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A taxing debate

With lawmakers back home campaigning, the Washington, D.C. lobbying community is preparing for the gathering storm: tax reform. Here's what we're hearing:

It's going to happen. The stars have aligned to make tax reform inevitable. The expiration of the Bush-era tax cuts and growing concern about the budget deficit (and the need for more revenues) are major factors. There's also broad consensus that uncertainty in the tax code is undermining the recovery and that more predictability would encourage growth and job creation. A more subtle consideration is the radical change in the structure of the U.S. and world economies since the last major tax overhaul in the 1980s.

Mark your calendar!

ACPPA's 2012 Annual Meeting will take place at Westin Savannah on Nov. 12 & 13. Look for more information about the meeting in the coming weeks. In the meantime, if there are issues you'd like to see on the agenda, please send a note to ACPPA President Rick Lawhun (rlawhun@acppa.org).

It's going to happen fast. Combined, the House Ways & Means and Senate Finance Committees have held more than 40 tax reform hearings over the past two years. Specific proposals are being floated and regular meetings are taking place between key lawmakers on a bipartisan basis on both sides of Capitol Hill. With much of the foundational work done, we're expecting rapid action and a House vote by the end of March (constitutionally, tax bills must originate in the House).

The lame duck will set the stage. Tax reform won't happen during the lame duck session immediately after the elections, but tax policy will be front and center in the final months of 2012. There's a good chance we'll see a short-term deal to

avoid the tax increases and across the board spending cuts set to go into effect on Jan. 1. Lawmakers may also agree on expedited procedures for next year's tax debate. We're hearing that framework could look a lot like budget reconciliation (which allows bills to avoid Senate filibusters) minus the Byrd rule sun-setting requirements that have made the current tax code such a mess.

Whatever happens is going to be permanent. Ramming the 2001 tax cuts through on reconciliation was the politically expedient thing to do at the time, but it resulted in a tax code that is constantly changing. Lawmakers know this and seem committed to ensuring that whatever comes out of the tax reform process will be the law of the land for a long-time to come.

It's going to be bipartisan. With a narrowly divided electorate, it's highly unlikely that either party will emerge from the November elections with a strong mandate. The race for the White House is still too close to call, but the congressional elections will likely reaffirm the status quo on Capitol Hill: a Democratic Senate and a Republican House of Representatives. However, the margins of control in both chambers will

probably be narrower (a 50-50 Senate with the vice president casting the tie-breaking vote isn't outside the realm of possibility). That means the parties are going to have to work together to get anything done.

The parameters of the debate are set. There are sound economic arguments for radically changing our tax system (e.g., converting from income tax to consumption tax), but it's unlikely to happen next year. Neither party has made radical tax reform a campaign issue. The focus of the debate has been on simplifying, eliminating deductions, and reducing rates, so that's what will probably happen. The Simpson-Bowles commission report is good starting point if you want to get an idea of what tax reform could look like.

There will be winners and losers. Lawmakers are hunting for new revenue. Deductions will be eliminated to pay for rate reductions. The bottom line: A simpler tax code with lower rates will have a positive impact on the economy, but with all the changes, someone is going to wind up with a higher tax bill.

It's going to be a busy year. We're standing by for action. We hope you are too.

What to watch on Nov. 6

With only a few weeks before the Nov. 6 elections, the national political dynamics remain highly competitive. While polls in many key races oscillate wildly from day to day, there are a few major outcomes to anticipate.

The presidency

The race between President Barack Obama and Governor Mitt Romney remains close. While Obama's chance of winning was as high as 78 percent in late September, Romney has narrowed the margin and even taken the lead in a handful of swing states. As *Actionline* went to press, the president's chance of winning a second term remains greater than 71 percent according to *New York Times* political statistics blog [FiveThirtyEight](#), despite only leading popular vote 50.2 percent to Romney's 48.8 percent.

According to projections, 265 Electoral College votes currently lean toward or are safe for Obama, five shy of the 270 required to win the presidency. Colorado, Florida, Iowa, Nevada, New Hampshire, and Virginia remain too close to call. In order to pull off the upset, Romney must win each of those states.

As the American people saw following the first presidential debate, polls in swing states can change by as much as eight points with the help of even the most minor changes in pace – one terrific debate performance, a revealing television ad, or a slip of the tongue in the final weeks could change the course of history. This race may very well come down to who has the last pre-election bump before voters go to the polls.

The Senate

For more than a year, the GOP eyed the possibility of reclaiming the Senate. With less than a month before the election, however, it appears that the Democrats may not only retain the upper chamber, but that they may even expand their hold from 51 seats to 52.

Nonetheless, several states remain so close that anything could happen. As results roll in, be sure to watch the outcomes in Indiana, Massachusetts, Missouri, Montana, North Dakota, Virginia, and Wisconsin. Democrats may lose Montana, Nebraska, and North Dakota, while picking-up Indiana, Maine (Angus King, an Independent, is expected to win the election and caucus with the Democrats), and Massachusetts. However, if Republicans keep Massachusetts and capture Virginia, it could signal a positive national trend for the GOP.

The House

There are upwards of fifty toss-up House races across the country. Redistricting and increasing voter alienation toward the Tea Party could lead to a backlash against several of the most right-leaning lawmakers in the House, such as Reps. Roscoe Bartlett (R-Md.), Chip Cravaack (R-Minn.), and Joe Walsh (R-Ill.).

Though Democrats will likely not recapture the lower chamber, many in Washington anticipate the party will slice their deficit from 49 in the 112th Congress to as little as 25 in the 113th. According to [pundit extraordinaire Charlie Cook](#), while the Democrats will likely lose eight seats to the GOP's six, only eight Democratic seats are listed as toss-ups compared to 19 from their rivals.

Vote!

With such a tight election predicted, it is vital that the construction industry turn out to support candidates committed to our national infrastructure needs.

It is important to remember that the elections are about more than just who will be the next executive and face of our nation. Who you elect as your next representative and senator will be the person voting on important water infrastructure needs and comprehensive tax policy overhaul."

Additionally, local officials and initiatives at the bottom of the ballot also play an enormous role in laying the landscape for construction projects. ACPPA highly encourages everyone to exercise their constitutional right to visit the polls on Election Day.

For more information on your elected officials and to view their voting record on the construction industry's top legislative priorities in the 112th Congress, be sure to visit ACPPA-action.org.

Got what it takes to be ACPPA's 2012 Pundit of the Year?

With Election Day just weeks away, everyone is prognosticating the outcome of November 6. So how do you stack up against them and others in the concrete pressure pipe industry? [Answer this short survey](#) by November 5 to find out – the winner will win the distinctive honor of being "ACPPA's 2012 Pundit of the Year."

To provide a little expert guidance, ACPPA's friends at the government affairs firm, [Obadal, Filler, MacLeod & Klein](#) (OFMK) have offered their own predictions. Political analysis comes from Managing Member Christian Klein, Senior Legislative Associate Daniel Fisher, Communications Director Jason Langford, Communications Coordinator Josh Pudnos, and Communications Intern Matt McKinney.

You have a big advantage over your Washington team. We made our predictions based on the political landscape on Sept. 25 and, significantly, prior to Gov. Romney's surge after the first debate. Remember: Our predictions are based on what a majority of ACPPA's political team thought would happen, not necessarily what we want to happen. These predictions should not be construed as an endorsement for one candidate over another.

<u>Race</u>	<u>Candidates</u>	<u>Predicted Winner (OFMK Vote)</u>
Florida Senate	Sen. Bill Nelson (D) v. Rep. Connie Mack (R)	Nelson (5-0)
Ohio Senate	Sen. Sherrod Brown (D) v. Josh Mandel (R)	Brown (4-1)
Massachusetts Senate	Sen. Scott Brown (R) v. Elizabeth Warren (D)	Warren (3-2)
Missouri Senate	Sen. Claire McCaskill (D) v. Rep. Todd Akin (R)	McCaskill (5-0)
Montana Senate	Sen. John Tester (D) v. Rep. Denny Rehberg (R)	Rehberg (3-2)
Nevada Senate	Sen. Dean Heller (R) v. Rep. Shelley Berkley (D)	Heller (3-2)
Virginia Senate	Tim Kaine (D) v. George Allen (R)	Kaine (5-0)
Balance in Senate	GOP v. Democratic Party	50-50
Pres. Electoral Votes	Pres. Barack Obama v. Gov. Mitt Romney	Obama: 332 / Romney: 206

Nuclear industry continues to struggle post-Fukushima

More than a year after a tsunami caused a nuclear meltdown in Fukushima, Japan, renewed concerns about the safety of nuclear energy, the U.S. nuclear market continues to face challenges in expanding energy production.

Nuclear power accounts for 19 percent of the country's energy market, second only to fossil fuels. However, the United States has followed global trends, with nuclear production flat-lining over the last 20 years despite the current expansion of Plant Vogtle in Georgia, which is expected to be completed by 2017.

High upfront capital costs (\$5,000/kilowatt versus \$1,000/kilowatt for natural gas-powered plants) and long construction periods make investing in nuclear increasingly less profitable. Furthermore, diminishing public support for nuclear power makes expanding production politically difficult as communities object to the construction of nuclear facilities.

However, while the Fukushima tragedy magnified industry challenges, including aging facilities and growing public pressure for improved safety measures, nuclear energy is more cost efficient than coal power over the long term, produces almost no carbon emissions, is not subject to the price spikes that plague fossil fuels, and employs more than 120,000 workers in the U.S.

Given the lack of affordable technology for large-scale production of renewable energy, nuclear continues to be a serious alternative to fossil fuel energy generation.

Report blames leaders for ailing water infrastructure

On Oct. 4, the National Research Council released a [report](#) slamming Congress, the executive branch, and private interests for the lack of attention to our nation's deteriorating water infrastructure.

The report, "Corps of Engineer Water Resources Infrastructure: Deterioration, Investment, or Divestment?" highlights the funding gap plaguing the U.S. Army Corps of Engineers' ability to rehabilitate our water supply system. According to the report:

- National water needs are increasingly shifting from new construction projects to maintenance and rehabilitation. Current infrastructure has exceeded its design life and desperately needs repair.
- The Army Corps of Engineers faces growing burdens in managing its increasingly diversified mission areas. Over the years, the Corps' mandate has expanded to include a number of differing priorities that makes agency-wide integration difficult.
- The Water Resources Development Act ([P.L. 110-114](#)) is outdated and fails to address the need for increased infrastructure maintenance. Reorientation of water infrastructure priorities is needed, given the bill's focus on new construction projects.
- Congress and the executive branch must play a more active role in determining maintenance investment priorities. The president should aggressively promote dialogue between the Corps and lawmakers.

While the Army Corps of Engineers needs more systematic asset management, our leaders must work together to find new revenue streams to restore ailing water assets. Visit [ACPPA-Action.org](#) to urge your lawmakers to support our water supply network.

Congress departs, setting up important lame duck

On Sept. 21, Congress adjourned to recess until after the Nov. 6 election, kicking the can down the road on a host of critical issues and setting up what will be one of the most consequential lame duck sessions in memory.

The most serious unresolved issue is the rapidly approaching "fiscal cliff," the possibility of looming economic disaster brought on as the result of a host of expiring tax cuts and the budget sequestration process set to ring in the new year. The Congressional Budget Office has warned that without action, the nation will face rising unemployment and the possibility of another recession.

Congress also failed to reach consensus on other important matters. Broad support exists for reauthorizing the Water Resources Development Act, but little action has been taken prior to its expiration later this year. Dozens of other legislative items to reform the regulatory process, boost infrastructure investments, and address important tax reforms were also abandoned. While both chambers approved a continuing resolution to fund the government for six more months, they failed to cobble together a comprehensive budget for fiscal year 2013.

With so many important items remaining, the lame duck congressional session will be critically important. Lawmakers will have less than two months to resolve the economic uncertainty facing the nation and address a host of urgently needed reforms.

To encourage your lawmakers to act on the pressure pipe industry's top legislative priorities, be sure to visit [www.ACPPA-Action.org](#).

Depreciation bonus: Going, going, gone?

There are only a few months remaining to take advantage of the 50 percent depreciation bonus. Without congressional action, this important tax incentive will disappear from the books in 2013.

A broad coalition of business groups and companies have been actively lobbying lawmakers to reinstate 100 percent bonus depreciation and higher sec. 179 expensing for 2012, while extending the capital investment incentives through 2013.

Unfortunately, with the uncertainty of the upcoming elections, nobody on Capitol Hill is giving a clear signal one way or the other about extending bonus depreciation.

To weigh-in with your lawmakers about the need to keep this important capital investment incentive, visit ACPPA-action.org.

MAP-21: Full force ahead!

On Oct. 1 (the start of fiscal year 2013), the programmatic reforms of the nation's new highway law, [MAP-21](#), took effect. The authorization, which effectively maintains funding at FY 2012 levels, will help create and sustain millions of jobs, streamline the project delivery process, speed up environmental reviews, and create billions of dollars in construction opportunity.

The Department of Transportation (DOT) wasted no time to ensure effective implementation of MAP-21's mandate to speed environmental reviews for emergency repair projects from natural disasters. On Oct. 1, the department [proposed a rule](#) to modify an existing categorical exclusion for emergency repair projects to include the new MAP-21 provisions. Comments to the proposal are due Nov. 30.

FHWA offers guidance on MAP-21 implementation

On Sept. 25, the Federal Highway Administration (FHWA) released guidance on the implementation of MAP-21.

The [guidance](#) includes memoranda that provide information on funding, eligible activities, and specific requirements for the National Highway Performance Program (NHPP) and Surface Transportation Programs (STP) established under MAP-21. Additionally, important changes to environmental planning, safety and operations, and project delivery are clarified.

FHWA also provided a [questions and answers](#) page to explain several terms under MAP-21, including changes to requirements under the construction contract provision, project decision making under efficient environmental reviews, and the Buy America program.

MAP-21 does not end the fight for a long-term solution to our nation's transportation infrastructure needs. Be sure to visit ACPPA-action.org to encourage your lawmakers to actively search for ways to invest in our nation's crumbling infrastructure.

SWIC vamps up online resources

ACPPA coalition allies at the Sustainable Water Infrastructure Coalition (SWIC) re-launched their website in October to better communicate their message of improving the nation's water infrastructure networks.

SWIC's updated website, www.sustainablewaterinfrastructure.org, serves as the hub for efforts to lift the volume cap on private activity bonds (PABs), which would open the door for up to \$5 billion annually in private investment in water and wastewater infrastructure projects. The website includes a news center to provide updates on the fight for water infrastructure solutions, an information center about PABs, and a Water News Update blog.