures Trading Commission (CFTC) will hold an open meeting to consider the following items: (1) Final Rule: Amendments to Part 4: Registration and Compliance Requirements for Commodity Pool Operators and Commodity Trading Advisors; (2) Final Rule: Amendments to Rules 4.7, 4.13, and 4.14 (Codification of Relief for Family Offices and Relief Related to the JOBS Act); (3) Final Rule: Amendments to Rules 4.5 and 4.27 (Updating Exclusions and Adding Reporting Relief); and (4) Proposed Rule: Amendments to Swap Clearing Requirement Exemptions under Part 50

**December 18**

**SEC Open Meeting:** The SEC will hold an open meeting to consider whether to approve the 2020 budget of the Public Company Accounting Oversight Board (PCAOB) and the related annual accounting support fee for the Board under Section 109 of the Sarbanes-Oxley Act of 2002.

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

**HEALTH**

**HHS Releases Rules on Price Transparency**

Key Points:
- The Department of Health and Human Services announced a new final rule on increasing transparency in hospital prices and a proposed rule on transparency in insurance coverage prices.
- Both rules are part of the President’s Executive Order on Improving Price and Quality Transparency in American Healthcare to Put Patients First released in June 2019.

On November 15, the Department of Health and Human Services (HHS) announced steps it was taking in accordance with the Executive Order signed by the President on June 24 to improve price and quality transparency in health care. Both the final and proposed rule require pricing to be made publicly available.

HHS Secretary Alex Azar said the “transparency announcement may be a more significant change to American healthcare markets than any other single things we’ve done.” Centers for Medicare and Medicaid Services Administrator Seema Verma explained these rules will “[throw] open the shutters and [bring] to light the price of care for American consumers.”

The first rule issued is the final rule for the Calendar Year (CY) 2020 Outpatient Prospective Payment System (OPPS) & Ambulatory Surgical Center (ASC) Price
Transparency Requirements for Hospitals to Make Standard Charges Public. The rule finalizes definitions for hospital, standard charges, and items and services; includes requirements for making standard charges for all items and services publicly available; includes requirements for making discounted cash prices, payer-specific charges, and minimum and maximum negotiated charges publicly available; and includes monitoring for hospital compliance. The rule will be effective January 1, 2021. Read a fact sheet on the rule here.

The second rule is a proposed rule on Transparency in Coverage. The proposal would require most group health plans and health insurance issuers to disclose price and cost-sharing information to participants, beneficiaries, and enrollees in real-time. Consumers would have access to personalized out-of-pocket cost information for all covered health care items through an internet service tool. Plans and issuers would be required to make the in-network negotiated rates publicly available in standardized files. A fact sheet on the proposed rule is available here.

Upcoming Hearings and Meetings

**November 20**

**FDA:** The Senate Health Education, Labor and Pensions Committee will hold a hearing on the “Nomination of Stephen M. Hahn, MD, to serve as Commissioner of Food and Drugs.”

**Alzheimer’s:** The Senate Finance Committee will hold a hearing on “Alzheimer’s Awareness: Barriers to Diagnosis, Treatment and Care Coordination.”

**Substance Use:** Young People in Recovery will hold an event on “Recovery-Ready Communities: Options for Financing Recovery Supports.”

**November 21**

**Cost:** The Committee for a Responsible Federal Budget will hold a discussion on “Opportunities for Lowering Health Care Costs.”

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

**TRADE**

**USMCA Deal May Be Imminent**

**Key Points:**
- **House Speaker Pelosi (D-CA) said a USMCA deal is imminent.**
- The deal could be announced soon, and Speaker Pelosi suggested it could be finished by end of 2019; but because of other events in the House it is possible it would not be completed in Congress until early 2020.

House Speaker Pelosi (D-CA) said Thursday that a resolution between the Trump Administration and House Democrats on the U.S.-Mexico-Canada Agreement (USMCA) is “imminent.” She said, “[w]e are moving positively on [USMCA]. Again, it all comes down to enforcement. I do believe that if we can get this to the place it needs to be, which is imminent, that this can be a template for future trade agreements.” House Ways and Means Committee Chairman Neal (D-MA) told reporters on Thursday a deal which would garner the support of labor groups was within reach, adding credence to Speaker Pelosi’s claims. Support from labor groups on enforcement mechanisms has been the main sticking point for negotiations between the Democrat working group and U.S. Trade
Representative (USTR) Lighthizer. U.S. labor groups and some Democrats are particularly concerned Mexico will not live up to its recently passed labor laws called for in USMCA. Mexican officials have been making the rounds on Capitol Hill to explain their implementation and funding plans.

However, while the announcement of a deal may be “imminent” drafting and passing the actual legislation may take more time. Many Democrats continue to be skeptical of the deal, and want to see the actual text of the bill before announcing their support. Representative Schakowsky (D-IL) said “[w]e just have seen nothing written yet and a deal is just air unless you’ve seen something in writing.” Other Democrats like Representative Cuellar (D-TX) who are proponents of the deal are hoping for a vote during the first or second week of December. With all eyes on the impeachment inquiry it certainly is possible action in Congress could slip past the end of the year on USMCA.

**Update on China Phase-One Troubles**

**Key Points:**
- USTR negotiators and NEC Director Kudlow are optimistic that the phase-one deal will be finalized soon.
- Disagreements on agricultural purchases and intellectual property protections continue to plague discussions.
- President Trump announced in a trade speech that the U.S. is open to raising tariffs if he does not like the deal reached.

The top trade negotiators for the U.S. and China are slated to talk today via digital video conference. Under Secretary of Agriculture for Trade and Foreign Agricultural Affairs Ted McKinney told reporters Thursday that he was optimistic the two sides would reach an agreement. One point of contention in the discussion is the U.S. demand that any deal will have to mandate structural changes to China’s economic practices. He noted recent developments like China’s decision to lift a ban on U.S. poultry and a U.S. move to allow imports of Chinese-slaughtered poultry products as examples of a “warming trend” between the two countries. The Financial Times, however, reported on Thursday that the two sides were struggling to complete the phase-one deal due to disagreements over intellectual property protections, agricultural purchases and the level of tariff rollbacks. China reportedly is insisting on more tariff rollbacks than the U.S. is willing to concede. The tariffs in subject are from Lists 1-3, which the U.S. does not seem willing to remove. Conversely, it was those tariffs that caused Chinese retaliation against agricultural products, so for China to remove their retaliation, they are seeking removal of the original U.S. tariffs. To date, only List 4 tariffs appear to be under serious consideration for delay or removal by the U.S. side, hence the difficulty on agreeing on agricultural purchases that imply tariff reductions by China.

President Trump, in a speech at the Economic Club of New York, recently said that he is willing to raise tariffs on China soon if a phase-one deal is not completed. He argued that China’s economy was suffering much more than the U.S. and that they cannot handle another round of tariffs. He said, “[w]e’re the ones that are deciding whether or not we want to make a deal. We’re close. A significant phase-one trade deal with China could happen. It could happen soon. But we will only accept a deal if it’s good for the United States, our workers and our great companies.”
EU Auto 232 Announcement Expected This Week

Key Points:

- A Section 232 auto announcement related to the EU was expected this week. An additional six month delay is expected.
- The decision could be announced later today.

The U.S. this week is expected to announce a delay of a Section 232 action based on the national security implications of auto and auto-parts imports and instead issue a report that includes auto industry investment plans crafted to stave off the imposition of trade restrictions. President Trump, in a May 17 proclamation, directed USTR to pursue negotiations aimed at addressing the “threatened impairment of the national security” with respect to auto imports from the EU, Japan and “and any other country the Trade Representative deems appropriate.” The President also directed USTR to “to update [him] on the progress of such negotiations within 180 days.” According to Section 232 of the Trade Expansion Act of 1962, that deadline expired on Wednesday. President Trump on Wednesday said he planned to make a decision on the Section 232 auto investigation “fairly soon,” noting he had been “fully briefed.”

One source told reporters that USTR’s Section 232 report this week likely will “outline in some fashion the commitments of automakers in the U.S. in a way that allows the president to highlight the huge investments” and claim the Section 232 “leverage forced manufacturing in the U.S.” The source added that, “[b]asically, USTR used these [USMCA] compliance plans for this other purpose of appeasing the President and getting him to back off from imposing [Section 232] tariffs.” Commerce Secretary Ross, citing negotiations with foreign auto companies, said last week that he hoped the talks “with individual companies about their capital investment plans will bear enough fruit that it may not be necessary to put the 232 fully into effect, may not even be necessary to put it partly in effect.” President Trump has several options for how to act on the autos probe, including extending the decision-making period by asking for supplemental materials.

Upcoming Hearings and Meetings

November 20

U.S.-Japan Trade Agreements: The House Ways and Means Committee’s Subcommittee on Trade will hold a hearing on “U.S.-Japan Trade Agreements.”

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

This Week in Congress was written by Alex Barcham.