Republican congressional leaders eye 2025 tax agenda

In the second week of the post-election lame duck session, Republicans on Capitol Hill directed their attention to next year when they will hold a trifecta of power in Washington and have full control of the tax policy agenda.

A new bill in the 119th Congress

Republicans have been discussing how a new tax bill will incorporate many of President-elect Donald Trump's campaign proposals, how best to move legislation forward in the 119th Congress, and how to accomplish this while maintaining a measure of fiscal restraint.

Johnson expects early action: Speaker of the House Mike Johnson, R-La., pointed to a beginning-of-the-year tax bill, stating in a November 17 interview on CNN's State of the Union that the "top of the agenda" for Republicans is ensuring that, "early in this new Congress" Americans do not experience the "highest tax increase in US history" when key provisions in the Tax Cuts and Jobs Act of 2017 (TCJA, P.L. 115-97) affecting individuals, estates, and passthrough entities are scheduled to expire.
URL: https://www.congress.gov/115/plaws/publ97/PLAW-115publ97.pdf

Johnson also discussed the president-elect's campaign promise to do away with taxes on tip income, stating that "we are going to try and make that happen," although he cautioned that the challenge for Republicans will be to "do the math [and] . . . make sure that these new savings from [the] American people can be paid for and make sure the economy is a pro-growth economy."

Crapo weighs in on offsets: Also discussing a tax bill for next year was incoming Senate Finance Committee Chairman Mike Crapo, R-Idaho, who argued this week on Fox News Sunday that extending TCJA tax cuts without providing offsets should not be scored as increasing the deficit. (He noted that then-President Barack Obama agreed to forgo offsets in legislation to extend expiring George W. Bush-era tax cuts in early 2013.)

"Under our current policy, the failure to stop tax increases from happening is considered a deficit—this is a $4 trillion dollar tax increase on Americans, $2.5 trillion of it will fall on people making less than $400,000," he said.

Crapo commented that he has been making this argument to his colleagues in Congress and that there has been "quite a bit of receptivity."

Other Republicans call for fiscal restraint: It is worth noting, however, that some Republican lawmakers have expressed concern about the nation's rising debt level and about how extensions of the 2017 Trump tax cuts could be offset. (The nonpartisan Congressional Budget Office has estimated that a permanent extension of the expiring TCJA provisions would cost $4.6 trillion over 10 years.)
URL: https://www.cbo.gov/publication/60114

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Discussing a possible reconciliation tax bill for next year, House Majority Leader Steve Scalise of Louisiana said that "we are going to be having a lot of discussions with President Trump about the framework. Obviously, keeping the current tax rates where they are—not having any tax increases—is the main objective," as reported by *Politico* on November 19.

But Scalise also said that "there were a lot of other items that President Trump put on the table during the campaign that we want to work with him on. So, we've got to look at the numbers, make sure everything adds up because budget reconciliation does give you some limitations."

The budget reconciliation rules under which Republicans expect to move a substantial tax package in 2025 would allow them to bypass a filibuster in the Senate, which would require a three-fifths (60-vote) supermajority to overcome, and advance a party-line bill without having to attract support from congressional Democrats; however, the fast-track procedure also imposes certain hurdles—most notably, a requirement that a reconciliation measure cannot increase the federal deficit outside of the 10-year budget window.

Also signaling fiscal restraint, Republican House Ways and Means Committee member Darin LaHood of Illinois commented at a forum on affordable housing sponsored by *Politico* this week that it will be challenging to find ways to pay for President-elect Trump's campaign promises, including "no tax on tips, no tax on overtime, [and] no tax on Social Security [benefits]."

"Those are all going to be extremely expensive, and so this will be one of the dilemmas that we'll have to face as we push this through," he said.

Pennsylvania Republican Rep. Lloyd Smucker, who sits on the Ways and Means Committee, likewise commented that lawmakers will need to keep costs in mind as they contemplate a large-scale tax bill next year.

"The situation's different than it was in 2017" when Congress passed the TCJA, Smucker said at an event sponsored by *The Hill* this week. "We now have almost $36 trillion in debt."

Joint Economic Committee talks TCJA, fiscal discipline, economic growth

In a potential preview of how tax policy deliberations on a new bill in the next Congress may ensue, Democrats and Republicans on the Joint Economic Committee—a bicameral panel responsible for reviewing economic conditions and recommending improvements to economic policy—discussed expiring provisions in the TCJA, fiscal restraint in the context of rising federal debt, and economic growth and innovation during a November 19 hearing focused on the TCJA and the 2025 tax policy outlook.

TCJA and economic growth: Several lawmakers on the panel focused on the interplay between making the TCJA tax cuts permanent, promoting growth, and incentivizing investment, while at the same time ensuring fiscal discipline.

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Rep. Nicole Malliotakis, R-N.Y., who also serves on the House Ways and Means Committee, asked witness Kevin Brady about how Congress can build on “the successes of the TCJA.”

Brady, who chaired the Ways and Means Committee when the TCJA moved through Congress in 2017 and has since left Capitol Hill, maintained that “for people to expand their businesses, they need certainty.” Responding to a follow-up question from Malliotakis on expanding businesses, Brady recommended that Congress “lock in those lower rates for families and small businesses,” and also “expand and simplify” the 20 percent deduction for passthrough business income under section 199A.

In an exchange with Sen. Eric Schmitt, R-Mo., about the importance of extending the TCJA tax cuts to encourage growth, Brady commented that the “tax code is built for growth” and reiterated that tax rates need to be “locked in.” When Schmitt asked about “the best areas to double down for expanded growth next year,” Brady recommended that Congress focus on “tax rates on corporations,” asserting that they drive up paychecks. He also called for improvements to current-law research and development incentives.

House GOP Rep. Jodey Arrington of Texas, who also serves on Ways and Means and chairs the Budget Committee, which plays a key role in the reconciliation process, stated that the “fiscal health of the country is in rapid decline,” and that we “need to reduce spending and increase growth.” He asserted that not all tax cuts pay for themselves and asked Brady about the right approach to ensure fiscal restraint in crafting next year’s tax legislation.

Brady replied that you “[have] to have growth and guardrails around spending,” adding that “while all tax cuts don’t pay for themselves . . . tax reform does.”

Another witness, Douglas Holtz-Eakin of the American Action Forum, added that Congress should focus on making the TCJA tax cuts permanent, broadening the base, and reducing rates. Holtz-Eakin, who is a former director of the Congressional Budget Office, also warned against “jacking up rates on small businesses” and stressed the need to address spending.

House Republican taxwriter Lloyd Smucker focused on the interplay between possible extensions of the TCJA and the nation’s rising debt, which he characterized as “one of the greatest threats facing” the US “if we don’t change the trajectory.”

“[W]e need to get the tax code right, but we can’t add to the debt,” he said.

In an exchange with Smucker, the American Action Forum’s Douglas Holtz-Eakin said that the “gold standard” would be to “have a deficit-neutral tax reform” and reiterated that “you have to bring in the spending side of the budget.”

Section 199A passthrough deduction: Several committee members raised questions about section 199A, which was created by the TCJA and provides a 20 percent deduction for passthrough business income. At the

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scheduled expiration of TCJA, the deduction would be repealed and passthrough business income would be taxed at the taxpayer's individual rate.

In response to a question from House Democratic taxwriter Don Beyer of Virginia on eliminating the passthrough deduction, witness John Arensmeyer of Small Business Majority clarified that his organization does not support repealing section 199A, but instead advocates for its reform and for benefits of the deduction to reach the smallest businesses that need assistance the most.

Rep. Gwen Moore of Wisconsin—another Ways and Means Committee Democrat—asked Arensmeyer if lawmakers should consider making reforms to 199A to enhance the impact of the tax cuts while avoiding an increase in the federal deficit. Arensmeyer asserted that "we need tax incentives, like 199A, which will level the playing field and not just toward businesses that don't need it." In his opening statement, he called the pending expiration of key TCJA provisions a "golden opportunity to reform 199A."

Research and development expenses: Members on both sides of the aisle noted that, beginning in 2022, companies could no longer immediately expense their costs for research and development (R&D) expenses and must instead amortize these costs over five years for domestically conducted activities and fifteen years for those activities conducted abroad. This provision was enacted in the TCJA and codified in section 174.

Sen. Maggie Hassan of New Hampshire, who sits on the Finance Committee, indicated that the Chinese government, unlike the US, provides a "supersized" investment in R&D. The fact that US "small businesses cannot expense" these costs creates significant cash flow issues, she added.

Hassan noted that the Senate is "still trying" to pass the Tax Relief for American Families and Workers Act (H.R. 7024), a bipartisan measure negotiated by House Ways and Means Committee Chairman Jason Smith, R-Mo., and Senate Finance Committee Chairman Ron Wyden, D-Ore., that, among other provisions, would delay through 2025 mandatory capitalization of research expenditures, for domestic expenditures only, retroactive to expenses paid or incurred in tax years beginning after December 31, 2021. (The Smith-Wyden bill, which also would temporarily reverse taxpayer-unfavorable changes in the TCJA related to bonus depreciation and the deduction for business interest expenses, cleared the House earlier this year by a wide margin but subsequently stalled in the Senate. For prior coverage, see *Tax News & Views*, Vol. 25, No. 26, Aug. 2, 2024. It currently appears unlikely that Senate leaders will try to bring it up in the remaining days of the 118th Congress. See additional discussion of this bill below and elsewhere in this edition.)
URL: https://gop-waysandmeans.house.gov/wp-content/uploads/2024/01/AINS-to-H.R.-7024.pdf
URL: https://dhub.deloitte.com/Newsletters/Tax/2024/TNV/240802_1.html

Joint Economic Committee Vice Chairman—and House taxwriter—Dave Schweikert, R-Ariz., contended that Congress should make R&D expensing permanent, rather than requiring taxpayers to amortize those costs over a period of years, stating that permanent expensing would encourage businesses to buy "better and faster equipment" for their operations.

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State and local tax deduction: Rep. Katie Porter, D-Calif., argued that the TCJA's $10,000 cap on the state and local tax (SALT) deduction punishes many Californians who owe more than $10,000 in state and local income and property taxes and makes it difficult for first-time homebuyers to purchase a home.

The SALT deduction cap, which generated revenue to help offset the cost of the TCJA's tax cuts and is set to expire at the end of 2025, is likely to be an issue of contention in the tax debate next year. Since its enactment, the cap has prompted criticism from lawmakers in both parties who represent jurisdictions with high local income and property taxes; however, other lawmakers on both sides of the aisle have contended that restoring the full deduction would primarily benefit upper-income taxpayers.

If the cap is extended past 2025, it could be used to offset some of the TCJA tax cuts that President-elect Trump and congressional Republicans would like to make permanent, although an extension of the cap at the current level of $10,000 is assumed as part of the Congressional Budget Office's estimated $4.6 trillion cost for a long-term renewal of the expiring provisions. The debate also took on a new level of complexity this fall when Trump declared during the campaign that he would "restore the SALT deduction, saving thousands of dollars for residents of New York, Pennsylvania, New Jersey, and other high-cost states." (For prior coverage, see *Tax News & Views*, Vol. 25, No. 28, Sept. 20, 2024.)
URL: https://dhub.deloitte.com/Newsletters/Tax/2024/TNV/240920_1.html

Housing: Democratic Sen. Maggie Hassan discussed the lack of affordable housing in the US and the "drag it is having on the economy" and small business growth.

Responding to a question from Hassan about the government's role in increasing housing supply, witness Samantha Jacoby of the Center on Budget and Policy Priorities recommended that Congress consider a tax credit.

Who got left behind?: House Democratic taxwriter Don Beyer contended that the bulk of the benefits from the TCJA flowed to the wealthiest taxpayers and that even though "we have grown our middle class dramatically," less affluent taxpayers were "left behind."

Beyer acknowledged that "not everything that TCJA did was wrong" but "it did not really do what it could have done for low-income" individuals, including "lift[ing] children out of poverty." On that point, Beyer touted provisions in the now-stalled Tax Relief for American Families and Workers Act that would permit the refundable portion of the credit to be calculated on a per-child basis, gradually increase the overall limit on refundability, allow parents to use prior-year income to qualify for the credit, and index the maximum credit amount for inflation.

For her part, House Democratic taxwriter Gwen Moore commented that any wage gains that lower- and middle-class individuals have seen in recent years "have not come from the TCJA."

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