




Federal Update

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Year in Review

- No McCarran-Ferguson Repeal
- P/C out of Regulatory Reform in large part: No CFPA, No Exec Comp, No Bankruptcy
- NFIP extended twice
- Underwriting not encroached upon
- Competitive Crash Parts legislation introduced in both the Senate and the House; Hearing held in the House
- Prevented Natural Catastrophe legislation from moving
- Surplus Lines legislation passed in the House and introduced in the Senate as stand-alone legislation; language also included in the Senate Regulatory Reform bill, which is poised for passage

Rough Seas

- President Barack Obama: “There were going to be some... who were protectors of the big banks, **protectors of the big insurance companies**, ... who were going to say. “You know what, we can take advantage of this crisis,....”

Rough Seas

- White House Press Secretary Robert Gibbs: “...People are going to have to decide whether the people they have in Washington are on the side of protecting big banks,... whether they’re on the side of protecting **insurance companies**, or whether they’re on the people’s side.”

What Could Still Happen this Year?

- Unemployment Insurance
- Cobra Benefits
- National Flood Insurance Program
 - Program expired on March 28th, 2010
 - Should be extended to December 31st, 2010
 - Threat to cut our administration fees and put us on the risk
- Natural Catastrophes
 - Representative Ron Klien (D-FL) – H.R. 2555 – Homeowners Defense Act of 2009
- Job Creation – Stimulus II
- NARAB II
- Credit Scoring
- Community Reinvestment Act

Regulatory Reform Issues

- Office of National Insurance/Federal Insurance Office
- Systemic Risk Council
 - Functional banking regulators: SEC, FDIC & FRB
 - Authority: look broadly at all markets & activities; make recommendations binding or not; and force companies into enhanced bankruptcy
- Systemic Risk Super Fund
 - Might not have one (impact of TARP Tax)
 - Post funded, weighted & mandatory, and look-back for insurers
- Bankruptcy
 - Alternative to FDIC resolution proposal; FISA court model
- Consumer Financial Protection Agency/Bureau of Consumer Financial Protection
- Non-Bank Depository Institutions
- Derivatives; Exchanges with higher cost if do not go through exchange
- President Obama plan to limit size and riskiness of corporations

Timeline

- Present to July 4th – Opportunity for passage of major legislation
- July 4th through 30th – Last chance for passage of “take home” legislation
- July 30th – 2nd quarter economic growth numbers released
- July 31st through September 5th – August recess
- September 10th through November 3rd – Political votes taken relative to election, no serious legislation
- November 2nd – Election Day

Current Composition of Congress

- House

- Democrats – 253
- Republicans – 177
- Vacancies – 5 (4 Democrats, 1 Republican)
- Not Running Again – 15 Democrats, 19 Republicans

- Senate

- Democrats – 57
- Republicans – 41
- Independents – 2 (Caucus with Democrats)
- Not Running Again – 5 Democrats, 7 Republicans

Number of Seats in Play

- House
 - 50
- Senate
 - 15

Historically

- President's party loses 26 House seats and 3 Senate seats

Important Factors

- Progressives are not happy, therefore, not energized
 - No gay rights legislation, anti-choice provisions in HC bill, no climate change bill, and Wall Street given billions of dollars
- Unions are not happy
 - No EFCA bill and tax on Cadillac health insurance plans
 - Union Bosses have threatened to sit on their hands during the next election
- *Citizens United v. FEC*
 - Applies to Corporations and Unions. Could be the year of the independent expenditure. Perhaps the perfect storm for Republicans.

Likely Election Issues

- Jobs, Jobs, Jobs
- Economy
- Health Care
- Terrorism (including wars in Iraq and Afghanistan)
- X (local issue)
- Government versus Wall Street

Government versus Wall Street

- The Democrats are betting that characterizing the issue as *The People versus Wall Street* is a winner
- The Republicans are betting on **The People versus The Government**
 - Virginia gubernatorial victory and Massachusetts Senate victory as evidence
- The age old adage: “run for government by running against government”
- Trust in the government is at 17%

Predictions

- Republicans pick up 20-40 seats in the House but not enough for control
- Republicans pick up 2-6 seats in the Senate

Health Care – Direct Impacts

- Black Lung Provision
- Medicare/Medicaid Based Fee Schedules
- Attendant Care
- National Health Care Workforce Commission
- Medical Liability Provisions
- Standards for Financial and Administrative Transactions

Health Care – Indirect Impacts

- Excise Tax on Medical Devices
- Expansion of Medicaid
- Drugs – Average Manufacturer Price (AMP)
- Center for Medicare and Medicaid Innovation
- Bundled Payments
- Medicare Part D Pharmacy (Donut Hole)
- Patient-Centered Outcomes Research

Health Care – Bad Precedents

- Establishment of co-ops
- Duplicative and excessive regulation

Health Care – Summary of Provisions

- Individual Mandate
- Expansion of Public Programs
- American Health Benefit Exchanges
- Changes to Private Insurance
- Coverage and Cost Estimates
- Employer Requirements

Health Care – Employer Requirements

- There is no employer mandate but employers with more than 50 employees will be assessed a fee of \$2,000 per full time employee (in excess of 30 employees) if they do not offer coverage and if they have at least one employee who receives a premium credit through an Exchange.

Health Care – Employer Requirements

- Employers that do offer coverage but have at least one employee who receives a premium credit through an Exchange are required to pay the lesser of \$3,000 for each employee who receives a premium credit or \$2,000 for each full-time employee.

Health Care – Employer Requirements

- Employers that offer coverage will be required to provide a voucher to employees with incomes below 400% of the poverty level if their share of the premium cost is between 8-9.8% of income to enable them to enroll in a plan in an Exchange. Employers that offer a free choice voucher will not be subject to the above penalty.

Health Care – Employer Requirements

- Large employers that offer coverage will be required to automatically enroll employees into the employer's lowest cost premium plan if the employee does not sign up for employer coverage or does not opt out of coverage.

Health Care – Tax Changes in 2010

- Impose additional requirements on non-profit hospitals. Impose a tax of \$50,000 per year for failure to meet these requirements.
- Limit the deductibility of executive and employee compensation to \$500,000 per applicable individual for health insurance providers.
- Impose a tax of 10% on the amount paid for indoor tanning services.
- Exclude unprocessed fuels from the definition of cellulosic biofuel for purposes of applying the cellulosic biofuel producer credit.
- Clarify application of the economic substance doctrine and increase the penalties for underpayments attributable to a transaction lacking economic substance.

Health Care – Tax Changes in 2011

- Exclude the costs for over-the-counter drugs not prescribed by a doctor from being reimbursed through an HRA or health FSA and from being reimbursed on a tax-free basis through an HAS or Archer Medical Savings Account.
- Increase the tax on distributions from a health savings account or an Archer MSA that are not used for qualified medical expenses to 20% of the disbursed amount.
- Impose new annual fees on the pharmaceutical manufacturing sector.

Health Care – Tax Changes in 2013

- Increases the threshold for the itemized deduction for unreimbursed medical expenses from 7.5% of adjusted gross income to 10% of adjusted gross income for regular tax purposes; waive the increase for individuals age 65 and older for tax years 2013-2016.
- Increase the Medicare Part A (hospital insurance) tax rate on wages by 0.9% (1.45% to 2.35%) on earnings over \$200,000 for individual taxpayers and \$250,000 for married couples filing jointly and impose a 3.8% assessment on unearned income for higher income taxpayers.
- Limit the amount of contributions to a flexible spending account for medical expenses to \$2,500 per year increased annually by the cost of living adjustment.
- Impose an excise tax of 2.3% on the sale of any taxable medical device.
- Eliminate the tax-deduction for employers who receive Medicare Part D retiree drug subsidy payments.

Health Care – Tax Changes after 2013

- 2014 – Impose fees on the health insurance sector.
- 2018 – Impose an excise tax on insurers of employer-sponsored health plans with aggregate values that exceed \$10,200 for individual coverage and \$27,500 for family coverage.