Legislative Update - Now What?

The Midterm Election’s Impact

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Election Results

- **Republicans take the House ~ 242-193 (R+63)**
  - Rep. John Boehner (OH) is Speaker in 112th Congress
  - Rep. Dave Camp (MI) chairs Ways & Means Committee
  - Rep. Fred Upton (MI) chairs Energy & Commerce

- **Former NRCA President Reid Ribble wins!**
  - Is the Congressman from Wisconsin’s 8th CD

- **Democrats keep control of the Senate ~ 53-47 (R+6)**
  - Sen. Harry Reid (NV) is Majority Leader
  - Sen. Max Baucus (MT) chairs Finance Committee
  - Sen. Jeff Bingaman (NM) chairs Energy & Natural Resources

- **Congressional Democrats Face Tough Odds in ’12**
  - Must defend 23 Senate seats to Republicans’ 10
  - Republican state legislatures will impact House redistricting
111th Congress Lame Duck Session

- Began Nov. 15 and lasted until Dec. 17, 2010
  - Lame-duck Senate had one party switch (R-IL)
  - Thus, party ratio in lame duck Senate was 58 D’s – 42 R’s

- Unfinished Business on Lame Duck’s Agenda
  - Federal Budget and Spending Bills for FY11
  - 2001/2003 tax cuts that were to expire at the end of 2010
  - Tax credits that expired 12/31/09 (Tax Extenders Bill)
  - Other big items: AMT patch; payments to Medicare physicians

- “Tax Deal” Announced Early December
  - Brokered by White House/Congressional Republicans 12/7/10
Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act (HR 4853)

- Signed into law Dec. 17, 2010 by President Obama
  - Two-year extension of ’01/’03 individual rates for all incomes
  - Two-year extension of capital gains/dividend rates
  - Two-year estate tax with a 35% rate and $5m exemption
  - Two-year patch of the alternative minimum tax (ATM)
  - Extension of Sec. 179 expensing at 100% through 2011
  - Extension of Sec. 179 expensing at 50% for 2012
  - 2% employee-side payroll tax “holiday” for 2011

- Tax-Extenders
  - Two-year extension of R&D tax credit and other incentives
  - Extension of building energy-efficiency tax credits (45L & 25C)
Tax Deal Will Help Cure Uncertainty Crisis

- ARRA (Stimulus Bill) Spending is Winding Down
  - 9.4% unemployment; 20% construction unemployment

- Housing Industry Continues to Lag
  - New home sales at near 50-year low in 2010

- Commercial Real Estate Still on Shaky Ground
  - In the midst of $1.4 trillion commercial debt rolling over

- But, AIA Architecture Billing Index Recently Broke 50

- And, U.S. Corporations have $2 Trillion to Spend
Congress Must Stop Regulatory Avalanche

- **Patient Protection and Affordable Care Act**
  - Creates 183 new agencies, commissions and panels
  - Calls for 16,000 new IRS agents
  - Will require 1099s for all $600 B-to-B transactions

- **EPA**
  - Considering over 200 major economic rules
  - Greenhouse Gas (GHG) Regs could bring construction to a halt

- **OSHA**
  - More inspectors, inspections and higher penalties
  - New rules coming on fall protection, safety & health programs
Congressional Oversight vs. President’s EO

• President Obama’s Executive Order issued Jan. 18
  ▫ EO 13563, “Improving Regulation and Regulatory Review”
  ▫ A reiteration of EO 12866 issued in 1993 by President Clinton

• EPA’s GHG “Tailoring” Rule Effective Jan. 2, 2011
  ▫ EPA has rejected the need to review any of its regs
  ▫ Legislation introduced to delay/defund the GHG regs

• OSHA’s Injury and Illness Protection Program (I2P2)
  ▫ Expect House Education & Workforce Committee oversight

• NLRB’s Rule on Employer Posting Requirement
  ▫ Expect several House committees to engage in oversight
Energy Legislation in the 112th Congress

• Original Tax Deal Did **Not** Extend:
  ▫ Treasury grant program for renewable energy (wind and solar)
  ▫ Homeowner energy-efficiency tax credit (Sec. 25C, IRC)
  ▫ Both had to be added at the 11th hour

• New paradigm for energy policy in the 112th Congress
  ▫ A more incremental approach to renewable energy
  ▫ A more incremental approach to building energy efficiency
  ▫ Less funding for DOE

• Cap-and-Trade Legislation is Dead
  ▫ Except in California!

• Building Star/Home Star Retrofit Legislation is History
  ▫ But DOE Recovery Through Retrofit Program is operational
Recovery Through Retrofit Program

- **White House Middle Class Task Force Initiates, May ‘09**
  - Cites homeowner lack of access to info/financing/skilled workers

- **VP Biden Announces Home Energy Score, Nov. 2010**
  - To help homeowners make decisions (pilots thru mid-2011)
  - RESNET/BPI certified contractors will use software to generate:
    - A Home Energy Score between 1 and 10
    - An estimate of savings by making energy retrofits
    - A personalized list of recommended improvements

- **Draft Workforce Guidelines for Home Energy Upgrades**
A More Comprehensive Energy Strategy

• Federal Renewable Electricity Standard is out
  ▫ But 32 states now have renewable electricity standards
  ▫ Utilities required to provide electricity from renewable sources
  ▫ Mandates vary from 8% in PA by 2020 to 40% in ME by 2017
  ▫ Federal proposals have been 15-20% by 2020
  ▫ Federal sources would be solar/wind/biomass/geothermal/hydro

• Federal Clean Energy Standard is in
  ▫ Federal sources would include clean coal/natural gas/nuclear

• Rising Fuel Prices Could Impact Energy Legislation
  ▫ Oil could hit $100-a-barrel and gas $4-a-gallon in 2011

• Congress will pursue an “all-of-the-above” energy policy
  ▫ Greater emphasis on U.S. oil, gas, coal and nuclear
  ▫ Energy tax-incentives must have low “scores” to the Treasury
Building-Specific Tax-Incentive Vehicles

• **45L – New Energy-Efficient Home Tax Credit**
  ▫ $2,000 per home credit for builders
  ▫ Homes qualify if they reduce cooling/heating consumption 50%
  ▫ Extended through 2011 by HR 4853

• **25C – Homeowner Energy-Efficiency Tax Credit**
  ▫ Extended through 2011 by HR 4853, but at pre-stimulus levels
  ▫ Was 30% of qualified improvements with $1,500 aggregate cap
  ▫ Now 10% of improvements with $500 cap; $300 cap per item

• **Green Roofing Energy Efficient Tax Act**
  ▫ Would shorten tax depreciation for commercial roofs to 20 years
  ▫ Originally tied to meeting the ASHRAE 90.1-2004 standard
  ▫ Subsequently tied to minimum R-Value and cool roof standards
  ▫ Scored as costing the Treasury $3b over ten years
Commercial Building Tax Deduction (CBTD)

• **CBTD (179D) enacted in Energy Policy Act of 2005**
  - Provides owner with deduction up to $1.80 per square foot
  - Deduction based on building floor area
  - Must achieve 50% energy savings above ASHRAE 90.1-2001 level

• **Pro-rated for buildings below 50% of ASHRAE 90.1-2001**
  - $.60 per sq. ft. for one of three components that meets a 16.66% energy savings target:
    - Energy Efficient Lighting Property
    - Energy Efficient Heating, Cooling, Ventilation and Hot Water Property
    - Energy Efficient Building Envelope Property

• **CBTD in place through 2013**
  - There have been subsequent proposals to increase the full deduction to $3 per square foot and the prorated amount to $1
Questions?

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