FCA International Legislative Update
Building a Better Future for Our Families

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## Congressional Overview

This week, Congress passed legislation to avert a government shutdown. The legislation funds some government departments until mid-January and the rest through early February. It did not include spending cuts or policy changes that were sought by the Freedom Caucus. Congress will be in recess next week for Thanksgiving.

## FCA International Calls Upon Congressional Leadership to Delay the Implementation of the Corporate Transparency Act

FCA International joined the American Institute of Certified Public Accountants (AICPA) in strongly urging Congress to delay implementation of the beneficial ownership reporting under the Corporate Transparency Act (CTA) by one year.  The CTA requires the submission of regular reports to the federal government identifying the beneficial owners of businesses and other legal entities. The stated goal is to target shell companies used in illicit financial transactions, but the new law defines the targeted entities as those having fewer than 20 employees and $5 million in revenues. In other words, not just shell companies but nearly every small business in America.

Per our letter, “The scope of the data collection is beyond anything the Federal government has ever attempted outside of the Tax Code. Covered entities will be required to provide the personal information of their so-called beneficial owners – owners, board members, senior employees, attorneys, etc. – and then constantly monitor the information to ensure it is current. The Financial Crimes Enforcement Network (FinCEN) expects to receive more than 32 million separate reports in 2024, with an additional five to six million filings each year thereafter. Despite this unprecedented challenge, FinCEN is simply not ready. Of the three primary rules necessary to implement the new law, only one has been completed, the second is still at the ‘proposed’ stage and needs to be finalized, while the third has yet to be released even as a proposed rule. FinCEN’s leadership has assured Congress they are ready to go starting next year but that is clearly not the case.”

A National Federation of Independent Business survey found that 90 percent of respondents were entirely unfamiliar with the reporting requirements. The CTA includes civil and criminal penalties of up to $10,000 and two years of jail time for failing to comply, so this lack of awareness is alarming and needs to be addressed before the law is implemented.

A year’s delay will provide FinCEN and the business community with more time to educate owners of their new obligations. It will also give Congress and FinCEN time to review the new rules to ensure they are successful.

## BLS Report: Inflation Cooling

The Bureau of Labor Statistics reported that inflation sank to 3.2 percent in October over a year earlier, the lowest since July as energy prices continue to decline. "Core" inflation, minus food, and energy costs, dipped to 4 percent, down from 4.1 percent and the smallest increase since September 2021. On a month-over-month basis, inflation was nonexistent. Prices rose 0.2% when excluding food and energy.

Investors cheered the news as evidence that the Federal Reserve's campaign to stamp out inflation was working, sending stock prices higher and U.S. Treasury bond yields lower.

**ABC and AGC Challenge Davis-Bacon Modernization with Lawsuits**

Last week, two lawsuits were filed challenging the U.S. Department of Labor's Davis-Bacon Modernization final rule. The first lawsuit was filed by the Associated Builders and Contractors (ABC) in the U.S. District Court for the Eastern District of Texas and the second was filed by the Associated General Contractors (AGC) in the Northern District of Texas.

The lawsuits allege that Acting Labor Secretary Julie Su was not legally authorized to sign the final rule because her continuation in an acting capacity violates the Vacancies Reform Act and because the final rule allegedly violates the Administrative Procedures Act in several regards. ABC says that "far from 'updating' the DOL's enforcement of the Davis-Bacon Act, the final rule returns to failed policies of the 1970s and unlawfully expands coverage of prevailing wage requirements onto new projects and industries and increases its regulatory burden on small construction contractors working on federally funded contracts."

The updates to Davis-Bacon went into effect on Oct. 23. To learn more about the updated rule, click here for FCA's contractor takeaways.

**Business Tax Breaks Renewal Paired with Child Tax Credit**

Senate Democrats are working to include $49 billion on a two-year boost for the child tax credit expansion that could also be paired with business tax breaks renewed for a similar duration. The proposal is a sign that negotiations between Senate Finance Chair Ron Wyden (D-OR) and House Ways and Means Chair Jason Smith (R-MO) are getting serious, with weeks left in the latest window to agree on a bipartisan package of tax provisions. Included in that agreement would be businesses' ability to deduct all research and development expenses up front, immediately write off the full cost of certain purchases like equipment and machinery and take bigger tax breaks for interest expenses.

Those changes would be retroactive and extend through 2025, to align with a large swath of tax cuts from the 2017 Republican overhaul. The total package would then be in the range of $90 billion to $100 billion, with about the same amount of dollars devoted to a child credit boost. The money for the child credit would largely be spent to make it more available to lower-income families, who are not currently able to claim the maximum $2,000 benefit because their income and tax liability are too low.

**Fiscal Responsibility Act Provision Requiring 1% Across-the-Board Cuts**

The Fiscal Responsibility Act, which suspends the federal debt limit through January 1, 2025, contains a provision that funding for all departments and agencies – defense and nondefense – would require a 1% across-the-board cut below FY 23 funding levels in each of the next two fiscal years if FY 24 appropriations bills are not enacted by Jan. 1. The enforcement mechanism would not kick in until April 30, which gives Congress time to either enact the appropriations bills or repeal the provision triggering the 1% cut.