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Tax

Outlook for the 119th Congress & the Trump Administration

Key Takeaways

- A potential Republican sweep of the Presidency, Senate and House opens the door for Republicans to use the reconciliation process to move tax legislation in the 119th Congress.
- Major portions of President Trump's first-term achievement, the Tax Cuts and Jobs Act (TCJA), are scheduled to expire at the end of 2025.
  - During his campaign, President Trump frequently talked about extending the TCJA and also floated ideas such as eliminating taxes on tips, expanding the deduction for state and local taxes (SALT) and reducing the corporate tax rate on domestic production.
  - He also frequently talked about items like tariffs and eliminating green energy credits as potential payfors.

Additional Insights

- What's At Stake
  - At the end of 2025, significant portions of President Trump's TCJA expire. Most of the expirations are on the individual side of the tax code, including individual tax rate cuts, the expanded child tax credit and the Section 199A small business deduction, however, certain taxes impacting multinational businesses such as the Global Intangible Low-Taxed Income (GILTI) and Base Erosion and Anti-Abuse (BEAT) taxes potentially go up as well.
  - Republicans will also likely look to add back portions of the TCJA that have already expired such the ability to expense research costs, bonus depreciation and more favorable rules around interest deductibility.
  - Also on the table will be President Trump's campaign ideas such as no taxes on tips, raising the SALT deduction, eliminating tax on overtime and reducing rates on domestic manufacturing.
  - Extension and expansion of traditional bipartisan priorities such as the New Markets Tax Credit and the Low-Income Housing Tax Credit will also be in the mix.
  - Overall, the price tag implementing these policies could run well above $5 trillion.
- Reconciliation
  - Republicans will look to use the reconciliation process in order to move their tax priorities. The reconciliation process, established by the Congressional Budget Act of 1974, is a special legislative process that allows Congress expedited procedures in order to pass revenue and certain types of spending measures.
  - GOP members have signaled that they would like to move forward on reconciliation in the first 100 days of President Trump's administration. Timing will likely depend on what other items are on Congress's plate in

the new year including appropriations and the debt ceiling, which will both be a part of the discussion in the lame duck.

- Using reconciliation comes with the benefit of only needing 50 votes in order to advance and pass legislation in the Senate, but with the burden of setting revenue targets within the first 10 years and the requirement that legislation be revenue neutral in the second ten years. The process has two stages: first, a budget resolution must be passed with revenue targets for the relevant committees to hit. After the budget resolution is passed, Committees write legislation to the revenue target.
- The 2017 budget resolution that preceded what became the TCJA directed House and Senate Committees to write legislation that produced a $1.5 trillion tax cut. As noted above, extending all current TCJA policies plus additional campaign policy ideas could cost over $5 trillion. One of the first decisions Congressional Republicans will have to make is where they want to put their revenue target, which will in turn dictate what types of extensions or revenue raisers can be done when tax-writers put together a reconciliation bill.

- Revenue Raisers?
  - During President Trump's campaign, and during the last Congress, Republicans floated a number of potential revenue-raising ideas that could potentially find their way into a tax bill.
  - Tariffs in a tax bill: During the Presidential campaign, he proposed imposing a "ring-around-the-collar" tariff of anywhere between 10 and 20 percent on every country in the world and up to 60 percent tariffs on China. While tariffs haven't been legislated in almost 100-years, enacting them in a legislation bill could potentially help keep the revenue target needed in a budget resolution lower than it might otherwise be.
  - Inflation Reduction Act provisions: Republicans, both President Trump during the campaign and House Republicans in 2023, have campaigned on or voted on eliminating parts or the entirety of the Inflation Reduction Act (IRA). During the campaign, President Trump vowed to eliminate the "green new deal," and the Fiscal Responsibility Act, the House Republicans initial volley during the 2023 debt limit negotiations, repealed substantially all of the IRA's tax credits.
  - Pushing back against extraterritorial and discriminatory taxes: In 2023, House Ways and Means Committee Chairman Jason Smith (R-MO) introduced the Defending American Jobs and Investment Act, which would impose an additional 5 percent tax rate each year for four years on the U.S income of individuals and entities located in foreign jurisdictions that have imposed discriminatory or unfair tax regimes (mainly targeting regimes that have implemented the Organisation for Economic Co-operation and Development's (OECD) undertaxed profits rule (Undertaxed Profits Rule (UTPR) or digital services taxes) that permits foreign jurisdictions to tax U.S. companies on their U.S. profits). After the four years, the cumulative 20 percent additional tax would be imposed each year as long as the UTPR remained in effect in the relevant foreign jurisdiction.

- The Decisionmakers
  - House of Representatives: The GOP heads of the tax-writing committee in the House will stay the same with Rep. Jason Smith (R-MO) continuing his stint as Chair of the House Ways and Means Committee. With Republicans keeping the House, the ratio of Committee Republicans and Democrats will likely stay close to the same.
  - Senate: Sen. Mike Crapo (R-ID) will become Chair of the Senate Finance Committee with Republicans retaking the Senate. Republicans will also likely gain multiple seats on the Committee after retaking the Senate, and Democrats may have to replace up to six seats as a result of retirements and current members losing their seats.

- Department of the Treasury: The Treasury Secretary and National Economic Council (NEC) director will be the two main names to watch in regards to tax policy. In President Trump’s first term, both Secretary Mnuchin and NEC Director Gary Cohn took leading roles in the creation and implementation of TCJA. The press has reported that in a second term, President Trump is considering names like Scott Bessent, Sen. Bill Hagerty (R-TN), former United States Trade Representative (USTR) Robert Lighthizer and Howard Lutnick for such roles.

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