

# BACK IN SESSION: LEGISLATIVE UPDATE ON TAX POLICY DEVELOPMENTS

September 21, 2021



# Today's presenters



**James "Jim" Alex**  
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*Partner, Federal Specialty Tax Leader*



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*Partner, National industry tax leader*

# Agenda

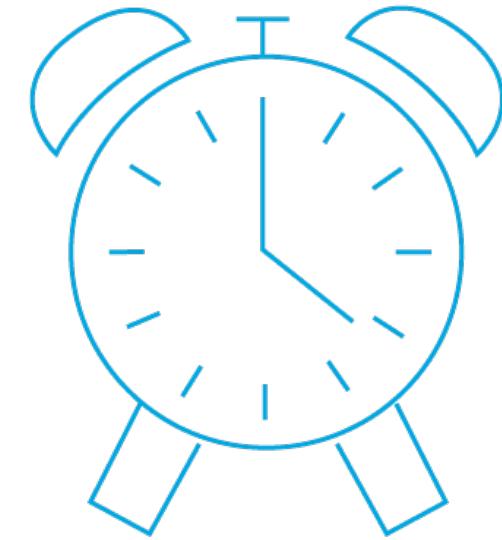
## Topic

Capitol Hill update

House Ways and Means-approved markup bill

IRS update

Individual and business considerations



# CAPITOL HILL UPDATE

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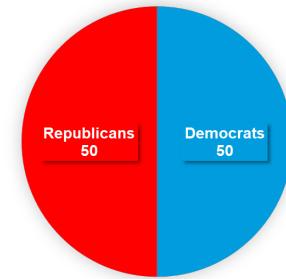
# Congress two track approach and balance of power

## Infrastructure

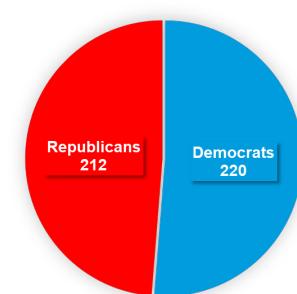
- \$1.2T, which includes \$550B in new spending
- No significant tax increases
- Bipartisan approach
- September 27 vote promised in House



Senate



House



## Reconciliation

- FY 22 budget resolution with reconciliation instructions
- Tax measures must reduce deficit by at least \$1B over 10 year budget window
- Partisan approach

# Reconciliation bill: Underlying forces

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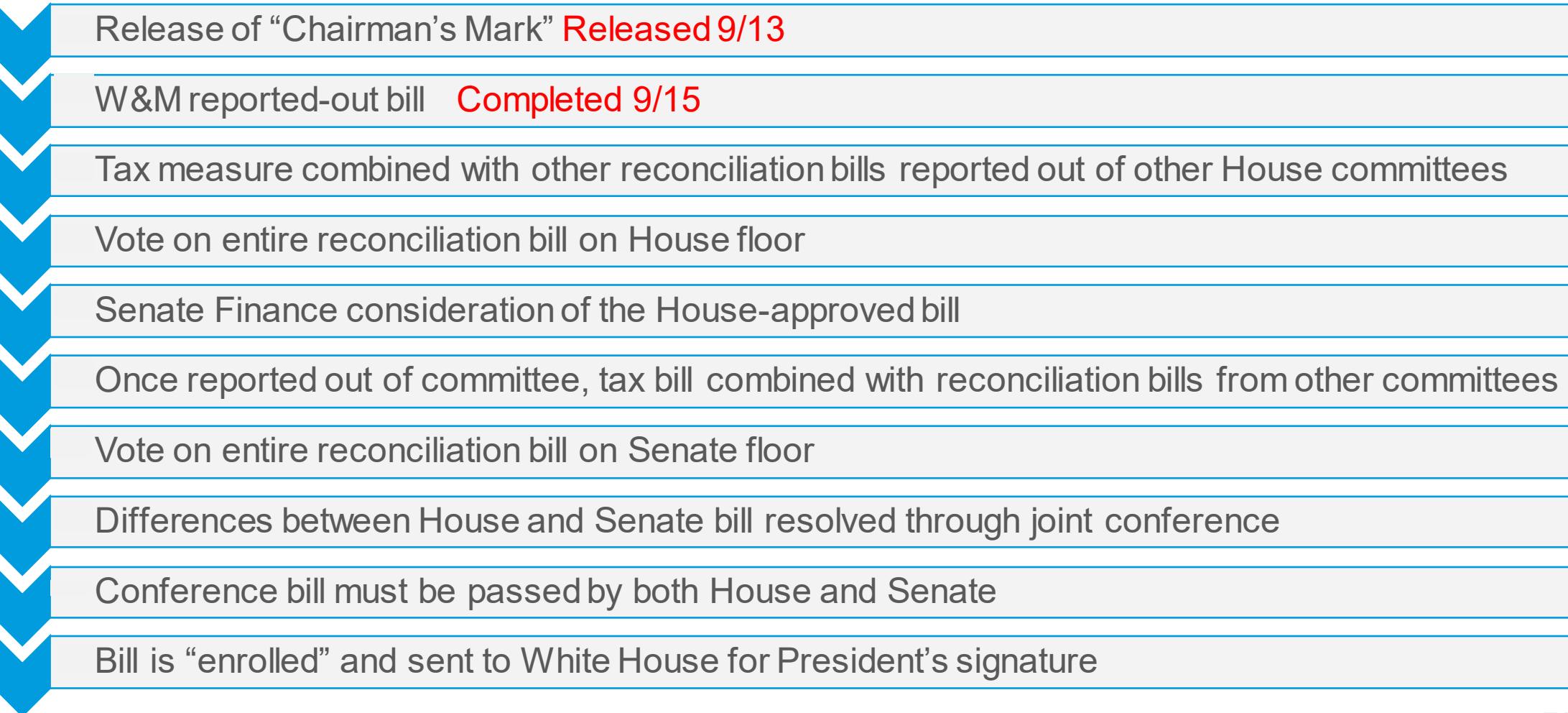
Domestic policy

- Longstanding Democratic social policy and environmental goals

The Tax Cuts and Jobs Act

- Overhaul of the Internal Revenue Code in 2017 was Republican only process done through budget reconciliation

# Path forward – dynamic process, condensed timeframe



|   |
|---|
| Release of “Chairman’s Mark” <b>Released 9/13</b>   |
| W&M reported-out bill <b>Completed 9/15</b>   |
| Tax measure combined with other reconciliation bills reported out of other House committees       |
| Vote on entire reconciliation bill on House floor   |
| Senate Finance consideration of the House-approved bill   |
| Once reported out of committee, tax bill combined with reconciliation bills from other committees |
| Vote on entire reconciliation bill on Senate floor  |
| Differences between House and Senate bill resolved through joint conference                       |
| Conference bill must be passed by both House and Senate   |
| Bill is “enrolled” and sent to White House for President’s signature                              |

# Path forward – dynamic process, condensed timeframe

## Impending deadlines

Sept. 27

Sept. ?

Sept. 30

Speaker Pelosi  
promise for a  
vote on  
infrastructure in  
the House

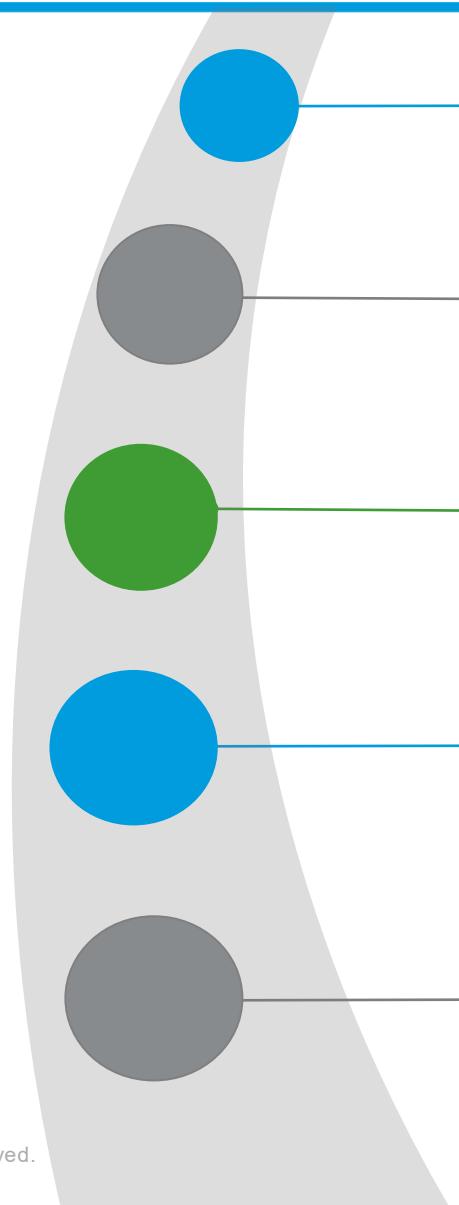
Debt limit

End of federal  
fiscal year



Likely timing

## Top 5 observations



- *Wide ranging bill with both straightforward and complex provisions, some with broad applicability, others with very narrow applicability*
- *Contains both significant new provisions as well as minor changes to existing law*
- *Diverges from White House proposal and will likely differ from Senate Finance Committee-approved bill*
- *Text of Ways and Means bill is over 880 pages; projected to raise approximately \$2.1 trillion over the next 10 years (TCJA net tax cut was \$1.5 trillion)*
- *Notable omissions (for now): SALT cap; repeal of carryover basis rule; complete elimination of carried interest; new bank reporting rules*



# HOUSE WAYS AND MEANS- APPROVED MARKUP BILL

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# Overview of House Ways and Means-approved markup bill

| <b><i>Corporate and international tax reforms</i></b><br><i>(Raises \$963B)</i>   | <b><i>Tax increases for high-income individuals</i></b><br><i>(Raises \$1T)</i>   | <b><i>Modification of rules related to retirement plans</i></b><br><i>(Raises \$4.3B)</i>  | <b><i>Other provisions</i></b><br><i>(Raises \$91B)</i>  |
|---|---|--|--|
| <ul style="list-style-type: none"><li>• 26.5% corporate tax rate</li><li>• Limitations on deduction for interest expense</li><li>• Modifications to GILTI, FDII and BEAT</li><li>• Other business tax provisions including limitations on special rules for Sec. 1202 gains</li></ul> | <ul style="list-style-type: none"><li>• 39.6% top rate on individual income tax</li><li>• 25% long-term capital gains rate</li><li>• New 3% surtax</li><li>• Expanded application of net investment income tax</li><li>• Cap on Sec. 199A deduction</li><li>• Changes to grantor trusts rules and valuation discounts</li></ul> | <ul style="list-style-type: none"><li>• Limitations on high-income taxpayers with large retirement account balances</li><li>• Other provisions relating to individual retirement plans including certain prohibitions of IRA investments</li></ul> | <ul style="list-style-type: none"><li>• Selected provisions include:<ul style="list-style-type: none"><li>○ Modifications to limitations on deduction of excessive employee remuneration</li><li>○ Increase in products containing tobacco or nicotine</li><li>○ Temporary rule to allow certain S corporations to reorganize tax-free as partnership</li><li>○ Expensing of R&amp;E (deferred effective date)</li></ul></li></ul> |

# House Ways and Means-approved markup bill

## Selected corporate and international provisions

- Graduated corporate rate structure:
  - 26.5%: Income more than \$5M
  - 21%: Income between \$400,000 and \$5M
  - 18%: Income below \$400,000
- Impose a 16.5% tax on foreign earnings under GILTI with modifications to calculation (e.g., 5% QBAI exemption)
- Accelerated reduction in the FDII deduction to 21.875% (currently scheduled to occur in 2025) for a 20.7% ETR
- Increase BEAT to 10% for 2 years; 12.5% thereafter



# House Ways and Means-approved markup bill

## Selected individual and pass-through provisions

- Top individual rate of 39.6%
- 3% surtax on high income individuals, trust and estates
- Top long-term capital gains rate of 25%
- Expand application of net investment income tax to trade or business income of high income individuals
- Limitation of deduction of qualified business income for high income taxpayers
- Extension of carried interest holding period to five years
- Estate tax reform including modifications to estate tax valuation rules and certain tax rules applicable to grantor trusts



# House Ways and Means-approved markup bill

- **Modification of retirement plan rules**
  - Limitations on high-income taxpayers with large retirement account balances
  - Other provisions relating to individual retirement plans including certain prohibitions of IRA investments
- **Other provisions including:**
  - Modifications to limitations on deduction of excessive employee remuneration
  - Temporary rule to allow certain S corporations to reorganize tax-free as a partnership
  - Expensing of R&E



# IRS UPDATE

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# IRS budget and enforcement priorities

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- IRS budget increase?
  - Ways and Means proposal would provide approximately \$79B in additional funding over a 10 year period.
    - IRS will use the funds to strengthen its enforcement activities, increase voluntary compliance and modernize information technology to support enforcement activity.
    - Funds are not intended to be used to “increase taxes on any taxpayer with taxable income below \$400K.”
- Enforcement priorities (fueled by data analytics)
  - Global high-wealth and high income non-filers/non-payers
  - Large partnerships and flow-throughs
  - SECA avoidance (partnerships and S corporations)
  - Syndicated conservation easements
  - Micro-captive insurance companies



## INDIVIDUAL AND BUSINESS CONSIDERATIONS

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# Resources



## Join us Nov. 1–5, 2021

Our annual tax summit brings you 20 virtual sessions over the course of a week. [Register today](#) to reserve your spot!



## Monday, Sept. 27—[The Real Economy webcast](#)

Featuring RSM Chief Economist Joe Brusuelas and U.S. Chamber of Commerce Executive Vice President Neil Bradley.

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ATTENTION



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