



The Election Results Are In: What Does it Mean for U.S. Tax Policy?

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Learning Objectives

- ▶ Evaluate the potential impact of election results on tax legislation during the lame duck Congressional session.
- ▶ Discuss expiring tax provisions.
- ▶ Explore tax legislative initiatives for the new Congress.

New Tax Policy is Ahead

Corporate tax

Individual tax

Tax rates

Tax Cuts and Jobs Act (TCJA)

Estate tax

Tariffs

Credits

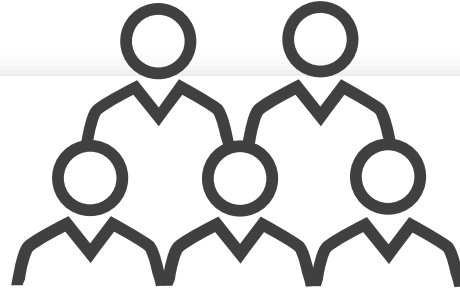


119th Congress and the White House

AS OF NOVEMBER 6, 2024



HOUSE
Leaning GOP



SENATE
GOP



WHITE HOUSE
Donald Trump

If, however, the House is Democratic, that will complicate moving tax legislation through Congress

Where We Have Been

The Tax Cuts and Jobs Act of 2017 (TCJA)

- ▶ Enacted in 2017, this comprehensive package was designed to stimulate economic growth with rate reductions and other tax incentives
- ▶ Corporate tax rate: lowered from 35% to 21%, aiming to promote global competitiveness
- ▶ Individual tax cuts: tax rates reduced across the board, increased standard deduction and child credit
- ▶ Small business deduction: Allows a 20% deduction of qualified business income from certain businesses
- ▶ International provisions
 - Global Intangible Low-Taxed Income (GILTI)
 - Foreign-Derived Intangible income (FDII)
 - Base Erosion and Anti-Abuse Tax (BEAT)

Where We Have Been

Coronavirus Aid, Relief, and Economic Security Act of March 2020 (CARES Act)

- ▶ Stimulus payments
- ▶ Paycheck Protection Program (PPP)
- ▶ Unemployment benefits expansion
- ▶ Employee Retention Credit (ERC)

Inflation Reduction Act, August 2022 (IRA)

- ▶ Climate and energy incentives: over \$370 billion of clean energy incentives, electric vehicles
- ▶ Corporate minimum tax: 15% CAMT for corporations with income over \$1 billion
- ▶ IRS funding increase: \$80 billion (later reduced to \$60 billion in the Fiscal Responsibility Act of 2023 and Further Consolidated Appropriations Act of 2024)

Where We Almost Went

Tax Relief for American Families and Workers Act of 2024

- ▶ Child credit enhancements: would have increased refundable portion of child credit
- ▶ Research and Development expensing: would have restored full immediate expensing for costs through 2025
- ▶ Bonus depreciation: would have extended 100% bonus depreciation through 2025
- ▶ Interest deduction: would have allowed businesses to deduct interest expense based on earnings before interest, taxes, depreciation, and amortization (EBITDA) through 2025
- ▶ Disaster tax relief: for victims of recent natural disasters
- ▶ Low-Income Housing Tax Credit: enhancements to finance over 200,000 affordable homes
- ▶ Paid for with the nearly \$80 billion by ending the ERC January 31, 2024

Passed the House on January 31, 2024, pending Senate action.

FEDERAL TAX POLICY

The Cliff— Addressing the TCJA Expiring and Increasing Provisions

- ▶ **Most TCJA provisions expire after 2025 with some exceptions:**
 - Corporate rate stays at 21%
 - The GILTI, FDII, and BEAT rates creep up after 2025
 - Alimony provision (alimony is no longer deductible or includible in income) remains
- ▶ **Expiring provisions include:**
 - Reduction in individual tax rates (highest rate 37% from 39.6%)
 - Doubled standard deduction (\$24,000 MFJ; \$12,000 S) returns to pre-TCJA levels
 - Expanded child credit with partial refundability
 - 20% deduction for qualified business income
 - Estate tax: exemption doubled to \$13.61 million; returns to \$7 million after 2025
 - SALT cap of \$10,000 ends after 2025
 - Reduced mortgage interest deduction on loans up to \$750,000

FEDERAL TAX POLICY

Were We Might Go in the New Administration and New Congress President-Elect Trump's Policy Proposals

Business tax

- ▶ Lower corporate rate from 21% to 20% (15% if manufacturing in United States)
- ▶ Extend present-law carried interest rule, treating as LTCG if held 3 years
- ▶ Qualified opportunity zone capital gain deferral extended
- ▶ Like-kind exchanges limited to real property would be extended
- ▶ 20% qualified business income deduction would be extended
- ▶ Limitation on excess business losses for non-corporate taxpayers would be repealed
- ▶ Bonus depreciation extended or made permanent
- ▶ Retain certain fossil fuel incentives; repeal certain green incentives from the IRA
- ▶ Increase excise tax on large university endowments

FEDERAL TAX POLICY

Were We Might Go in the New Administration and New Congress President-Elect Trump's Policy Proposals

International Tax

- ▶ Foreign-Derived Intangible Income (FDII): rate set to increase from 13.25% to 16.4% after 2025; proposal would extend the 13.25% rate
- ▶ Global Intangible Low-Taxed Income: rate set to increase from 10.5% to 13.125% after 2025; proposal would extend the 10.5% rate
- ▶ Base Erosion and Anti-Abuse Tax (BEAT): rate set to increase from 10% to 12.5% after 2025; proposal would extend the 10% rate

Estate, Gift, and GST Tax

- ▶ Extend higher exemption amounts (\$13.61 million per person)
- ▶ 40% rate is permanent

FEDERAL TAX POLICY

**Were We Might
Go in the New
Administration
and New Congress
President-Elect
Trump's Policy
Proposals**

Individual Tax

- ▶ Extend lower rates
- ▶ Replace individual tax with tariffs
- ▶ Reduce top LTCG rate to 15%; index purchase price of assets
- ▶ Exempt from tax SS benefits, overtime, tips
- ▶ Extend increased standard deduction
- ▶ Extend elimination of personal exemptions
- ▶ Extend increased AMT exemption amounts
- ▶ Extend itemized deduction limitations (mortgage interest, charitable, casualty, suspension of other misc. itemized)
- ▶ Remove SALT cap of \$10,000
- ▶ Increase child credit to \$5,000; new tax credit for caregivers; auto loan interest deduction
- ▶ Eliminate double taxation of Americans abroad

Other Legislative Activity

- ▶ Other tax legislation considered in the past Congress
 - Senate bipartisan bill would end tax-free reorganizations (\$500 million)
 - The “Stop Subsidizing Giant Mergers Act,” S. 4011 would have ended the deferral of capital gains on exchanges of stock or assets between merging corporations for those valued over \$500 million
 - Proposed in the Senate but did not pass
- ▶ IRS administration provisions

- ▶ House GOP planned listening sessions, etc., to address 2025 cliff
 - Organized by the House Ways & Means Committee, these sessions were to address provisions from the TCJA through several tax teams, gathering stakeholder input
 - Over 50 sessions are reported to have occurred in and out of D.C.
 - Included manufacturing, small businesses, working families

Major Changes to Regulation Review: *Chevron* Overruled

▶ *Chevron U.S.A., Inc. v. Natural Resources Defense Council* (1984) is the seminal case regarding agency deference when a court reviews agency interpretive regulations

▶ *Loper Bright Enterprises v. Raimondo* (2024) overruled *Chevron* and its deference holding for interpretive regulations, such that courts now decide in their view how such regulations are to be interpreted

- ▶ Federal tax implications:
- Legislative and procedural regulations should be unaffected
 - Interpretive regulations now could be reviewed by as many as 80 plus federal courts
 - Taxpayers should consult with their advisors when taking certain regulatory positions

Thank You!



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