

Taxing Expectations: Tax Policy after the TCJA

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2025: MAJOR TAX LEGISLATION EXPECTED

We expect **significant tax legislation in 2025** that will shape the future of tax policy for the next several years

2017 Tax Cuts and Jobs Act (TCJA) temporary provisions will **expire:**

- Individual tax cuts
- Enhanced Child Tax Credit
- Pass-through deduction
- GILTI and FDII international rates go up
- Business offsets will be in full force (full expensing, R&E, interest)

ACTION IS NECESSARY: BY DOING NOTHING, THE TCJA TAX CUTS WILL EXPIRE WHILE THE OFFSETS REMAIN IN EFFECT

ALSO UNDER CONSIDERATION IN 2025

Other expiring temporary tax policies



Inflation Reduction Act (IRA) offsets and clean energy incentives



New business and individual policies

THIS CREATES OPPORTUNITIES

1

For businesses, policies to bolster US competitiveness, support US supply chains

2

Family-friendly policies, including Child Tax Credit, affordable housing, protection from tax increases, etc.

3

Enhanced energy policies, including “all of the above” and clean energy

OPPORTUNITY COMES WITH RISKS



\$5 - \$10 TRILLION PRICE TAG

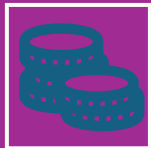
There are *not enough* viable offsets to offset the cost

Both parties will be *targeting policies* they don't like to pay for the legislation



There will be intense competition to be included in the legislation

Cannot assume any policy is "safe" or will be extended



Deficits are larger

More populists in Congress

Bipartisan consensus will be hard

Intra-party priorities vary

“UNKNOWNNS” COMPLICATE PLANNING



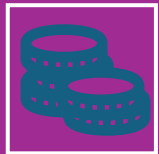
Election Results

Administration, split control of Congress will significantly impact tax package, opportunities, and risks



If one party sweeps, budget reconciliation?

- One party controls policy
- Only 51 votes needed in the Senate
- But, process creates temporary tax law, constraints
- Bill could move earlier in the year



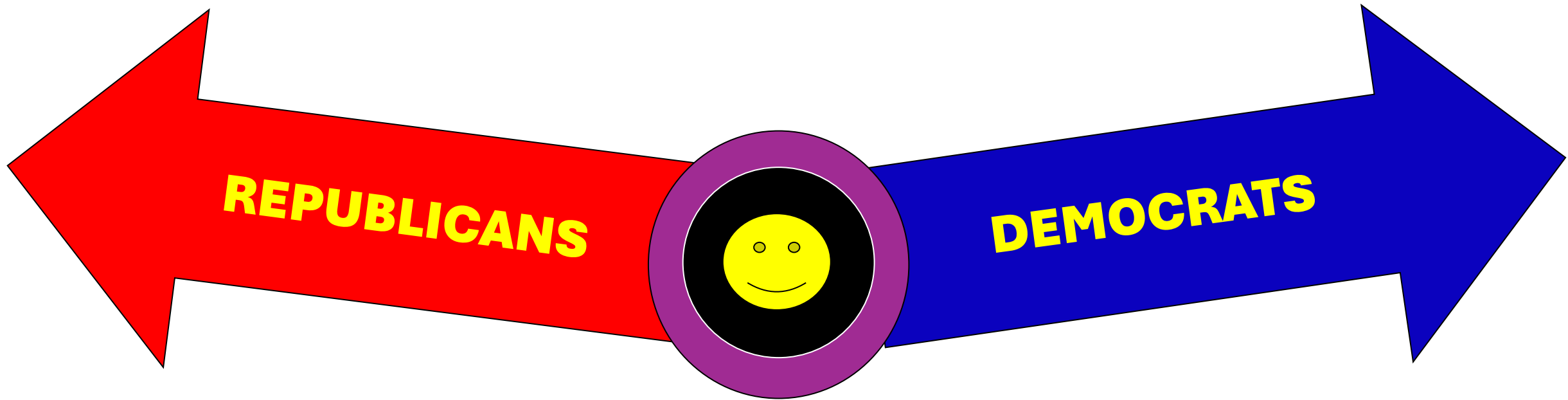
If mixed control, regular order

- Bipartisanship required, more trade-offs
- Could take entire year to hash out
- Increases risk nothing will be done

2025 IS NOT 2017

- **DON'T ASSUME THINGS WILL BE EXTENDED OR PRO-BUSINESS**
 - Jason Smith is not your traditional House Ways & Means Committee Chair
 - Less deference to corporations
 - Focus on small businesses, farmers, and families
 - More populist GOP
 - Deficits are larger
 - Cost to extend TCJA is \$8T -- there are not enough offsets readily available
 - Forces choices of policies
 - Huge turnover of Members and staff
 - EU/OECD influence
 - Possible interaction of trade and tax policy
- ***Wild Cards: Impact of Loper Bright and Corner Post***

Tax Policy in 2025



Tax Policy in 2025 – Presidential Proposals

TRUMP

- Make TCJA tax cuts permanent, including individual and estate, 199A, NMTC, WOTC, rates on GILTI, FDII, BEAT, SALT cap, CFC look-through
 - Reduce corporate tax rate from 21% to 20%
- OR
- Reduce corporate tax rate to 15% (if manufacturing in the US)
 - Rescind unspent IRA dollars (clean energy)
 - No taxes on tips, overtime, Social Security income
 - Increase Child Tax Credit (Sen. Vance)
 - Increase tax on large university endowments (Sen. Vance)
 - Use tariffs to pay for tax policy
 - Baseline tariff on US imports increase from 10% to 20%
 - 60% tariff on imports from China
 - Restore SALT deduction

HARRIS

- Corporations/wealthy should pay their fair share
- No tax increase on those making <\$400,000
- Increase LT capital gains rate to 28% on incomes >\$1M
- Increase net investment income tax (NIIT) to 5% on incomes >\$400,000
- 25% tax on unrealized capital gains on net worths >\$100M
- No tax on tips/increase subminimum wage
- Affordable housing incentives
- 1st year CTC \$6,000, keep COVID-era amounts
- Increase corporate tax rate to 28%
- Standard deduction for small businesses
- Increase deduction for start-up expenses from \$5,000 to \$50,000
- No specific international proposals
- Many Biden-era proposals attributed to Harris but she hasn't commented on them specifically

WHAT MIGHT CONGRESSIONAL REPUBLICANS DO?

- **Republicans are already planning for budget reconciliation**
- What is *worthy* to be included in a rare, big tax bill where offsets are difficult?
 - Focus on pro-growth policies
 - Focus on small business, farms, families
 - Make TCJA tax cuts permanent
 - Tax incentives to help address skilled labor shortage
 - Keep or reduce corporate tax rate (although some may support raising it)
 - International reform
 - Social Security reform
 - **Opportunity to repeal clean energy credits – the IRA is the new ACA**
 - Repeal IRA funding
 - Target tax-exempt organizations engaging in certain activities/behaviors, ongoing oversight
 - Consider taxing large pots of assets (university endowments, private foundations, etc.)
- Tariff increases to help pay for tax policies
- Dynamic scoring, tax cuts pay for themselves
- Timing - early in 2025

WHAT MIGHT CONGRESSIONAL DEMOCRATS DO?

- **Democrats are planning for reconciliation, too**
 - Restore the Child Tax Credit to COVID-19 pandemic level
 - Make the wealthy pay their fair share, close tax loopholes
 - No tax increase on those making under \$400,000
 - Raise corporate rates
 - Close corporate loopholes
 - Enhance/tweak IRA clean energy incentives
 - Eliminate oil and gas incentives
 - Extend Affordable Care Act insurance subsidies
 - Protect Social Security
 - Fund the IRS to increase resources, address the tax gap
- Timing - early 2025

Partisan Reconciliation

- For more than two decades, when one party has held “the trifecta” (White House, Senate, House), it would aggressively use the budget reconciliation process to pass major budget-related portions of its agenda over the objections of the minority
 - 2001 and 2003 tax cuts
 - Part of the Affordable Care Act
 - 2015/2017 “Repeal” of the ACA (failed)
 - 2017 - Tax Cuts and Jobs Act
 - 2021 - American Rescue Plan
 - 2022 - Inflation Reduction Act

Reconciliation: Key Points

- Not mandatory
- 2-step process: budget resolution (with instructions)/reconciliation bill
- Overcomes Senate filibuster
- Subject to the Byrd Rule and other restrictions

The “Byrd Rule” – CBA Section 313

- An extraneous provision is subject to a point of order, which can be waived only by 60 votes
- A provision is extraneous if it meets any one of the following tests:
 - Does not have a budgetary effect
 - Outside the jurisdiction of the committee reporting the relevant title of the bill
 - Has a budgetary effect that is merely incidental to the non-budgetary effect
 - Increases the deficit in the “out-years”
 - Affects the Social Security program

CAN REPUBLICANS AND DEMOCRATS AGREE ON ANYTHING?



Both parties
have policies
they care about,
creating
incentives to
work together



Negotiating and
trade-offs will
be necessary on
partisan issues



There are some
issues, however,
with bipartisan
interest...

CAN REPUBLICANS AND DEMOCRATS AGREE ON ANYTHING?

- Concerns about growing federal deficit
- Enhancing Child Tax Credit
- Tip tax relief?
- Corporate tax increase in exchange for deductions?
- Housing incentives
- Retirement Reform 3.0?
- Restoration of R&E deduction
- Disaster relief
- Taiwanese tax bill
- International reforms
 - How to react to Pillars 1 and 2
- Foreign entity of concern restrictions
- Full expensing
- Oppose digital service taxes
- Cryptocurrency
- 1099K
- Bolster US supply chain
- SALT?

THINGS ARE HAPPENING NOW!

**Senate Republicans
have internal-facing
groups**

**Democrats informally
preparing for tax reform**

- Recent past experience with IRA
- Meeting with JCT, educating members, canvassing members for priorities
- Working behind the scenes on policy priorities

**HWMC Rs soliciting
comments and
encouraging
meetings**

**Others are taking
input but on a less
formal basis**

**Republicans and
Democrats are NOT
talking to each
other!**

THINGS ARE HAPPENING NOW! (cont.)

10 House Republican Tax Teams

New Economy – Rep. Schweikert (R- AZ)	Main Street – Rep. Smucker (R-PA)	American Workforce – Rep. LaHood (R-IL)	Rural America – Rep. Adrian Smith (R-NE)	American Manufacturing – Rep. Buchanan (R- FL)	Working Families – Rep. Fitzpatrick (R- PA)	Global Competitiveness – Rep. Hern (R- OK)	Community Development – Rep. Kelly (R-PA)	Supply Chains – Rep. Miller (R-WV)	U.S. Innovation – Rep. Estes (R- KS)
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Three goals of each team: a) hear from Americans, b) educate colleagues, and c) make recommendations on what should be included in a 2025 tax bill

WHAT SHOULD YOU BE DOING?

DO NOT ASSUME

**DO NOT ASSUME
YOUR POLICY
WILL BE
INCLUDED,
EXTENDED OR
GO UNSCATHED**

JUSTIFY

Imperative to demonstrate
the economic value of
your policy

Congress wants evidence
of what policies are
working to create jobs
and stimulate the
economy when deciding
what should be
included in a tax bill

ACT NOW!

Provide input to the HWMC
tax teams – as many as
applicable

Outreach and education to
all tax committees and
relevant stakeholders is
necessary – *YOU* can make
a difference!

The time to engage is **now**

- **The tax-writing committees are making their tax reform lists NOW**
 - They want to be prepared to act quickly in the new Congress
- House Ways & Means Republican Tax Teams are taking comments until October 15, 2024
- Tax-writing committees are taking meetings with stakeholders
 - Focus is on justification of current policies/data as well as new policies/policy changes
 - Particularly interested in policies demonstrated to bolster the economy, create jobs, support the US supply chain, and add to grid resilience and national security
- Analyze how potential scenarios may affect your business operations or bottom line
- **Do not rely on other stakeholders to advocate on your behalf – proactive, early outreach is key to shaping tax policy!**

Wrapping up

Questions?

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