

The Future of Tax Policy: What's Next for the TCJA and Beyond

January 15, 2025

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Navigating Policy Shifts Under a Second Trump Administration

As we look ahead to a new political state of affairs, join us for a series of webinars that will offer insights into the key regulatory and policy changes expected under a second Trump presidency.

We'll explore how leadership transitions, executive actions, and congressional dynamics will shape the future of industries ranging from healthcare and financial services to energy, trade, and beyond.

Each session will feature analysis from Venable attorneys and senior policy advisors, providing actionable guidance on how businesses and organizations can navigate the evolving policy landscape. Join us for a comprehensive look at the changes coming to Washington in 2025 and beyond.

Administrative Items

- Members of the Press
 - Off-the-record conversation
 - For any PR needs, please email PR@venable.com
- CLE credit: We will provide a word to receive credit during this program.
- Slides available following the webinar.

Today's Agenda

- TCJA and tax provisions in play
- Makeup of the 119th Congress
- Pathways for tax legislation
- Impact of U.S. fiscal situation
- Specific tax policy areas of focus/attention
- Questions and Answers

Expiring Tax Provisions in 2025

Because the Tax Cuts and Jobs Act (TCJA) was passed through reconciliation, many of the changes are temporary:

- Nearly 40 tax provisions expire (or are modified) after Dec. 31, 2025
- The CBO estimate extending only the expiring provisions would increase deficits by \$4.6 trillion over the 2025 - 2034 budget period
- Upwards of 80% of the cost would result from extending cuts for individual income taxes:
 - Lowering income tax rates and broadening the brackets
 - Doubling the child tax credit
 - Increasing exemption amounts for individual AMT

Notable Business Provisions Impacted by TCJA

- TCJA business provisions that expire or are modified after 2025:
 - Section 199A deduction for pass-through entities (\$780 billion)
 - Increased taxes on GILTI and BEAT, and reduced FDII deduction (\$160 billion)
 - Post-2026 elimination of bonus depreciation (\$380 billion to extend 100% bonus)
- Other TCJA business provisions:
 - Restoring immediate deduction of R&D expenditures (\$280 billion)
 - Restoring EBITDA test under section 163(j) (\$50 billion)
 - The 21% corporate tax rate

Revenue estimates from the Committee for a Responsible Federal Budget, Appendix to “TCJA Extension Could Add \$4 to \$5 Trillion to Deficits” - <https://www.crfb.org/blogs/tcja-extension-could-add-4-5-trillion-deficits#appendix>

New Tax Proposals in Play

Tax proposals proposed by President Trump during the campaign:

1. Exempt tips from income tax (\$118 billion)
2. Exempt overtime pay from income tax (\$748 billion)
3. Exempt Social Security benefits from income tax (\$1.189 trillion)
4. Restore full SALT deduction (\$1.04 trillion)
5. Lower corporate rate to 15% for domestic production activities (\$361 billion)
6. Expand the Child Tax Credit to \$5,000 (estimated cost \$2.432 trillion)

Total Estimated Cost = \$5.9 trillion (over 10 years)

* Budget estimates are projected over 10-year window (2025 - 2034)

** Revenue estimates from Tax Foundation, “Donald Trump Tax Plan Ideas: Details and Analysis”. October 14, 2024
<https://taxfoundation.org/research/all/federal/donald-trump-tax-plan-2024/>

Makeup of the 119th Congress (vs. 115th Congress)

119th Congress (2025 - 2026)

House of Representatives: (220-215)

- 220 Republicans
 - *217 until at least April (special elections to fill three vacancies)
- 215 Democrats

Senate: (53-47)

- 53 Republicans
- 47 Democrats

115th Congress (2017 - 2018)

House of Representatives: (241-194)

- 241 Republicans
- 194 Democrats

Senate: (52-48)

- 52 Republicans
- 48 Democrats

Makeup of Tax-Writing Committees (vs. 115th Congress)

119th Congress (2025 - 2026)

Ways & Means Committee: (26-19)*

- 26 Republicans
- 19 Democrats

Senate Finance Committee: (14-13)**

- 14 Republicans
- 13 Democrats

* of the 26 GOP members, only six served on W&M during the 115th Congress

** of the 14 GOP members, only six served on SFC during the 115th Congress

115th Congress (2017 - 2018)

Ways & Means Committee: (24-16)

- 24 Republicans
- 16 Democrats

Senate Finance Committee: (14-12)

- 14 Republicans
- 12 Democrats

Passing Major Tax Legislation in the 119th Congress: The Reconciliation Process

Overview

- Any major tax legislation in the 119th Congress will have to pass the Senate through the budget reconciliation process.
- Budget reconciliation is a special legislative process which allows for the privileged consideration of certain revenue, spending, and debt limit legislation in a manner that avoids the Senate filibuster rules and allows passage by a simple majority (rather than 60 votes).

Use & Timing in 2017

- In 2017, the GOP passed two budget resolutions:
 1. FY 2017 budget resolution - Passed in January, focused on the repeal of the Affordable Care Act)
 2. FY 2018 budget resolution - Passed in October, focused on the tax cuts included in the TCJA

Reconciliation Webinar

- Held December 12, 2024: Budget Reconciliation and the 119th Congress: What You Need to Know | [Link](#)

The Byrd Rule: Six Categories of ‘Extraneous’ Provisions

- A provision in a reconciliation bill is considered ‘extraneous’ and may be stricken under the Byrd Rule if the provision:
 1. **Fails to impact outlays or revenues:** The provision has no direct budgetary effect.
 2. **Fails to meet committee’s fiscal target:** The net budgetary effects of the provision fail to meet the fiscal targets outlined in the committee’s instructions.
 3. **Produces only incidental budgetary effects:** A provision whose primary impact is not budget-related but rather ‘merely incidental’ to the overall policy objective.
 4. **Exceeds committee jurisdiction:** A provision that is outside the scope of the relevant committee’s responsibilities.
 5. **Increases the deficit beyond the budget window:** A provision that would add to the deficit beyond the time frame specified in the reconciliation instructions (usually 10 years).
 6. **Changes Social Security:** A provision that alters the *retirement and disability programs* in Title II of the Social Security Act.

Budget Reconciliation Timeline

Concurrent Budget Resolution Timeline

1. **July 19, 2017** – House Budget Committee holds markup on reconciliation rules.
2. **July 21, 2017** – House Budget Committee submits a reconciliation resolution (H. Con. Res. 71), including instructions to the Ways and Means Committee.
3. **Sept. 19, 2017** – Sens. Pat Toomey and Bob Corker reach a tentative agreement on a figure of \$1.5 trillion for tax cuts.
4. **Oct. 4, 2017** – House passes a rule providing for consideration of H. Con. Res. 71.
5. **Oct. 5, 2017** – House agrees to the resolution by a vote of 219-206.
6. **Oct. 17, 2017** – Senate receives the resolution and begins consideration. Senate introduces its version (SA 1116).
7. **Oct. 19, 2017** – Senate agrees to the resolution with an amendment (SA 1116) by a vote of 51-49.
8. **Oct. 26, 2017** – House agrees to the resolution and Senate amendment (SA 1116) by a vote of 216-212.

Budget Reconciliation of TCJA Timeline

1. **Nov. 2, 2017** – H.R. 1 is introduced in the House and referred to the Ways and Means Committee.
2. **Nov. 6, 2017** – Ways and Means Committee holds markup of H.R. 1.
3. **Nov. 9, 2017** – Sen. Hatch (UT) unveils companion legislation in Senate.
4. **Nov. 13, 2017** – Ways and Means Committee reports the bill out of committee.
5. **Nov. 15, 2017** – House begins consideration of H.R. 1.
6. **Nov. 16, 2017** – House passes H.R. 1 by a vote of 227-205. Senate Finance Committee passes companion legislation by a vote of 14-12.
7. **Nov. 27, 2017** – Senate receives H.R. 1.
8. **Nov. 28, 2017** – Senate Budget Committee reports companion legislation by a vote of 12-11.
9. **Nov. 29, 2017** – Full Senate begins consideration of H.R. 1.
10. **Dec. 2, 2017** – Senate passes H.R. 1 with an amendment by a vote of 51-49.
11. **Dec. 4, 2017** – Mr. Brady (TX) moves that the House disagree to Senate amendment and request a conference. Passes 222-192.
12. **Dec. 15, 2017** – House and Senate Conference reports a new version of the bill.
13. **Dec. 19, 2017** – Mr. Brady (TX) brings up the conference report for consideration by the House. Is agreed to by a vote of 227-203. Conference report is considered in the Senate.
14. **Dec. 20, 2017** – Senate amendment is agreed to by a vote of 51-48. Action sent to the House. House agrees to Senate amendment by a vote of 224-201.
15. **Dec. 22, 2017** – H.R. 1 is signed into law.

The State of the Federal Debt

- Federal debt **increased \$15.22 trillion** over 7 years.
 - ❑ \$20.24 trillion as of Sept. 30, 2017
 - ❑ \$35.46 trillion as of Sept. 30, 2024

Debt as % of GDP:

- 104% of GDP in FY 2017
- 123% of GDP in FY 2024

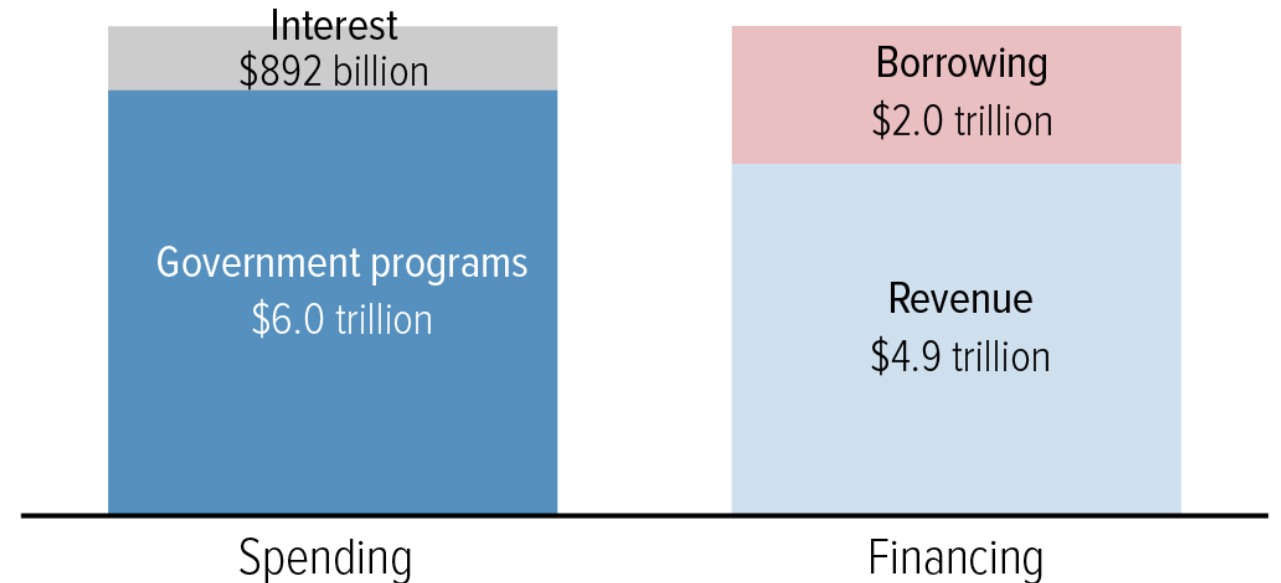
Cost of Servicing the National Debt:

- CBO estimated that annual interest payments on the national debt **totaled \$949 billion in 2024**.
- In 2024, annual interest payments on the federal debt ranked as the second-largest federal expenditure, exceeding defense spending and projected to surpass Social Security by 2051.

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Spending, Revenue, and the Deficit

For fiscal year 2024



Source: Congressional Budget Office estimates with effect of certain timing anomalies removed, June 2024

Specific Tax Policy Areas of Focus/Attention

- **State and Local Taxes (SALT)**
 - Expiration of \$10,000 cap and interaction with expiration of increased AMT thresholds after 2025
 - State pass-through entity workarounds to SALT cap
- **International Tax Regime**
 - Changes to GILTI, BEAT, and FDII after 2025
 - Inclusive Framework (BEPS Pillars 1 and 2)
- **Tax-exempt Organizations**
 - Potential legislative and judicial developments and their impact on nonprofit activities
 - DAF regulations
- **Wealth Planning**
 - Current limits
 - Planning strategies

Join Our Upcoming Webinars:

January

- January 22, 2024: Shake Up at the NLRB: What Employers Can Expect Under Trump's Second Administration | 2:00 - 3:00 pm ET
- January 29, 2024: A Discussion of the Trump Administration's Anticipated Priorities for Higher Education | 2:00 - 3:00 pm ET
- Stay tuned for our webinars continuing next month, with topics including AI, privacy, transportation, and more



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