

## **The Change Election and Private Clubs**

“Change” and “Hope” proved to be the electoral currency in 2008. Rather than the nail-biting and paper-thin vote margins that have decided the last two presidential elections, the public spoke with a clear voice, electing Barack Obama to be the 44th president of the United States. The margin of victory was roughly 7 million votes. But as the emotions surrounding this historic election fade, many questions remain on how the new President and the expanded democratic majority in Congress will govern and what it will mean for the club industry. The answer surprisingly, is change and hope.

When the 111th Congress convenes in January 2009 it will have its work cut out for it including two wars and the greatest financial crisis since the great depression. Beyond these crises, long simmering challenges like social security and affordable health insurance remain unresolved. Looking forward there will no doubt be many challenges for private clubs.

## **Taxes**

President Obama made it a cornerstone of his campaign that he would not raise taxes on 95% of Americans. The other 5% are looking at possible tax increases. President-elect announced tax plan would raise taxes on those making \$250,000 per year. First his would raise the top income tax level from its current 35% to 39%. It would also lift the tax cap for social security taxes for any income above that threshold. Finally, the plan would also index capital gains taxes for high income earners by raising it from 15% to 20% or more. The incoming president has noted that he may shelve this plan, at least temporarily, until the economy improves. But the uncertainty may make high income families, who are the primary market for club membership, more averse to spending in the short term.

For clubs, a bigger concern will be how states decide to address their record budget shortfalls. While the federal government can use deficit spending to get through lean times, most states are required to balance their budgets and the numbers are looking bleak. California is facing an \$11 billion deficit in the first half of 2009, Michigan and other rust belt states are reeling from the collapse of the U.S. auto industry and New York's budget will far fall short as Wall Street's woes hit the state's books. Club should pay close attention to state tax proposals. Expect to see more and more states expand their sales taxes to cover services like club memberships and assessments as well as look for other means to make ends meet.

## **Immigration Reform**

Although the Bush administration made comprehensive immigration reform a key early goal in its first term. The 9/11 attacks put the issue on the back burner. When the issue finally reemerged in President Bush's second term, security concerns and the party's ideology had shifted dramatically to the right. Reforms were scuttled and employers were left with conflicting federal laws and the threat of high profile federal raids. The Democrats promise to be less dogmatic on immigration reform. Providing a window to address shortcomings in the H-2B visa program as well as setting up channels to ease legal immigration of unskilled workers. Ironically, now that the Congress may be able to tackle this issue, the economic challenges we face have, at least temporarily, solved to worker shortage problem.

## **Minimum Wage**

There has been little discussion about another round of increases in the minimum wage. Rather, it seems that the democratic majority has focused its efforts to help low wage workers by lowering taxes, providing tax rebates for payroll taxes and giving tax credits of up to \$3,000 for employers who hire new employees. About half the states already have minimum wage laws higher than the minimum wage, with many local jurisdictions having so-called living wages. The focus on employer incentives and the economic downturn will likely keep this issue at bay for the near term.

## **Health Insurance**

Health care costs remain a huge challenge for small employers like private clubs. Don't expect the new administration to roll out a plan for mandatory universal, government run health care. The catastrophic failure of the Clinton's universal health care proposal, which led to the GOP ascendancy in Congress, is still fresh in the minds of many democratic operatives. The budget challenges and the complexity of this issue could work to constrain any desire for a comprehensive approach to this issue. There is a strong possibility that changes will be implemented incrementally, with a priority given to providing coverage to children. The new administration has promised to pay for any new programs out of savings from the current Medicare and Medicaid programs. Tax incentives for employer coverage are a possibility as well.

## **Gay Marriage**

Much has been written about the passage of Proposition 8 in California. It is safe to say that the first round of the civil rights battle for same-sex couples is over. As of 2008, 30 states have not adopted constitutional prohibitions of marital benefits for gay couples. While a handful of states like Massachusetts and Connecticut recognize same-sex marriage, they remain outliers. However, despite these constitutional measures, there is an emerging consensus among voters and even social conservatives that civil unions or some form of legal rights should be granted to these couples. Additionally, the passage of proposition 8 in California has been a galvanizing loss for gay marriage proponents. Expect this debate to continue and to evolve.

On balance the new administration and expanded democratic majority in Congress will be a mixed bag of challenges and benefits for the club industry. Potential tax increases on high wage earners could make potential club members more cautious about making financial commitments to clubs in the near term, but potential progress on health-care and immigration could work to the benefit of clubs. The biggest challenge however, will be taxes levied by the states who will find themselves in deep financial distress in 2009. So look to DC with some hope and keep a close eye on your state house.

*Andrew Fortin is a private club attorney living in Washington, DC and is the Vice-President of Government Affairs for the Community Associations Institute. He may be reached at [Afortin@caionline.org](mailto:Afortin@caionline.org)*