

BACK IN SESSION: LEGISLATIVE UPDATE ON TAX POLICY DEVELOPMENTS

September 21, 2021

Today's presenters



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Agenda

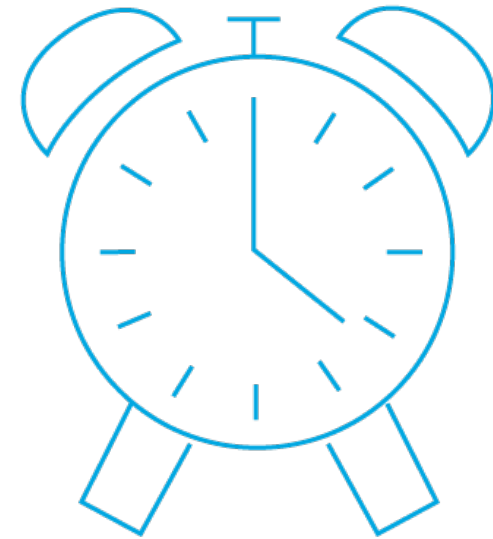
Topic

Capitol Hill update

House Ways and Means-approved markup bill

IRS update

Individual and business considerations





CAPITOL HILL UPDATE

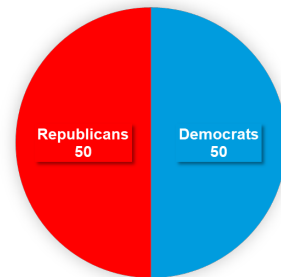
Congress two track approach and balance of power

Infrastructure

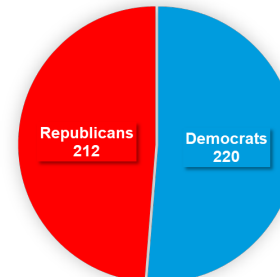
- \$1.2T, which includes \$550B in new spending
- No significant tax increases
- Bipartisan approach
- September 27 vote promised in House



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

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” **Released 9/13**

W&M reported-out bill **Completed 9/15**

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

Speaker Pelosi
promise for a
vote on
infrastructure in
the House

Sept. ?

Debt limit

Sept. 30

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

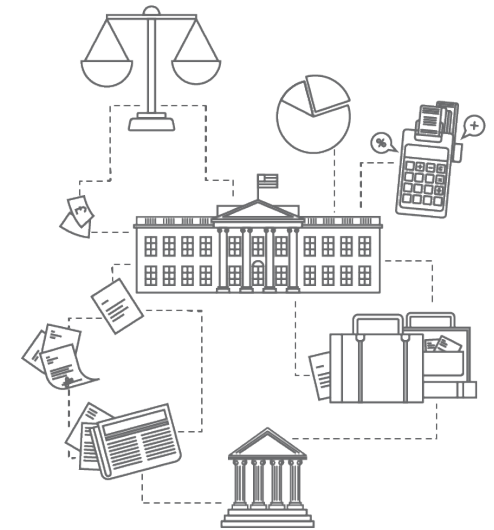
Overview of House Ways and Means-approved markup bill

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

House Ways and Means-approved markup bill

Selected corporate and international provisions

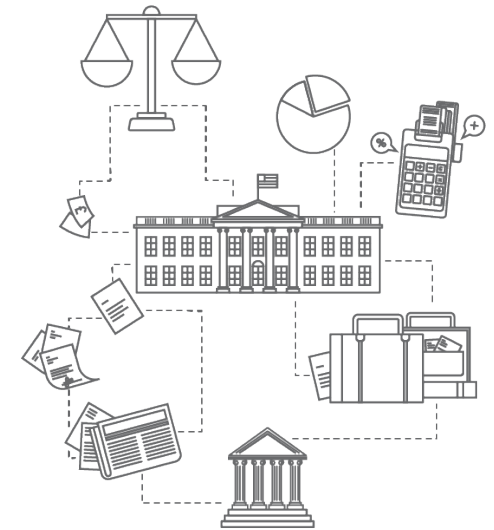
- Graduated corporate rate structure:
 - 26.5%: Income more than \$5M
 - 21%: Income between \$400,000 and \$5M
 - 18%: Income below \$400,000
- Impose a 16.5% tax on foreign earnings under GILTI with modifications to calculation (e.g., 5% QBAI exemption)
- Accelerated reduction in the FDII deduction 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

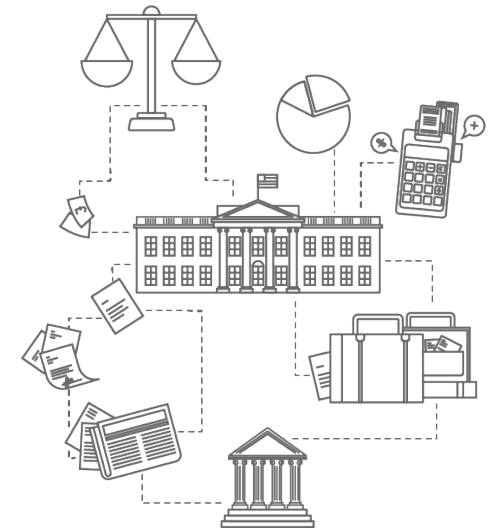
Selected individual and pass-through provisions

- 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

IRS budget and enforcement priorities

- 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

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.

THANK YOU FOR
YOUR TIME AND
ATTENTION

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