Shutdown appears likely as options for short-term spending patch dwindle

With just a day left before the start of the 2024 fiscal year, Congress appeared at press time to be headed to a federal government shutdown on October 1. Despite the budget and debt-limit deal passed earlier this year that established discretionary spending levels for FY 2024, lawmakers have not finalized any of the 12 appropriations bills required to keep federal departments and agencies operating, and roadblocks, particularly coming from a small subset of House Republicans, have prevented Congress from passing even a stopgap measure to maintain government funding and functionality beyond midnight on September 30.

The Senate is expected to vote this weekend on a continuing resolution (CR) with bipartisan support that would generally keep funding at FY 2023 levels through November 17 and provide continued support for Ukraine in its war against Russia. Across the Capitol, Speaker Kevin McCarthy, R-Calif., is faced with several blocs within his party that will not vote for such a bill—some who oppose additional aid for Ukraine, some who refuse to support a CR unless it is accompanied by new funding and policies to address the flow of people entering the US illegally or those seeking asylum, and some who will not support a CR under any circumstances. At press time, some senators were working to develop a border funding amendment that could be attached to their bill in hopes of winning House GOP support.

Sen. Rand Paul, R-Ky., told reporters September 28 that he will not consent to speed up consideration of any bill that includes Ukraine aid, which means the Senate will not be able to vote on a CR until September 30. News broke September 29 that Sen. Dianne Feinstein, D-Calif., had passed away at age 90, and it was unclear at press time if that would impact the Senate vote.

On a separate track, Speaker McCarthy has been working to craft a House stopgap bill before the fiscal year ends, but legislation that can attain 218 votes from GOP members has proved elusive. He could bring to the House floor a CR that could pass with bipartisan support—including the bill the Senate is likely to approve—but his most conservative members insist that if he relies on Democrats to advance a stopgap, they will move to eject him from the role of speaker.

House leaders are tentatively planning to take up a 30-day CR that would cut spending for the duration of the stopgap, enact border policy changes demanded by conservatives, and create a fiscal commission to study issues related to the federal debt. It is unclear, however, whether such a measure would win the near unanimous approval among Republicans that would be required to secure a majority; moreover, even if it were to clear the House it likely would face substantial hurdles in the Senate.

While the appropriations process does not directly affect tax legislation or the work done in the taxwriting committees, senior staff members say they are concerned that the animosity on Capitol Hill—especially if the likely shutdown is a prolonged one—will make it challenging for Republicans and Democrats to successfully negotiate a tax bill before year-end.

There is a strong push from the business community, and from many members, for Congress to address several business-unfriendly provisions that were enacted in the Tax Cuts and Jobs Act of 2017 (P.L. 115-97) and have recently taken effect—notably, a move from expensing to amortization for research and development investments (section 174), stricter limitations on business interest expensing (section 163(j)), and a phasedown of bonus depreciation. Democrats insist that any relief on these measures must be paired with family-focused provisions such as an enhanced child tax credit. Despite these positions being staked out for nearly two years, taxwriters have not reached a compromise, so anything that heightens tensions in Congress runs the risk of jeopardizing the already precarious prospects for a tax deal before the end of 2023.

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