

Conservative Republicans align behind two-bill, border-first reconciliation strategy

As congressional Republicans contemplate how they will advance their legislative agenda in 2025 – when they will control both sides of Capitol Hill and will be working with a Republican president – a group of 28 conservative lawmakers from the House and Senate this week urged current and incoming GOP leaders to invoke fast-track budget reconciliation rules to move a border-focused legislative package early next year and address soon-to-expire tax provisions in the Tax Cuts and Jobs Act of 2017 (TCJA, P.L. 117-97) in a separate reconciliation measure later in the year.

URL: <https://www.congress.gov/115/plaws/publ97/PLAW-115publ97.pdf>

Budget reconciliation is an expedited legislative process that has been used by both parties several times in recent decades to sidestep a filibuster in the Senate – a procedural hurdle that can only be overcome with a 60-vote supermajority – to enact qualifying tax and mandatory spending legislation with just 51 votes (which can include the tie-breaking vote of the vice president) instead of 60. Having the ability to advance legislation with a simple majority would be advantageous for Republicans, who will control 53 Senate seats in the 119th Congress and are unlikely to win much if any support from Democrats on party-line legislation addressing key GOP priorities, such as extending expiring pieces of the TCJA.

To put the process in motion, the House and Senate are first required to adopt a joint budget resolution that includes reconciliation instructions directing congressional authorizing committees to report legislation that conforms to certain agreed-upon fiscal parameters. In short, Republicans will have to agree up front on the size of the net fiscal impacts of a tax bill before they can fill in the details; but if they can reach internal agreement on that, they will have the ability to pass legislation without having to secure any votes from the other side of the aisle. Republicans will have an opportunity to advance two reconciliation bills next year if they can agree on a budget resolution for the current fiscal year, FY 2025, before it ends on September 30, 2025, and then adopt a second one with a separate set of reconciliation instructions for FY 2026, which begins on October 1, 2025.

Conservatives weigh in

In a December 18 letter to House Speaker Mike Johnson (R-La.) and incoming Senate Majority Leader John Thune (R-S.D.), 21 conservative Republican House members and 7 conservative GOP senators advocated for “the prompt passage of a border security focused reconciliation bill” as the first step in a bifurcated reconciliation process, citing the Senate’s filibuster rules and the GOP’s “slim majority in the House” next year as evidence that passage of “transformational border security legislation” under regular order is “far from guaranteed.” (Republicans won 220 seats in the House compared to 215 seats for the Democrats in November’s congressional elections but are expecting three vacancies early next year as several lawmakers have been nominated to take up the posts in the new administration or have resigned from office. That would diminish their working majority from 220 to 217 during the first few months of 2025 and leave them with next to no room for internal defections or absences on party-line votes.)

URL: <https://www.rickscott.senate.gov/services/files/4BA66AF0-9DF3-46EC-891A-626590A40E71>

The second package, the lawmakers said, should focus on staving off the looming sunset (at the end of 2025) of temporary TCJA provisions such as lower income tax rates for individuals, increased exemption amounts for the individual alternative minimum tax and the estate tax, and the 20 percent deduction for passthrough business income. Allowing those provisions to expire, they wrote, “would undo the major economic benefits the country has enjoyed as a result of the landmark Trump tax cuts.” The tax package should reduce the deficit through “necessary spending reforms and cuts,” such as repealing the clean energy tax credits enacted in the Inflation Reduction Act of 2022 (P.L. 117-169), they said. (To get a sense of the difficult terrain the GOP may have to navigate to move legislation in the 119th Congress, even with the protections afforded under budget reconciliation, it’s worth recalling that a separate contingent of House Republicans earlier this year cautioned against full repeal of the energy provisions in the 2022 law, arguing that certain incentives have driven job creation in their districts and that many US companies are using them to invest in energy infrastructure and projects across the country.)

[URL: https://www.congress.gov/117/plaws/publ169/PLAW-117publ169.pdf](https://www.congress.gov/117/plaws/publ169/PLAW-117publ169.pdf)

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The conservative lawmakers also noted in this week’s letter that economic growth stemming from the extension of the expiring TCJA provisions should be a factor in measuring the legislation’s deficit impact.

The letter was spearheaded by Republican Sen. Rick Scott of Florida and House Freedom Caucus Chairman Andy Harris of Maryland. Notable signers include incoming Senate Budget Committee Chairman Lindsey Graham of South Carolina (whose panel, along with the House Budget Committee, will play a key role in drafting any budget resolutions and related reconciliation instructions next year) and Senate Finance Committee members Ron Johnson of Wisconsin and Marsha Blackburn of Tennessee (whose panel, along with the House Ways and Means Committee, will be responsible for drafting any tax legislation mandated under those reconciliation instructions).

An ongoing debate

The letter from the conservative lawmakers is the latest development in a debate that has been playing out largely at the leadership level among Republicans in both chambers since the start of the post-election lame duck legislative session last month.

John Thune, who will become the Senate majority leader in the 119th Congress, has argued for two reconciliation bills next year, with tax-related changes trailing behind an initial package that would be focused on energy, defense, and border security. He and other top Senate Republicans such as incoming Majority Whip John Barrasso of Wyoming contend that moving a nontax reconciliation bill early in the second Trump administration would allow the GOP to notch a quick policy win that would help pave the way for action on a large, complex tax package later in the year.

House Ways and Means Committee Chair Jason Smith (R-Mo.), meanwhile, has countered that Republicans should advance one large reconciliation measure – addressing tax and nontax priorities – relatively early in 2025. Specifically, Smith has argued in recent weeks that the effort involved in securing an agreement on a

nontax package, particularly given the extremely narrow GOP majority in the House next year that will require absolute unity on party-line legislation, could sap the momentum for a separate follow-up tax bill.

For his part, Rep. Jodey Arrington (R-Texas), who chairs the House Budget Committee and is a member of Ways and Means, has maintained that a single reconciliation measure that includes key nontax GOP priorities such as border security could help shore up support within the Republican Conference for the tax component.

(For prior coverage of comments from Thune, Smith, and Arrington, see *Tax News & Views*, Vol. 25, No. 33, Dec. 13, 2024.)

URL: https://dhub.deloitte.com/Newsletters/Tax/2024/TNV/241213_1.html

Trump's stance still unclear

Republican leaders in both chambers expect that President-elect Trump ultimately will determine the path forward for budget reconciliation legislation in 2025, but exactly where he stands remains unclear. To date, Trump has not commented publicly on his preferred approach, although Stephen Miller, who will become the Trump administration's deputy chief of staff for policy, noted in a recent interview on Fox News that taking up a tax bill after Congress has addressed a border-focused reconciliation package would give lawmakers additional time to iron out differences over some potentially tricky tax policy issues such as whether to retain or relax the TCJA's \$10,000 cap on the deduction for state and local taxes (SALT), which is among the provisions in the 2017 law that are scheduled to sunset after next year. (The SALT deduction cap does not divide lawmakers neatly along party lines and has been a sticking point for Republicans and Democrats who represent jurisdictions with high state and local income and property taxes.)

House Speaker Mike Johnson had announced plans to discuss reconciliation priorities with the president-elect over the weekend of December 14, but no details regarding what was said have emerged in the ensuing days. Ahead of that planned meeting, Johnson told Fox News that "[t]here probably will be at least two reconciliation packages" in 2025 and suggested that the issue to be resolved is whether the TCJA extensions and other possible tax provisions should be included in the first package or wait until later in the year.

Ways and Means Chair Jason Smith, who thus far has shown no signs of backing down from his call for a single reconciliation bill, acknowledged in an interview on Fox Business on December 17 that Trump "is absolutely the final decision maker. I will respect and do whatever he wants us to do."

"But I want to make sure he has all the information at hand," Smith said.

Ways and Means Committee finalizes membership rosters

With tax expected to take center stage next year as part of the budget reconciliation process, the Ways and Means Committee will be a central part of tax negotiations as Congress works to extend the expiring provisions in the TCJA and further cut taxes as Trump pledged during the campaign. Both Republicans and Democrats have now finalized their membership rosters for the 119th Congress after the loss of several rank-and-file

committee members who retired or lost reelection in November, while the top posts are expected to stay the same as they were in the 118th Congress, with Rep. Jason Smith continuing as chairman and Rep. Richard Neal (D-Mass.) continuing as ranking member. (For prior coverage, see *Tax News & Views*, Vol. 25, No. 30, Nov. 15, 2024.)

URL: https://dhub.deloitte.com/Newsletters/Tax/2024/TNV/241115_2.html

New Republican committee members: Chairman Smith announced on December 13 that the House Republican Steering Committee selected four new members to join the prestigious taxwriting committee starting next year. A seat on the majority side of the committee is expected to be a prominent spot within the conference in 2025.

The new Republican committee member selections are Reps. Aaron Bean (R-Fla.), Nathaniel Moran (R-Texas), Rudy Yakym (R-Ind.), and Max Miller (R-Ohio) whose nominations are subject to approval by the House Republican Conference in 2025. The incoming new committee members will replace Reps. Brad Wenstrup of Ohio and Drew Ferguson of Georgia who did not seek reelection, and Rep. Michele Steele of California who lost reelection. The committee is also expanding in size, which accounts for the fourth new member being added.

“I look forward to working with [the new committee members] as we take action to improve the lives of the American people,” said Chairman Smith in his December 13 announcement. The Ways and Means Committee will “continue to lead on delivering for America’s worker, families, farmers, and small business,” he added, and “all of those efforts will benefit from the input and knowledge these new members are bringing to the Committee.”

New Democratic committee members: Del. Stacey Plaskett of the Virgin Islands, and Reps. Brendan Boyle of Pennsylvania and Tom Suozzi of New York, will return to the Ways and Means committee next Congress, as reported by Bloomberg Tax on December 18. Plaskett lost her seat on the panel in 2023 in a party reapportionment after Democrats lost the House majority in the November 2022 midterms, and Boyle went on leave from the committee beginning in 2023 after becoming ranking member of the House Budget Committee. Suozzi did not seek reelection to Congress in November of 2022 and instead launched an unsuccessful bid to become governor of New York. He reclaimed his former congressional seat following his victory in a special election earlier this year to replace expelled GOP Rep. George Santos.

Two of the minority’s taxwriters – Reps. Earl Blumenauer of Oregon and Dan Kildee of Michigan – did not seek reelection this year.

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