

House back in business as Johnson claims speaker's gavel

After three weeks of legislative gridlock, the House of Representatives resumed normal operations on October 25 as members of the Republican majority coalesced around Rep. Mike Johnson, R-La., to serve as the chamber's new speaker.

The final vote tally broke strictly along party lines: Johnson received 220 votes from a united Republican Conference and his sole challenger, Minority Leader Hakeem Jeffries, D-N.Y., received 209 votes from the chamber's Democrats.

Johnson replaces former Speaker Kevin McCarthy, R-Calif., who was ousted from the top spot after a handful of House Freedom Caucus members pushed through a "motion to vacate" in response to McCarthy's decision to advance a stopgap government funding measure that relied on Democratic votes for passage. (The funding bill, which cleared the House and Senate on September 30 and was quickly signed into law by President Biden, averted a government shutdown that otherwise would have occurred at the start of fiscal year 2024 on October 1. For prior coverage, see *Tax News & Views*, Vol. 24, No. 33, Oct. 6, 2023.)

URL: https://dhub.deloitte.com/Newsletters/Tax/2023/TNV/231006_1.html

Process of elimination

A four-term congressman who most recently was Republican Conference vice chair, Johnson was the fourth Republican to be nominated as speaker since McCarthy lost his leadership position but the first to lock down enough support from within his own party to prevail on the House floor and claim the gavel. The speaker is elected by a vote of the entire House and Republicans hold an extremely narrow majority—currently, 221 seats compared to 212 for Democrats (2 seats remain vacant). With a margin that tight, a nominee could afford only 4 GOP defections in a floor vote if all members were present and voting, since all of the chamber's Democrats were committed to supporting Jeffries.

Majority Leader Steve Scalise, R-La., was nominated for speaker on October 11, only to withdraw from the race the next day—without receiving a floor vote—after he determined that there were enough Republican holdouts to sink his candidacy. House Judiciary Committee Chairman Jim Jordan, R-Ohio, was tapped for the post on October 13 but subsequently lost in three separate floor votes and saw his opposition from within the GOP increase on each successive ballot before bowing out as a candidate. Majority Whip Tom Emmer, R-Minn., got the nod on October 23 but dropped out just four hours later after it became clear that a majority was out of reach and that he would fail if his nomination went to a vote on the House floor.

Legislative agenda: A narrow window for government funding

Johnson ascends to the speaker's dais as the nation one again moves toward a possible government shutdown when the continuing resolution (CR) keeping the lights on and the doors open expires in just three weeks, on November 17.

In a letter to his GOP colleagues penned during his brief campaign to lead the House, Johnson outlined what he characterized as an “ambitious schedule” for the chamber to clear all 12 individual spending measures required to fund federal government operations. He noted, though, that if an agreement on funding is not in place by the time the current CR expires, he would be open to a stopgap measure “that expires on January 15 or April 15 . . . to ensure the Senate cannot jam the House with a Christmas omnibus.” He did not indicate whether he would support a funding extension at the fiscal year 2023 levels in place under the current CR or if he would instead insist on additional spending cuts as demanded by more conservative House Republicans during the last round of House and Senate negotiations on a stopgap leading up to the close of fiscal year 2023 on September 30.

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Also unclear from the letter is whether Johnson would accept a “clean” CR (that is, with no extraneous provisions) or if he would instead demand certain social policy riders that are favored by some factions within the Republican Conference but are generally viewed as nonstarters by the Senate and the White House.

Any decisions around whether Congress will move a year-end omnibus spending package or a continuing resolution that extends into next year—and what a CR, if adopted, might look like—will, of course, have to be hammered out by Johnson, Senate Majority Leader Charles Schumer, D-N.Y., and Senate Minority Leader Mitch McConnell, R-Ky., (since such a measure would be unable to overcome a Senate filibuster if all Republicans oppose it), and also be acceptable to President Biden.

Schumer, for his part, reiterated to reporters October 26 that an eventual agreement on spending would have to be bipartisan.

“I hope that this new speaker understands that he cannot get things done if he tries to just be partisan. We said we’d talk, so let’s hope,” Schumer said.

Tax policy agenda: Is there one?

The near-term agenda Johnson outlined in his “Dear Colleague” letter does not include a specific reference to tax policy or a year-end tax bill—and his apparent aversion to an omnibus spending agreement, which would be the likely vehicle to carry a tax package, suggests that reaching an accord on taxes might not be among his priorities in 2023.

Since he came to Congress in 2017, Johnson has not played a prominent role in advancing tax-related legislation. He does not sit on the House Ways and Means Committee and the bulk of the legislative proposals on which he is listed as the lead sponsor fall within the jurisdictions of the Judiciary, Energy and Commerce, and Natural Resources panels; moreover, the positions page on his House website includes only a general statement that Congress has “a moral and constitutional duty to . . . pursue continued pro-growth tax reforms and permanent tax reductions” as part of a multi-pronged effort to reduce the federal deficit.

URL: <https://www.congress.gov/member/mike-johnson/J000299?q=%7B%22sponsorship%22%3A%22sponsored%22%7D>

URL: <https://mikejohnson.house.gov/issues/issue/?IssueID=14899>

In his campaign for the speakership, however, Johnson apparently did take a position on one fairly divisive tax issue: relief from the \$10,000 limitation on the deduction for state and local taxes (SALT) enacted in the Tax Cuts and Jobs Act of 2017 (P.L. 115-97). According to several Republican members of the House’s SALT Caucus—a coalition of lawmakers in both parties who represent jurisdictions with high state and local income and property taxes—Johnson promised that he would not allow a tax bill to come to the House floor in this Congress if it did not include a provision to increase the current-law cap.

[URL: https://www.congress.gov/115/plaws/publ97/PLAW-115publ97.pdf](https://www.congress.gov/115/plaws/publ97/PLAW-115publ97.pdf)

“He acknowledges that providing SALT relief is critical for middle-class Americans burdened by double taxation and must be addressed in any tax bill the House considers,” SALT Caucus Co-Chair Andrew Garbarino, D-N.Y., stated in a press release announcing his support for Johnson ahead of the October 25 floor vote on his nomination.

Rep. Anthony D’Esposito, R-N.Y., told reporters October 25 that he was confident a tax package is “not going to make it to the floor unless the SALT relief is in there, because [Johnson is] going to need . . . votes” from him and other Republicans in the SALT Caucus.

But moving a tax bill through the House that addresses the SALT cap could prove to be a difficult needle to thread. The American Families and Jobs Act, a largely business-focused economic growth tax package that the House Ways and Means Committee approved in June, remains in limbo because Republicans in the SALT Caucus have demanded that Chairman Jason Smith, R-Mo., include some kind of SALT relief. There are enough GOP members in that group to prevent the measure from passing if it comes to the floor without such a provision, as the package is expected to face unanimous opposition from the chamber’s Democrats. But there also is a contingent of House lawmakers representing lower-tax jurisdictions who are just as adamant about keeping SALT relief out of a tax bill. (For details on the American Families and Jobs Act as approved by the Ways and Means Committee, see *Tax News & Views*, Vol. 24, No. 24, June 16, 2023.)

[URL: https://dhub.deloitte.com/Newsletters/Tax/2023/TNV/230616_1.html](https://dhub.deloitte.com/Newsletters/Tax/2023/TNV/230616_1.html)

SALT Caucus member Marcus Molinaro, R-N.Y., told reporters that Johnson encouraged the caucus to pursue further discussions with Ways and Means Chairman Smith on how to include SALT relief in the economic growth legislation.

It’s worth remembering, though, that Chairman Smith hopes to use the American Families and Jobs Act as the foundation for a possible deal on a bicameral tax package that he has been discussing with Senate Finance Committee Chairman Ron Wyden, D-Ore. Those talks are already complicated by the fact that Wyden and many congressional Democrats in both chambers are insisting on adding a provision to significantly expand the child tax credit in exchange for their support for the business-focused tax relief in the Ways and Means legislation and are almost certain to reject Chairman Smith’s proposal to include repeals of several clean energy incentives enacted in last year’s Inflation Reduction Act.

Given that SALT relief is as polarizing an issue in the Senate as it is in the House, the prospect of folding it into discussions around a bicameral tax bill could add yet another layer of complexity to an already precarious undertaking.

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