Washington National Tax Services (WNTS)

2024 Tax Policy Outlook:

Defining the choices ahead

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Overview

Tax plays a critical role in business discussions during times of significant policy risks. Business leaders looking for stability and certainty in planning investments instead are being confronted with an array of forces injecting instability across the tax policy landscape.

Key areas of tax policy uncertainty include:

- whether Congress will enact bipartisan tax legislation restoring more business-favorable tax rules for R&D expense deductions, interest deduction limitations, and full “bonus” depreciation, along with an enhanced child tax credit,
- potential tax legislation in 2025 when priority business and individual provisions of the 2017 tax reforms, “Tax Cuts and Jobs Act” (TCJA), are set to change or expire,
- the implementation around the world of a new 15% global minimum tax regime,
- prospects for proposals intended to change how the profits of multinational corporations (MNCs) are allocated among countries for tax purposes and the return of digital services taxes (DSTs),
- the durability and utility of new US and foreign tax incentives addressing climate,
- the impact of inflation, higher interest rates, and a tight job market on US and global economic growth,
- responses to geopolitical risks unsettling global trade and supply chains, and
- federal budget deficit pressures compounded by rising interest costs to service federal debt held by the public, which exceeded $25 trillion at the end of 2023, as well as fiscal pressures being faced by other countries.

What can President Joe Biden and the current Congress do?

The return of divided government in 2023 – with Democrats controlling the White House and Senate, and Republicans controlling the House – was expected to limit the prospects for significant tax legislation last year. What was unexpected was the degree of challenges House Republicans demonstrated in reaching consensus. These challenges resulted in the removal of Rep. Kevin McCarthy (R-CA) as Speaker on October 3, and an extended period of GOP leadership contests that ended on October 25 with the election of a new speaker, Rep. Mike Johnson (R-LA).

In this chaotic environment, efforts to advance a bipartisan tax package were unsuccessful last year. Instead, Congress ended 2023 divided over federal spending levels and many other issues that will need to be addressed in the first quarter of 2024.

Action item:

A key challenge for business leaders will be to engage with policymakers and build public support for policies that promote business investment and job creation. If the business community fails to engage, the terms of the debate over tax policy choices ahead will be set without the facts and insights that the business community uniquely provides on the impact of policy choices on future economic growth.

Election pressures and divisions over fiscal policy cloud prospects for 2024 tax legislation

With the 118th Congress having returned the week of January 8 for its second session and the start of the 2024 election year, the House and Senate face difficult legislative challenges:

- Averting a partial government shutdown before a temporary funding bill covering four of 12 annual appropriations bills expires on January 19, and again after February 2 when a temporary funding bill will expire for the remaining eight annual appropriations (including funding for the Internal Revenue Service).
- Reaching an agreement on a proposed $110.6 billion supplemental appropriations package that could provide funding for Israel, Ukraine, Taiwan, disaster relief, and border security, along with possible changes to US immigration laws.
- Enacting legislation to address other federal programs and activities that were extended temporarily last year, including federal farm and nutrition assistance programs, federal aviation administration (FAA) programs, and a reauthorization of warrantless surveillance authority under the foreign intelligence surveillance act (FISA).

While the White House and Congressional leaders focus on these issues, leaders of the House Ways and Means Committee and the Senate Finance Committee are continuing efforts to reach an agreement on a bipartisan tax package. A key question is whether the legislation can pass as a stand-alone bill or, alternatively, if it can be attached to some “must-pass” bill.

Ways and Means Chairman Jason Smith (R-MO) and Finance Chairman Ron Wyden (D-OR) have indicated that they are close to announcing an agreement that would reinstate business-favorable TCJA tax rules for R&D expense deductions, interest deduction limitations, and full "bonus" depreciation as first enacted in 2017, while also enhancing the current child tax credit.

Details on this possible legislation have not yet been released. Tax committee leaders have indicated they are seeking to limit the cost of any tax agreement and may include offsetting revenue raisers, including possible changes to the pandemic-relief Employee Retention Tax Credit, to reduce the net revenue loss.

Action item:

Business leaders will need to send a clear message to House and Senate leaders that they should consider a bipartisan tax package "must-pass" legislation for companies making investments and creating jobs in the United States.

Observation: Congress has generally not considered stand-alone bills to address expiring or expired tax provisions, choosing instead to add such measures to federal spending legislation or some other "must-pass" bill. In the waning days of 2023, however, the House began using its suspension calendar to pass significant pieces of legislation that typically would not have been thought suited for this process that requires a two/thirds vote in exchange for bypassing the House Rules Committee. This development suggests the possibility of a bipartisan tax agreement securing House passage on the suspension calendar.

Note: Traditionally, the House suspension calendar has been used to move noncontroversial legislation that requires little debate and has only minimal cost or opposition. The House's recent increased use of the suspension calendar came in response to the actions of some House Freedom Caucus Republicans who have voted against rules providing for the consideration of bills under regular order in the narrowly divided House. Previously, members of the House majority have rarely voted against rules that allow the majority party to control how legislation is considered. A stand-alone tax package passed by two/thirds of the House would be expected to secure the 60-vote majority needed for most legislation to advance in the Senate.

If no action on a tax package is taken early this year, efforts to address these three business tax provisions and the child tax credit may have to wait until 2025 when all of the TCJA individual provisions are set to expire. A delay in addressing these provisions until 2025 would make retroactive reinstatement of prior law very challenging.

There is some bipartisan interest in addressing other tax issues, including Taiwan double taxation relief, disaster tax relief, 1099-K information reporting, enhancements to the low-income housing tax credit, and technical corrections to previously enacted retirement savings legislation.

Looking ahead to 2025 tax legislation

The coming US elections that will decide control of the White House and Congress will compound the challenges of enacting significant legislation in 2024.

Both parties are expected to begin laying out their agendas for future tax legislation during 2024, including the key question of how to address the expiration in 2025 of TCJA individual tax provisions, including individual tax rates, the 20% pass-through business income deduction, a higher child tax credit, and increased standard deduction.

Rising federal deficits and interest costs are expected to fuel debate over whether and how the costs of extending tax relief provisions should be offset.

- The current cost estimates of more than $3 trillion for preserving TCJA individual tax provisions assume the continuation of current individual tax deduction limitations, including the $10,000 cap on individual itemized deductions for state and local taxes.

Observation: Elected officials on both sides of the aisle may prioritize TCJA tax cuts for the middle class and pass-through businesses. Doing so in a way that might be considered fiscally responsible could mean proposing increases in the corporate rate and the individual rate for high-income earners and base-broadening changes to current federal tax deductions, credits, and other preferences, as well as the consideration of alternative revenue-raising options.

Issues to consider:

The specific outcome of any 2025 overhaul of the 2017 TCJA tax reforms will depend on which party controls the White House and Congress and the strength of federal budget deficit concerns.

Past legislative actions illustrate how tax policy can be affected when one party controls the White House and Congress or when there is divided control:

- In 2017, Republicans controlling the White House and both the House and Senate enacted the TCJA under "budget reconciliation" resolution instructions that set a limit of $1.5 trillion on deficit financing of tax reforms over the first 10 years of the legislation. In addition, the budget reconciliation rules required that the legislation not increase the deficit in years beyond the 10-year budget window.
  - Scheduled tax increases – like the shift in 2022 to R&D capitalization and tighter business interest deduction limits – and the sunset in 2025 of individual provisions were used to keep the projected net revenue cost of the TCJA under that $1.5 trillion cap between 2018 and 2027, and to not increase budget deficits in years beyond 2027.
- In 2013, President Barack Obama signed the 2012 "fiscal cliff" legislation approved by a Republican-controlled House and a Democratic-led Senate that allowed taxes to increase for upper-income individuals while preserving over 80% of the temporary individual tax cuts enacted in 2001 and 2003 under President George W. Bush. The legislation resulted in the preservation of over $3 trillion in tax cuts for individuals with incomes under $400,000, while allowing a $600 billion tax increase for those with incomes over $400,000.

Observation: The scheduled expiration of all TCJA individual provisions at the end of 2025 will be an action-forcing event if Congress wishes to avert across-the-board tax increases for Americans at all income levels. Federal budget deficits have increased significantly since 2017, as discussed below, and deficit concerns could play a more significant role in how expiring TJCA provisions are addressed in 2025.

With a projected net revenue cost of **more than $3 trillion,** future action to preserve TCJA individual provisions could open the door to a potentially broad overhaul of US tax provisions affecting individuals and businesses.

Congress could consider additional tax issues as part of any 2025 tax legislation, including potential action to:

- Revise US international tax rules in response to other governments enacting global minimum taxes, including potential retaliatory measures that might be considered in response to foreign extraterritorial or unilateral taxes affecting US-headquartered companies.
- Limit clean energy tax incentives enacted as part of the 2022 Inflation Reduction Act (IRA) and other recently enacted tax provisions.

Future tax legislation also could be affected by a Supreme Court ruling expected this spring in the case of *Moore v. United States* over the constitutionality of a TCJA international tax reform transition tax. At issue is the taxation of prior year income of a foreign corporation attributed to individual US shareholders. The petitioners argued they had not realized the income and argued realization is a constitutional requirement to have income for tax purposes.

Observation: During oral arguments last December, questions raised by several Supreme Court justices suggested they favored preserving the constitutionality of the TJCA transition tax, but even assuming the Court rules against the petitioners, the language of the Court's opinion could affect other Internal Revenue Code provisions and prospects for a "wealth tax" on high-income individuals.

The Treasury Department in 2024 will continue issuing additional guidance related to tax provisions previously enacted as part of the Inflation Reduction Act of 2022 and other legislation enacted by the previous Congress.

Global tax policy changes

Changes to the century old international tax framework are underway as countries begin implementing one part of the two-pillar approach of the Organisation for Economic Co-operation and Development (OECD)/G20 Inclusive Framework (IF) on Base Erosion and Profit Shifting.

Observation: Global tax policy is being driven by broad pressure on governments to increase revenue collections to meet a host of needs that range from funding social services to increased defense spending in response to geopolitical risks to the global south's sustainable development goals. The rise of the global south is increasing the volume of calls for MNCs to pay their "fair share" of taxes and for demands for the reallocation of jurisdiction to tax MNC's global profits.

The IF plan, agreed to by 138 of the 141 members of the IF, generally provides for:

- the "Pillar One" reallocation of a portion of "residual" profits of MNCs to "market" countries, and
- a "Pillar Two" 15% global minimum tax assessed for each jurisdiction where an MNC operates.

Observation: House and Senate Republicans have fiercely opposed the Biden Administration's support for the OECD's Pillar One and Pillar Two tax proposals and Treasury's approach to the OECD negotiations. Republican members in both chambers have raised issues regarding Treasury's lack of consultation with Congress and have expressed concerns that these proposals undermine the US tax base and put the United States at a competitive disadvantage relative to other countries.

While many countries are moving forward with the implementation of Pillar Two, consensus on Pillar One has eluded IF members leading to delays in its timeline and increased skepticism about its ultimate adoption. According to the OECD, the new goal is to have a Pillar One Multilateral Convention (MLC) ratified by a critical mass of countries and enter into force in 2025.

The IF had conditionally agreed to extend the moratorium on new digital services taxes (DSTs) and other relevant similar measures beyond December 31, 2023, if a critical mass of countries signed the MLC in 2023. This deadline has come and gone, with no agreement on the final text of an MLC.

Observation: As prospects dwindle for the adoption of Pillar One, the threat of more countries adopting DSTs and other similar measures in 2024 looms, as does the potential for the European Union (EU) to renew its efforts to pass a European digital levy.

Many countries will have local Pillar Two legislation enacted and in effect on January 1, 2024, but the implementation of Pillar Two compliant tax legislation in the US is highly uncertain.

Observation: Regardless of what the United States does, US MNCs with operations in foreign jurisdictions that have adopted Pillar Two inspired minimum taxes will be subject to considerable reporting requirements.

In addition — and perhaps more importantly — because of a potential "top-up" tax, US MNCs will need to evaluate their tax expense through a data-intensive calculation process and may see their tax costs increase. Given legislation already enacted in other jurisdictions, it is clear that Pillar Two will impact the majority of MNCs.

Observation: Many questions remain outstanding because the work on Pillar One has not been completed and its viability remains an open question. It is unclear if or how the United States will participate; ratification of a multilateral treaty would require the approval of two-thirds of the Senate.

Meanwhile, the OECD's long-recognized authority over the international tax reform process has faced challenges from individual countries taking independent unilateral action, and from other organizations such as the Group of 24 (G24) developing countries and the United Nations (UN), which have expressed their dissatisfaction with the cadence of the negotiations as well as the disparate impact of the rules on developing countries. UN committees last year voted to begin asserting a greater role in global tax policy.

Issues to consider:

- Countries both within and outside the IF are implementing DSTs and other unilateral measures; this trend will likely increase in 2024 absent progress on Pillar One.
- While there is uncertainty around Pillar One (both on the timeline and on whether a critical mass is achievable), many countries have implemented Pillar Two. Companies can expect to see further substantive guidance released on the global minimum tax rules throughout 2024.
- Businesses may face even more uncertainty in the future due to efforts of some countries to increase the role of the UN in global tax policy.

Geopolitical risks continue to challenge business operations

Concerns about geopolitical risks to the US economy have grown in recent years following COVID-19 pandemic supply chain disruptions and the imposition of sanctions against Russia in response to its invasion of Ukraine in 2022.

US Treasury Department officials continue to issue guidance implementing clean energy provisions enacted as part of the 2022 Inflation Reduction Act as well as incentives for the on-shoring of critical technologies enacted as part of the 2022 Creating Helpful Incentives to Produce Semiconductors (CHIPS) and Science Act. Both measures include provisions addressing concerns about relations with China and other “countries of concern.”

US-China relations

Concerns about the Chinese government’s economic and foreign policy goals have caused the United States to pay more attention to the national security risks of cross-border investments involving data, infrastructure, and technology and to apply a national security lens to its economic and trade policy with China. The House last year also established a select committee to review issues related to China.

Biden Administration officials have said that the United States is seeking to “de-risk” — but not “decouple” — its economic relationship with China.

Observation: Although the White House is not officially promoting economic decoupling and is encouraging companies to find alternatives with respect to industrial products and manufacturing to promote supply chain resiliency, it is requiring US multinationals to economically decouple from China with respect to certain advanced technologies.

President Biden and Chinese President Xi Jinping met on November 15 at the Asia-Pacific Economic Cooperation summit. President Biden emphasized that the United States will continue to take necessary actions to prevent advanced US technologies from being used to undermine its national security, without unduly limiting trade and investment.

Observation: Some considered the meeting to have been successful from the standpoint that the two leaders met in person to discuss outstanding issues, but the meeting did not provide the degree of direction on various business concerns that US multinationals were seeking from both leaders.

President Biden on August 9 signed an executive order banning new US investment in key technology industries that could be used to enhance China’s military capabilities.

- The executive order is intended to prohibit US investment into Chinese efforts to develop semiconductors and other microelectronics, quantum computers, and certain artificial intelligence (AI) applications.
- The US government has said it believes that investments in these technologies are enhancing China’s military and intelligence-collection capabilities.

The United States already prohibits or restricts the export of certain technologies and products to China, but the executive order — reflecting the most restrictive limit on the flow of US investment into China — is intended to prevent US money, expertise, and prestige from being used to help China leverage or develop technology to make it more competitive.

The executive order is intended to put US businesses on notice that outbound investment is now joining technology as a core focus for the US government's initiatives involving China, further emphasizing the primacy of US national security over the economic interests of US multinationals. US multinationals should expect more intense US government review of their China-focused investments.

Observation: While the executive order appears to focus on technology, US government attention may not stop there. US investments in other sectors that support end products and technologies, such as chemicals, industrial manufacturing, education, and healthcare — each of which could serve as conduits into the specifically mentioned subsectors in the executive order — also may come under US government scrutiny.

Issues to consider:

- Some US multinationals have expressed concern that what many see as a downward spiral in relations between the United States and China could speed a broader break between the world's two largest economies.
- US multinationals operating in China are reassessing their long-term global investment plans in response to shifting US sentiment toward the policies of the Chinese government.
- The US government will begin drafting rules to enforce President Biden's executive order beginning in 2024, but US multinationals may consider altering their investment strategies even before the rules take effect.
- Bipartisan support in Congress for addressing US national security concerns relative to China may increase the prospects for action this year on legislation, discussed below, that is intended to provide relief from double taxation on cross-border investment between Taiwan and the United States.

Council on Supply Chain Resilience

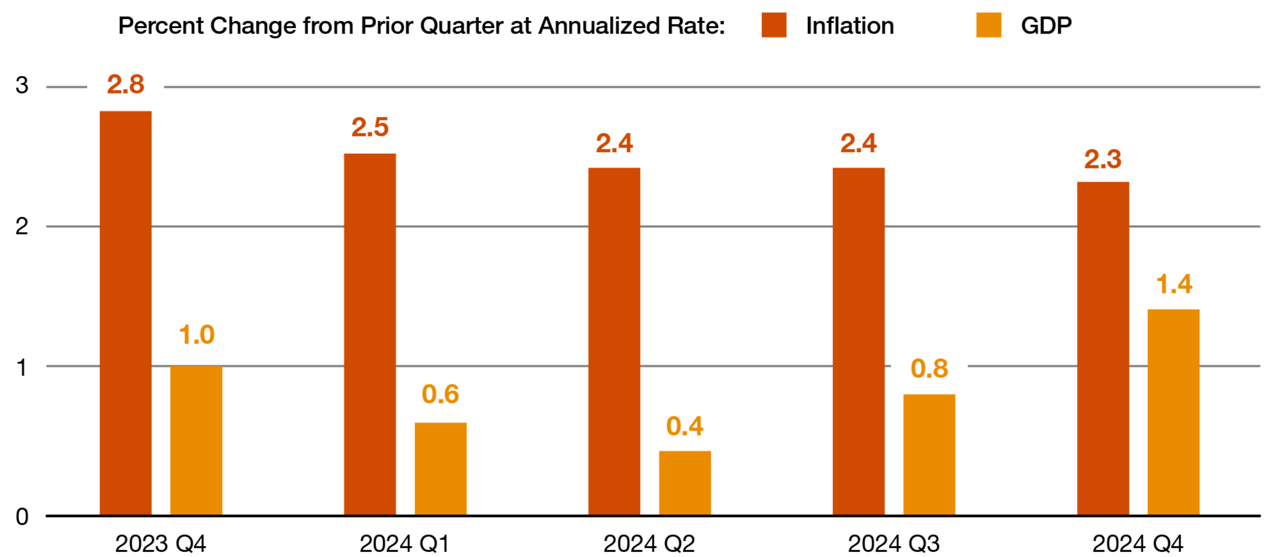
President Biden on November 27, 2023, convened the inaugural meeting of the White House Council on Supply Chain Resilience, which is intended to advance the administration's long-term, government-wide strategy to build enduring supply chain resilience. The council will be co-chaired by the National Security Advisor and National Economic Advisor and will include cabinet members and other senior administration officials.

As part of the council's inaugural meeting, President Biden and Secretary of Homeland Security Alejandro Mayorkas unveiled the Supply Chain Resilience Center (SCRC), a new US government entity designed to collaborate with the private sector to better secure our supply chains. The SCRC will analyze vulnerabilities and conduct scenario planning with private sector stakeholders to mitigate supply chain disruptions and ensure reliable and efficient deliveries of goods and services.

Economic outlook

The growth rate for real gross domestic product (GDP) has surprised on the upside in the third quarter with GDP increasing 4.9% as consumer spending remained a stronger contributor to growth than expected. However, the economy is expected to have grown below trend in the fourth quarter and slower growth is expected for 2024. The December Blue Chip Economic Indicators forecast growth of 0.8% for 2024 compared to an average growth rate of 2.7% for the last 50 years.

Figure 1: US economic growth has continued amid slowing inflation



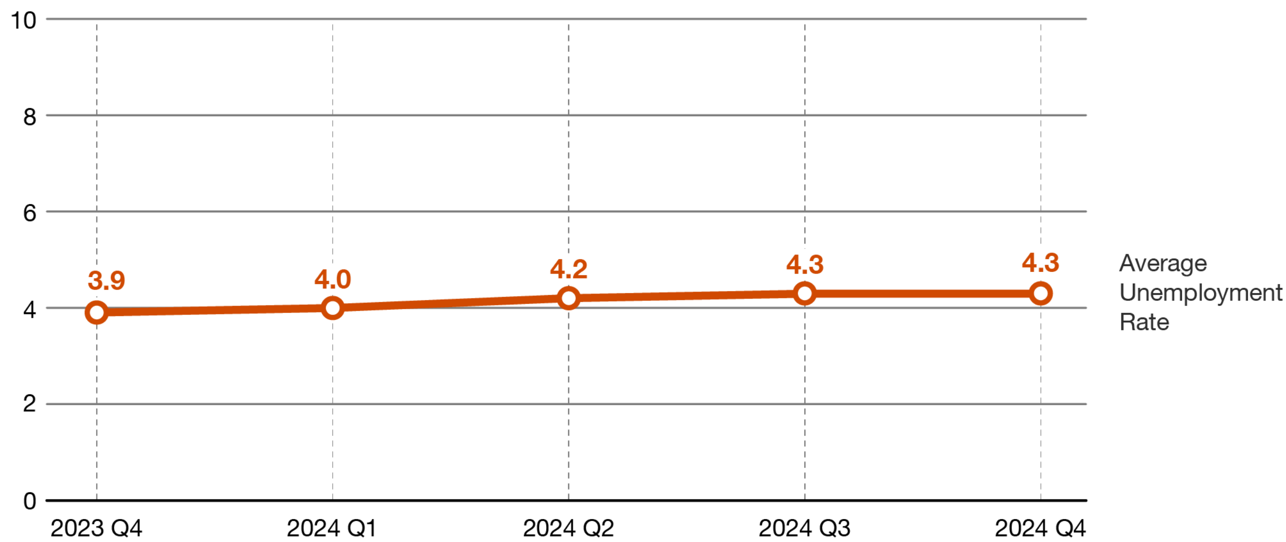
Source: Blue Chip Consensus Forecast, December 2023

Labor market conditions remain tight but showed some signs of easing as employers added 216,000 jobs in December. Revisions to data showed 71,000 fewer jobs had been added in October and November than previously estimated, and the unemployment rate stood at 3.7%.

Monthly job gains averaged 225,000 in 2023. Labor demand moderated, with the number of job openings per unemployed individual falling from nearly 1.9 at the beginning of 2023 to around 1.4 by the end of last year. This moderating demand for workers along with increases in labor supply due to rising labor force participation rates among workers aged 25-54 and increasing immigration has eased wage pressures.

- As this re-balancing of the labor market continues, nominal wage growth and worker productivity are converging to a rate that is consistent with the Federal Reserve's 2% inflation target. Inflation is expected to continue to moderate in the coming year to end 2024 at 2.3%, as unemployment is projected to rise to 4.3%.

Figure 2: US unemployment has remained at historically low levels



Source: Blue Chip Consensus Forecast, December 2023

Restrictive monetary policy has tightened financial conditions providing headwinds to economic activity that are expected to reduce GDP growth by about one percentage point this year. The Federal Reserve Board remains committed to achieving and sustaining a stance of monetary policy that is sufficiently restrictive to bring inflation down to the target level of 2% and is prepared to raise interest rates further if appropriate. However, market expectations are that the Federal Reserve will begin lowering interest rates in the spring and perhaps by as much as 125-150 basis points to end 2024 around 4%.

Observation: Re-balancing in the labor market and declining inflation along with positive GDP growth forecasts are consistent with a so-called "soft landing" in which price increases return to the target range without triggering a recession.

The International Monetary Fund (IMF) issued revised global economic forecasts, forecasting world GDP growth that is 0.1 percentage points lower than its July estimate for 2024, reflecting stronger than expected growth in the United States offset by weaker than expected growth in the euro area and emerging market and developing economies. Risks remain more heavily weighted toward slower growth, according to the IMF, as core inflation slows more gradually than headline inflation and threats to trade endure. Advanced economies are expected to continue to be particularly weak. The United States is expected to compare favorably to Europe, with the December Blue Chip consensus estimate forecasting GDP growth of only 0.3% for the UK and 0.5% for the Euro area.

Who's in charge

House of Representatives

Rep. Mike Johnson was elected Speaker of the House last October after the House voted to remove Rep. Kevin McCarthy from that position. Rep. Hakeem Jeffries (D-NY) serves as House Minority (Democratic) Leader.

As the second session of the 118th Congress convened the week of January 8, Republicans hold a slim majority in the House of Representatives. The House presently is composed of 220 Republicans, and 213 Democrats. There are two vacant seats due to the expulsion of Rep. George Santos (R-NY) from the House and the resignation of Rep. McCarthy at the end of 2023.

- A special election in New York will be held February 13 to fill the vacancy left by Rep. Santos. A special election in California will be held on May 21 to fill the vacancy left by Rep. McCarthy.
- In addition, Rep. Brian Higgins (D-NY) said he plans to leave Congress on February 2, and Rep. Bill Johnson (R-OH) has announced plans to leave Congress on January 21 to accept a position as President of Youngstown State University.

Observation: Republicans hold an even slimmer House majority at the start of 2024 than they did last year. Speaker Johnson will face the same difficulties that former speaker McCarthy faced in trying to unite Republicans behind key priorities. Nearly unanimous support among Republicans will be required to pass legislation that lacks bipartisan support, and such legislation would then require potentially significant compromises to advance in the Democratic-controlled Senate.

Senate

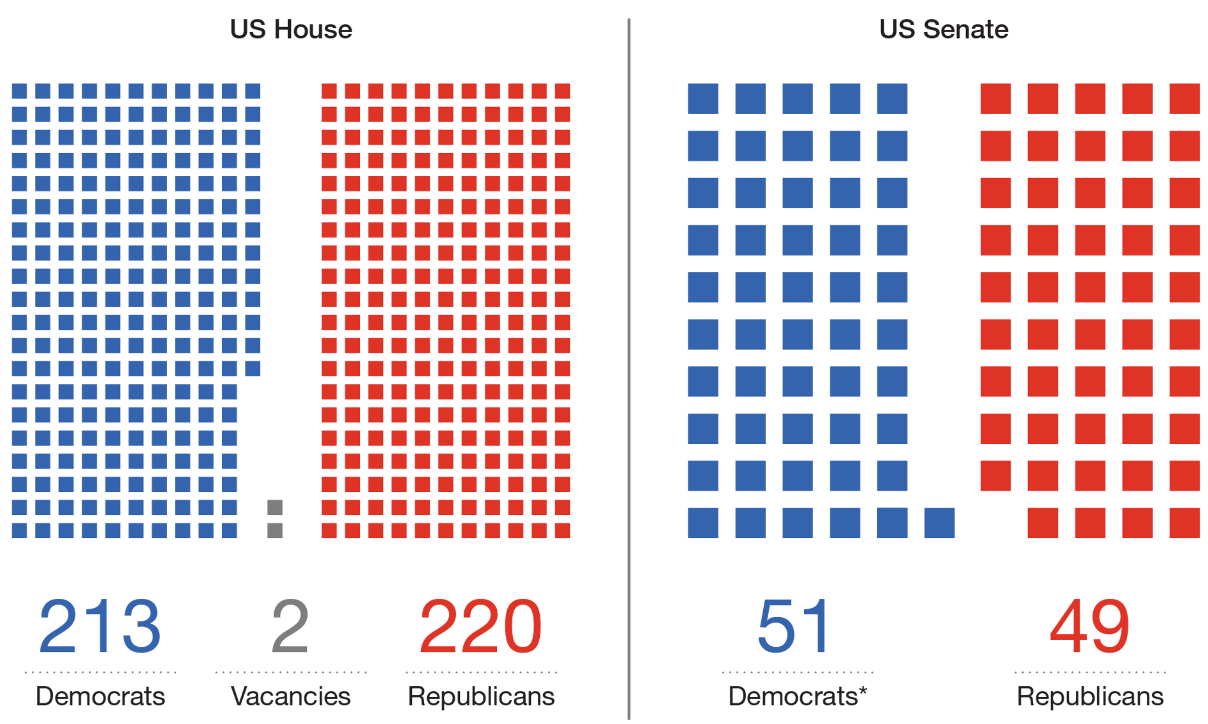
Senator Chuck Schumer (D-NY) serves as Senate Majority Leader, and Senator Mitch McConnell (R-KY) serves as Senate Minority (Republican) Leader.

The Senate convened with 51 Democrats (including the three Independents who caucus with Democrats) and 49 Republicans. Democrats are able to rely on the tie-breaking vote of Vice President Kamala Harris (D).

Senate procedures generally require 60 votes to limit debate on legislation and bring about a vote on final passage. A Senate rule modification adopted in 2017 lowered the threshold for approving US Supreme Court nominations to a simple majority (usually 51 votes), which brought the requirement in line with a 2013 rule change that adopted a simple majority threshold for executive branch and non-Supreme Court judicial nominations.

Some Democrats have advocated changing Senate rules to eliminate the legislative filibuster entirely or to allow particular bills to advance with a simple majority, such as certain bills relating to election rules. Efforts in the preceding Congress to alter the legislative filibuster were unsuccessful.

Figure 3: Current balance of power in the 118th Congress



*Note: Includes three Independents – Senators Angus King (I-ME), Bernie Sanders (I-VT), and Kyrsten Sinema (I-AZ)
Source: US Congress, January 1, 2024

House and Senate tax committees

Rep. Jason Smith continues to serve as chairman of the House Ways and Means Committee, and Rep. Richard Neal (D-MA) is the Ranking Democratic Member. The Ways and Means Committee currently is composed of 25 Republicans and 18 Democrats.

- To date, four members of the committee have announced they will not run for reelection in 2024 – Republicans Brad Wenstrup (OH) and Drew Ferguson (GA) and Democrats Earl Blumenauer (OR) and Dan Kildee (MI). Rep. Brian Higgins (D-NY) plans to leave on February 2, as noted above.

The Senate Finance Committee is led by Chairman Ron Wyden, and Senator Mike Crapo (R-ID) serves as the Ranking Republican Member. The Finance Committee includes 14 Democrats and 13 Republicans. Eleven members of the Finance Committee hold seats that are up for election in 2024, including two Republicans who are running for reelection — John Barrasso (WY) and Marsha Blackburn (TN).

- Of the nine seats held by Democrats on the committee that are up for reelection, three have announced they will not run – Debbie Stabenow (MI), Ben Cardin (MD), and Tom Carper (DE).
- The six Democrats on the committee that are expected to run for reelection in 2024 are Maria Cantwell (WA), Robert Menendez (NJ), Sherrod Brown (OH), Robert Casey (PA), Sheldon Whitehouse (RI), and Elizabeth Warren (MA).

Administration

The President has the power to veto legislation passed by Congress, with a two/thirds majority of both the House and Senate required for a veto override.

- When Democrats held majorities in both the House and the Senate during his first two years in office, President Biden did not veto any bills.
- In 2023, under a divided Congress with Republicans in control of the House and Democrats controlling the Senate, President Biden issued eight vetoes; none were overridden.

Janet Yellen continues to serve as Treasury Secretary and Lily Batchelder is Treasury Assistant Secretary for Tax Policy. Daniel Werfel has been serving as IRS Commissioner since March 2023. President Biden has nominated Marjorie Rollinson to become the next IRS chief counsel. The IRS acting chief counsel is William Paul.

Observation: Continued Democratic control of the Senate in 2024 is expected to ease the confirmation of President Biden's judicial and executive branch nominees.

President Biden's economic team includes Lael Brainard, Director of the National Economic Council; Shalanda Young, Director of the Office of Management and Budget (OMB); and Jared Bernstein, Chair of the Council of Economic Advisers.

Gary Gensler is chair of the Securities and Exchange Commission (SEC) and Rohit Chopra is director of the Consumer Financial Protection Bureau (CFPB). At the Federal Reserve, Jerome Powell is serving a second term as Chair and Philip Jefferson is Vice Chair.

A listing of key policymakers is provided in Appendix A.

2024 Congressional elections

All 435 seats in the House are up for election every two years. Democrats would need to achieve a net gain of five seats in the 2024 elections to regain control of the House. This assumes seats vacated due to expulsion or resignation will be filled by members of the same party in special elections before general elections are held on November 5 for seats in the next Congress.

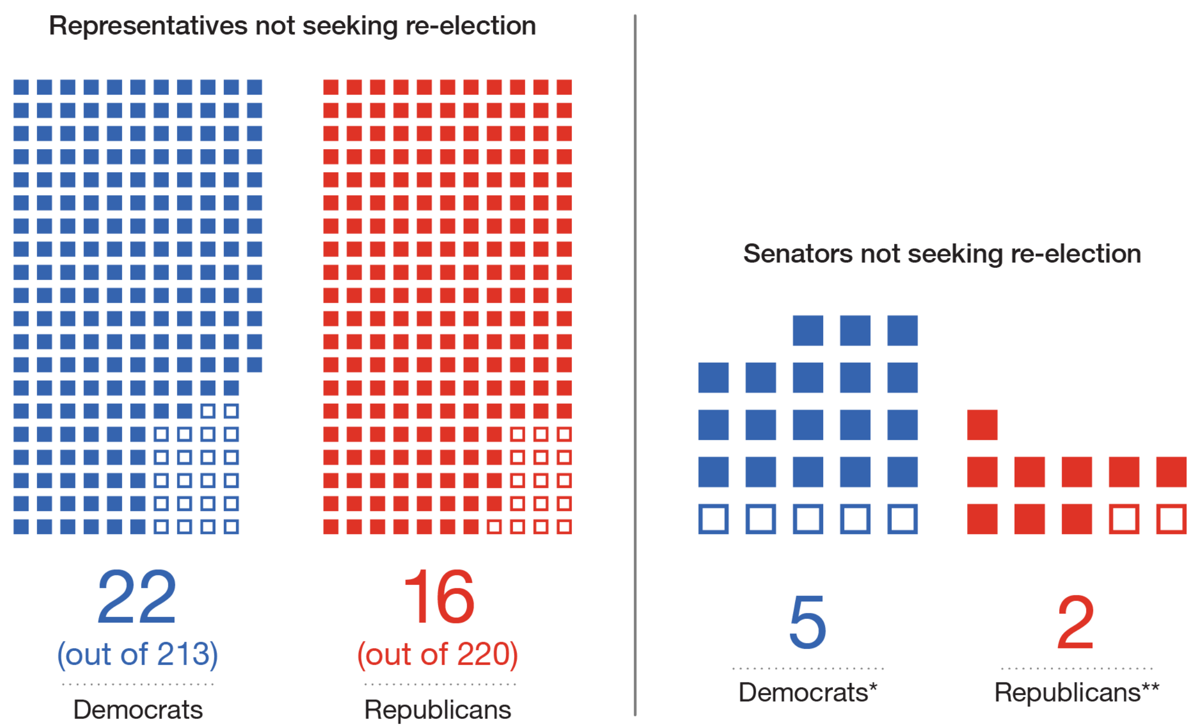
As of January 9, 22 Democrats and 16 Republicans have announced they will not seek reelection to the House in 2024, either due to retirement or to seek other office.

Republicans would need either a net gain of two seats in the 2024 elections or one seat plus the Presidency to regain control of the Senate. Roughly one-third of all Senate seats are subject to election every two years. In 2024, 33 Senate seats are up for re-election, of which 10 currently are held by Republicans and 23 currently are held by Democrats or Independents. In addition, a special election will be held for the second Nebraska Senate seat currently held by Pete Ricketts for the two years remaining in that term.

As of this writing the Senators that have announced they will not seek reelection in 2024 are Republicans Mike Braun (IN) and Mitt Romney (UT) and Democrats Laphonza Butler (CA), Ben Cardin (MD), Tom Carper (DE), Joe Manchin (WV), and Debbie Stabenow (MI).

A listing of all Senators whose seats are subject to election in 2024 is included in Appendix B.

Figure 4: House and Senate open seats/retirements by party



Note: The House figures do not include currently open seats that will be subject to special elections due to vacancies created by expulsion or resignation.
*Out of 23 seats up for re-election in 2024
**Out of 11 seats up for re-election in 2024
Source: US House Press Gallery, January 9, 2024

Figure 5: 2024 Congressional legislative schedule

Senate convenes	January 8
House convenes	January 9
Martin Luther King Jr. Day	January 15
House recess	January 22–26
President’s Day recess (Senate)	February 12–23
President’s Day recess (House)	February 19–March 4
President’s State of the Union Address	March 7
Spring recess (House and Senate)	March 25–April 5
House and Senate recess	April 22–26
Memorial Day recess (House and Senate)	May 27–31
House recess	June 17–24
Juneteenth	June 19
Independence Day recess (Senate)	June 24–July 5
Independence Day recess (House)	July 1–5
House recess	July 12–19
Senate recess	July 15–22
August recess (House and Senate)	August 5–September 6
October recess (House and Senate)	September 30–November 11
Election day	November 5
Thanksgiving recess (House)	November 22–December 2
Thanksgiving recess (Senate)	November 25–29
Target adjournment date (House)	December 19
Target adjournment date (Senate)	December 20

US tax policy

Outlook for 2024 tax legislation

Federal debt and deficit concerns take center stage during the 118th Congress

Action on temporary FY 2024 federal spending legislation set to expire on January 19 and February 2 could play a decisive role in whether any significant tax legislation is enacted in early 2024.

A potential default on US debt obligations was averted in June last year with the enactment of a bipartisan debt limit agreement that was negotiated by President Biden and then-Speaker McCarthy. The Fiscal Responsibility Act of 2023 suspended the federal government's previous $31.4 trillion statutory debt limit through January 1, 2025, leaving that issue to the next Congress and the next administration.

The Fiscal Responsibility Act also provided statutory caps for FY 2024 and FY 2025 federal spending based on FY 2023 spending levels ($1.59 trillion), but a key group of House "Freedom Caucus" Republicans insisted that the House should seek to fund the government at FY 2022 levels ($1.47 trillion).

- House Speaker Johnson and Senate Majority Leader Schumer on January 7 announced an agreement on the top-line level of federal spending for FY 2024 appropriations that was generally consistent with the $1.59 FY 2024 funding levels set by the FRA, with some modifications.

Observation: Failure to enact legislation on FY 2024 spending could complicate passage of tax legislation, especially if a partial government shutdown occurs after January 19.

As part of the Johnson-Schumer agreement, $20 billion of the $79.4 billion in additional IRS funding originally provided under the 2022 Inflation Reduction Act (IRA) would be rescinded to support other federal programs during FY 2024. Under the original Biden-McCarthy agreement, $10 billion of the IRA funding for the IRS was to be rescinded in FY 2024, and another $10 billion was to be rescinded in FY 2025; $1.4 billion was rescinded as part of the FRA. How these funding changes may affect IRS campaigns to step up enforcement activities and improve operations are discussed below.

Federal budget outlook

The Congressional Budget Office (CBO) projects debt will continue to rise as a percentage of GDP, even if the tax reductions enacted in 2017 expire as scheduled and spending levels continue to increase at CBO's projected rates. Debt would reach 181% of GDP in 2053 and would continue to rise thereafter.

Annual federal deficits are expected to average 7.3% of GDP and never be lower than 5.0% of GDP through 2053, exceeding annual average US economic growth of 3.8% over the same period.

CBO projects that interest costs for servicing federal debt will account for nearly all of the increase in federal deficits as a share of GDP through 2053. Primary deficits, which exclude net interest costs, equal 3.3% of GDP in both 2023 and 2053, as projected increases in revenues and projected declines in discretionary spending are expected to be offset almost exactly by projected increases in entitlement spending as a percentage of GDP. Combined with rising interest rates, those large and sustained primary deficits cause net outlays for interest to almost triple in relation to GDP from 2.5% in 2023 to 6.7% in 2053.

- Interest is projected to exceed all defense spending by 2028 (3.0% of GDP), all non-defense discretionary spending by 2031 (3.3% of GDP), and all discretionary spending by 2047 (5.4% of GDP).
- By 2053, net federal interest costs are projected to consume 25% of all federal outlays, including spending on all discretionary programs and all mandatory programs, which include Social Security and health care programs like Medicare. Currently, interest costs account for 10% of all federal outlays.

CBO's long-run assumptions are based on average interest rates on Federal debt not exceeding 3.8%. However, the December Blue Chip consensus estimate is for 10-year Treasury notes to average 4.2% in 2024. Every 100 basis points higher adds more than $300 billion to the annual deficit.

The current debate over FY 2024 spending levels and last year's struggle to avert a default on US securities reflect a growing concern over the size of annual federal budget deficits and what many economists consider to be an unsustainable rate of growth in federal debt held by the public, as shown below in Figure 6.

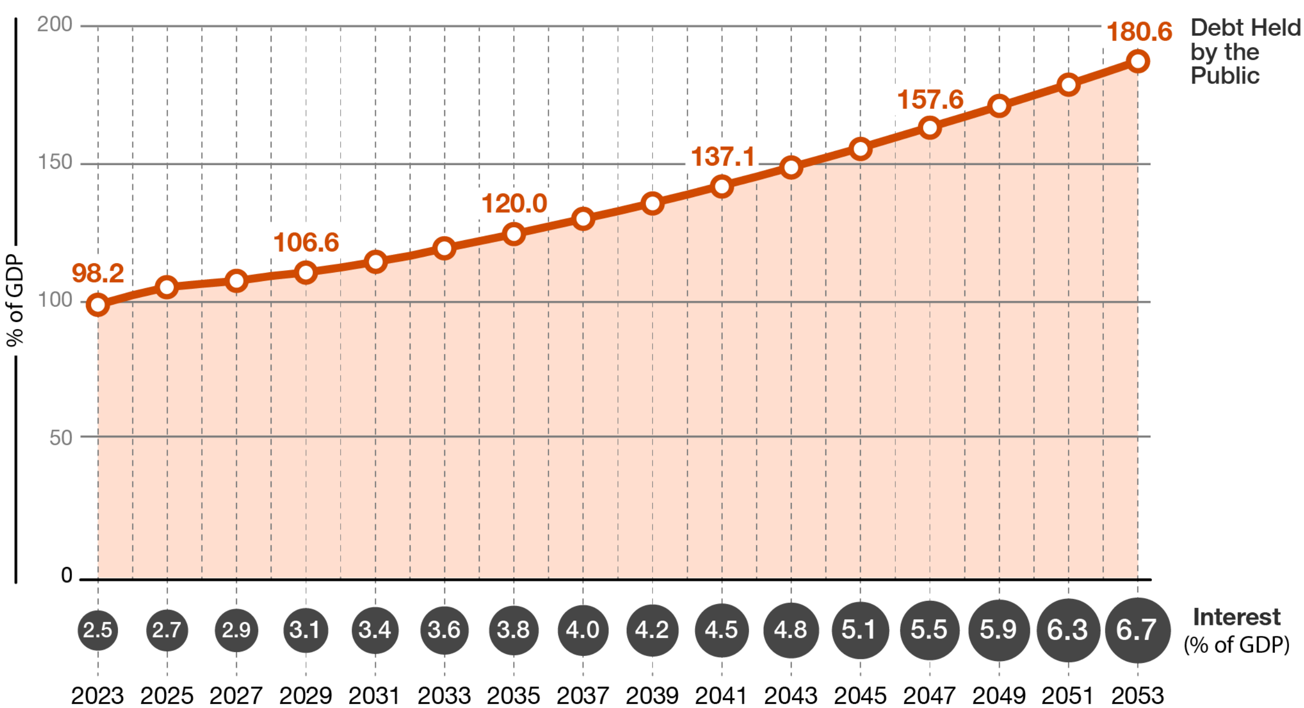
- In 2023, the Fitch ratings agency lowered the US long-term debt rate from its top mark, stating that last year's debt-limit standoff had eroded confidence in the country's fiscal governance. Moody's Investor Services last year also lowered its US credit outlook to "negative" from "stable," citing the cost of rising interest rates and political polarization in Congress.

The cost of funding critical federal programs is putting significant pressure on the budget. The Medicare Part A Hospital Trust Fund is projected to become insolvent in 2028, and the Social Security Trust Fund is projected to be insolvent after 2033, leading to an automatic across-the-board 25% cut in scheduled benefits in 2034. At the same time, international tensions are giving rise to a need for greater defense spending.

- A 25% reduction in Social Security benefits would reduce today's average retirement benefit by about $450 from around $1,800 per month to around $1,350 per month.

Observation: Rising interest costs may put pressure on Congress to reduce federal spending but the magnitude of current and projected annual federal budget deficits suggests that measures to increase federal revenue collections could also be considered. In FY 2023, the $1.7 trillion annual federal budget deficit was roughly equal to all federal discretionary spending for defense and non-defense programs. Overall, FY 2023 federal spending for all discretionary and mandatory programs was $6.13 trillion, while revenues from all sources totaled $4.44 trillion.

Figure 6: Federal interest costs are rising along with debt held by the public



Source: Congressional Budget Office, "The 2023 Long-Term Budget Outlook," June 2023

Could a debt commission help to reduce federal deficits?

Recent attention to the federal debt has renewed calls by some members of Congress for a bipartisan, bicameral fiscal commission to propose approaches for addressing the deficit. The goal of such a commission generally would be to consider broad proposals to reduce the federal deficit, rather than address specific legislation, such as expiring TCJA tax provisions.

The House Budget Committee held hearings in October and November 2023 to evaluate several legislative proposals to create a bipartisan fiscal commission. Considerations in forming a fiscal commission would include decisions related to membership, whether to include outside policy experts, and specific goals for the commission.

How likely is it that such a commission would succeed? Fiscal commissions in the past generally have generated proposals and elevated the issue of deficit control but have failed to secure sufficient bipartisan support for Congress to enact comprehensive deficit control legislation. Previous bipartisan commissions include the National Commission on Fiscal Responsibility and Reform (the "Simpson-Bowles Commission"), which was created during the Obama administration following the 2007-2008 financial crisis, and the 2011 Joint Select Committee on Deficit Reduction (the "Supercommittee").

Can Congress enact a bipartisan tax bill?

Talks have been continuing between the chairmen of the House Ways and Means and Senate Finance Committees and their tax staff to negotiate a bipartisan agreement on tax legislation that would reinstate business-favorable tax rules for R&D expense deductions, interest deduction limitations, and full "bonus" depreciation as first enacted in 2017, while also enhancing the current child tax credit.

Observation: There were indications last December that the tax committee leaders might be reluctant to finalize the details of a proposed tax package until it was clear there was a path to floor consideration – either as a freestanding matter or attached to another legislative vehicle like the "must-pass" federal spending bills.

There has been growing bipartisan support in recent years to reverse some of the revenue-raising measures that were adopted in 2017 to reduce the net cost of the legislation. Beginning in 2022, the TCJA modified Section 174 and Section 163(j) to require R&D capitalization and to tighten business interest deductions limits based on earnings before income taxes (EBIT) rather than limits that included an adjustment for depreciation and amortization (EBITDA). The TCJA also phases out Section 168(k) 100% bonus depreciation in 20 percentage point increments over five years after 2022. For 2024, bonus depreciation is 60%.

- Business groups and individual companies have urged Congress to reverse these tax increases at a time when inflation has slowed economic growth and rising interest rates have increased business borrowing costs.

In June, the House Ways and Means Committee approved, along party lines, legislation that included provisions to provide a retroactive, seamless restoration of R&D expensing, the EBITDA-based business interest limitation, and 100% 'bonus' depreciation through the end of 2025. The temporary relief for these three provisions was estimated to reduce federal revenues by $47 billion over 10 years.

- Other proposals approved by Ways and Means Committee Republicans included a temporary increase in the individual standard deduction, a package of small business provisions, and a measure to repeal a Superfund excise tax. The overall $237 billion cost over 10 years of the Ways and Means tax package was to be offset largely with modifications to electric vehicle tax credits and other clean energy tax incentives enacted by Democrats as part of the 2022 Inflation Reduction Act.
- The narrowly divided House did not consider the Ways and Means tax package last year reportedly due to objections from House Republican members from California, New Jersey, and New York, who were calling for changes to the current $10,000 cap on individual deductions for state and local taxes.

Democrats have been demanding a commensurate amount of family tax relief in the form of an enhanced child tax credit. Ways and Means Chairman Smith has expressed support for additional child tax credit relief, but the details of a potential enhancement of the child tax credit remain to be resolved.

- If enacted, a temporary tax package dealing with the TCJA business tax provisions and an enhanced child tax credit is expected to run through 2025 to align with the scheduled expiration of individual and pass-through business tax provisions at the end of 2025.

Tax committee leaders have indicated that they are seeking to limit the net revenue cost of any tax agreement to less than $100 billion over 10 years. Chairman Smith has stated that some revenue raisers could be considered to offset part of the cost of a temporary tax package, but it remains unclear if any noncontroversial revenue raisers can be identified that would be acceptable to both parties.

Other potential 2024 tax legislation

There is some bipartisan interest in addressing other tax issues this year, including Taiwan double taxation relief (see below), disaster tax relief, 1099-K information reporting relief, enhancements to the low-income housing tax credit, and technical corrections to previously enacted retirement savings legislation.

1099-K information reporting relief

The American Rescue Plan Act of 2021 (ARPA) changed the 1099-K reporting threshold to $600 from $20,000 and 200 transactions. On November 21, the IRS announced (Notice 2023-74) a further delay in implementation of new 1099-K reporting thresholds for third-party settlement organizations for calendar year 2023. The IRS is planning for a threshold of $5,000 for calendar year 2024 as part of a phased-in approach to implementing the $600 reporting threshold.

Several bills have been introduced in the House and Senate that would either repeal the ARPA changes to 1099-K reporting or increase the statutory reporting threshold to $5,000 or $10,000. Some sponsors of 1099-K reporting relief bills have criticized the IRS for its unilateral actions to delay enforcing the reporting requirements enacted in 2021 by Congress.

Looking ahead to 2025

The coming debate over TCJA tax provisions

Individuals and businesses face an uncertain US tax legislative outlook in 2025 when TCJA individual provisions enacted in 2017 are set to expire. In addition, businesses may be subject to higher taxes under TCJA business tax provisions that have already gone into effect since 2017, as discussed above, and other provisions that will go into effect after 2025 absent a change in law.

- Under the TCJA, key international tax provisions are scheduled to change after 2025. The global intangible low-taxed income (GILTI) regime and the base erosion anti-avoidance tax (BEAT) are scheduled to become more restrictive. The deduction for foreign derived intangible income (FDII) is scheduled to be reduced and look-through treatment for certain controlled foreign corporation (CFC) income is set to expire.

Observation: While several TCJA provisions are permanent (i.e., not subject to automatic change or sunset) as written, some policymakers have stated that deficit concerns and political pressures could result in broad overhaul of US tax laws, including possible changes to the current 21% corporate tax rate and other “permanent” tax provisions. The direction and scope of future tax law changes will depend on which party controls the White House and Congress.

Key TCJA individual tax provisions that are set to expire at the end of 2025 include:

- the current 37% top individual ordinary income tax rate,
- the 20% deduction for pass-through business income,
- an increased estate tax exemption,
- an increase in the child tax credit,
- a higher standard deduction, and
- a higher exemption amount and phase-out threshold for the individual alternative minimum tax.

Several temporary limitations on individual itemized deductions, including a lower limit on home mortgage deductions and the $10,000 limit on the individual deduction for state and local taxes, also are set to expire at the end of 2025. In addition, personal exemptions, which were temporarily eliminated by the TCJA, would be reinstated.

As shown in Figure 7, CBO last year projected a net revenue cost of more than $3 trillion between 2024 and 2033 to maintain TJCA individual and business tax provisions subject to sunset or scheduled change. Assuming current TCJA policies are maintained, total publicly-held federal debt by 2033 is projected to be $49.1 trillion (124.8% of GDP), as shown in Figure 8.

- By 2025 when action on TCJA provisions will be considered “must pass” legislation, updated CBO projections are expected to show a net cost of more than $4 trillion for maintaining current tax policies – again, assuming that the $10,000 SALT cap and all other current-law offsets are maintained – under a new budget window that would run from 2026 through 2035.

Figure 7: A closer look at the budgetary effects of current tax policies

Net budgetary effect of extending certain TCJA provisions (in millions) fiscal years 2024-2033

Highlights and breakdowns

-$1,809,850
Lower individual tax rates

-$1,088,360
Individual AMT relief

-$1,035,570
Modified standard deduction

-$604,458
Expanded child tax credit

-$548,083
20% qualified business income deduction

-$126,459
Extend higher estate and gift tax exemptions

-$67,347
Election to invest capital gains in an opportunity zone

-$12
Other revenue reducing individual provisions

$1,593,407
Repeal of deduction for personal exemptions

$907,528
Limits on individual itemized deductions, including the following: limitations on mortgage interest deductions and $10,000 cap on deductions for state and local taxes

$137,166
Limitation on excess business losses of noncorporate taxpayers

$27,589
Other revenue gaining individual provisions

$0
Other revenue gaining provisions

-$2,614,449
Extend the 2017 Tax Act’s changes to individual income tax and estate gift tax provisions

-$325,087
Extend the 2017 Tax Act’s changes to the tax treatment of investment costs

-$125,032
Maintain the 2017 Tax Act’s international tax changes related to the GILTI, FDII, and BEAT provisions

-$24,968
Maintain the deductibility of certain employer-provided meals, etc.

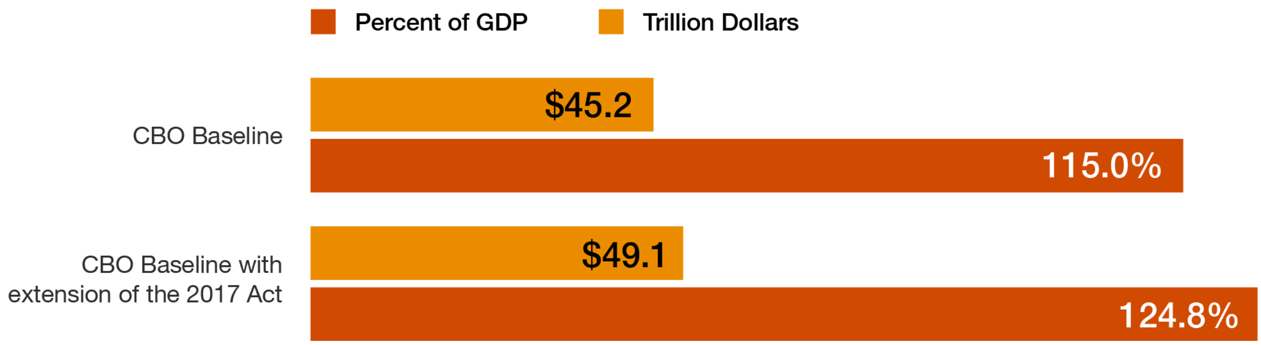
-$475,087 Other revenue reducing provisions

-$5,755,226 Revenue reducing + **$2,665,690** Revenue gaining = **-$3,089,536** Total

Note: Provisions to extend research expensing and interest deduction limitations based on EBITDA are projected to reduce federal revenues by roughly $400 billion over the same FY 2024-2033 period. Sources: Congressional Budget Office (CBO); staff of the Joint Committee on Taxation (JCT), and PwC calculations. Estimates are preliminary and reflect information available as of March 30, 2023. The date of enactment is assumed to be October 1, 2023.

Source: Blue Chip Consensus Forecast, December 2023

Figure 8: Projected federal debt in 2033 with and without extension of current TJCA provisions subject to sunset or scheduled changes



Source: CBO, JCT, PwC calculations

Rising federal budget deficits and increased interest costs may affect how policymakers in both parties view the future cost of tax law changes. CBO currently projects that the annual federal budget deficit in 2025 will exceed $1.6 trillion, and interests costs to service the federal debt will be $800 billion.

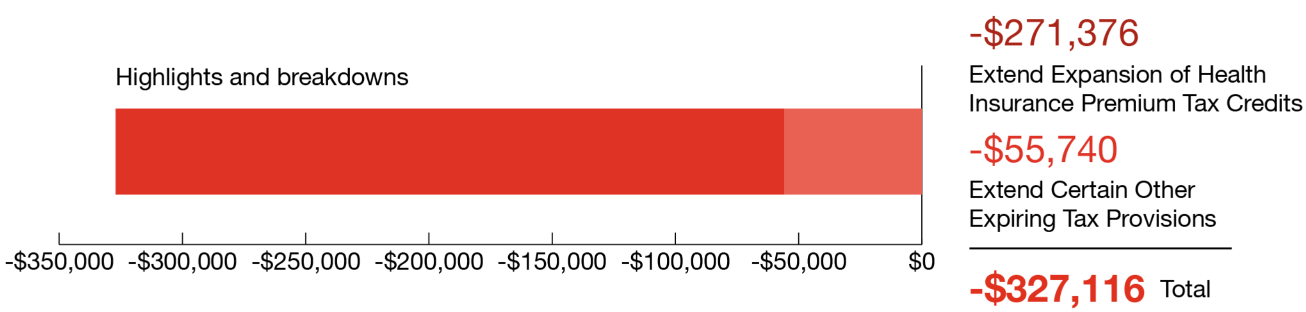
- By contrast, in 2017, when the TCJA was enacted, the annual federal deficit was $655.7 billion, and interest costs to service the federal debt that year were $296.3 billion.

Additional tax provisions enacted since the TCJA also are set to expire in 2025. The projected cost of health care premium assistance that was expanded during the COVID-19 pandemic and certain other expiring tax provisions like the Work Opportunity Tax Credit and look-through treatment for CFC income that also will expire in 2025 are shown in Figure 9.

See appendix D for details on the CBO's estimates.

Figure 9: A closer look at the budgetary effects of current tax policies

Net budgetary effect of extending certain TCJA provisions (in millions) fiscal years 2024-2033



Sources: Congressional Budget Office (CBO); staff of the Joint Committee on Taxation (JCT). Estimates are preliminary and reflect information available as of March 30, 2023. The date of enactment is assumed to be October 1, 2023.

President Biden's approach to addressing expiring TCJA provisions

While promising to not increase taxes for individuals with incomes below $400,000, President Biden in his FY 2024 budget proposed a large number of tax increases for upper-income individuals and corporations, including restoring the top individual tax rate to 39.6% and increasing the corporate tax rate to 28% (see below). His budget did not specify how the future costs of addressing TCJA tax provisions would be managed, but did include the following statement:

- President Biden "supports additional reforms to ensure that wealthy people and big corporations pay their fair share, so that America pays for the continuation of tax cuts for people earning less than $400,000 in a fiscally responsible manner and address the problematic sunsets created by President Trump and congressional Republicans."

Observation: President Biden's stated intent on how to address the sunset of TJCA individual provisions would be a radical shift from how President Obama approached the 2012 sunset of temporary tax cuts enacted under President Bush.

- President Obama assumed the cost of preserving the Bush tax cuts for individuals below $400,000 as part of a policy-adjusted baseline in his budgets and claimed that upper-income tax increases and other offsets that were enacted as part of the 2012 "fiscal cliff" legislation would reduce federal budget deficits by $600 billion. In fact, the CBO projected at the time that the 2012 legislation would add $4 trillion to the federal debt over the coming decade (FY 2013-FY 2022). Then-Vice President Biden played a key role in negotiating the 2012 legislation with Senate Republican Leader McConnell.

Budget reconciliation pros and cons

If one party controls the White House and both chambers of Congress in 2025, budget reconciliation procedures may be used to pass a tax overhaul bill in the Senate with a simple majority vote instead of the 60-vote threshold generally needed to advance legislation. For example, both the 2017 TCJA and the 2022 IRA were enacted using reconciliation procedures when Republicans and Democrats respectively held unified control of the White House and both chambers of Congress.

Reconciliation procedures feature several limitations, but the most critical limitation is the requirement that a reconciliation bill must not increase federal budget deficits outside of the budget window (typically 10 years).

In the case of the TCJA, reconciliation instructions that limited the amount of net deficit financing for tax reforms to $1.5 trillion within the first 10 years — at the insistence of Senate "deficit hawks" — also played a critical role in how that legislation was structured.

- The TCJA relied on scheduled tax increases – like the shift in 2022 to R&D capitalization and tighter business interest deduction limits – and the sunset in 2025 of individual provisions to keep the projected net revenue cost of the TCJA under that $1.5 trillion cap between 2018 and 2027, and to avoid violating the rule against increasing deficits outside the legislation's 10-year budget window.

Observation: While reconciliation procedures can ease the passage of legislation, they can result in tax policy decisions later regretted and can invite gaming of rules that seek to prevent a reconciliation bill from increasing future deficits. The resulting instability of delayed tax increases can add to the challenges individuals and businesses face in making economic decisions and planning investments.

The challenge of achieving (and maintaining) a globally competitive US tax system

Business leaders in the United States have expressed concern that legislative action in 2025 could lead to a significant increase in the US corporate income tax rate and other legislative changes that could make US companies less competitive relative to companies headquartered in other countries. They note that the 2017 tax reforms were the product of years of bipartisan efforts to make the US business tax system more competitive globally and reform international tax rules to address issues like the "lock-out" effect for reinvesting foreign earnings in the United States.

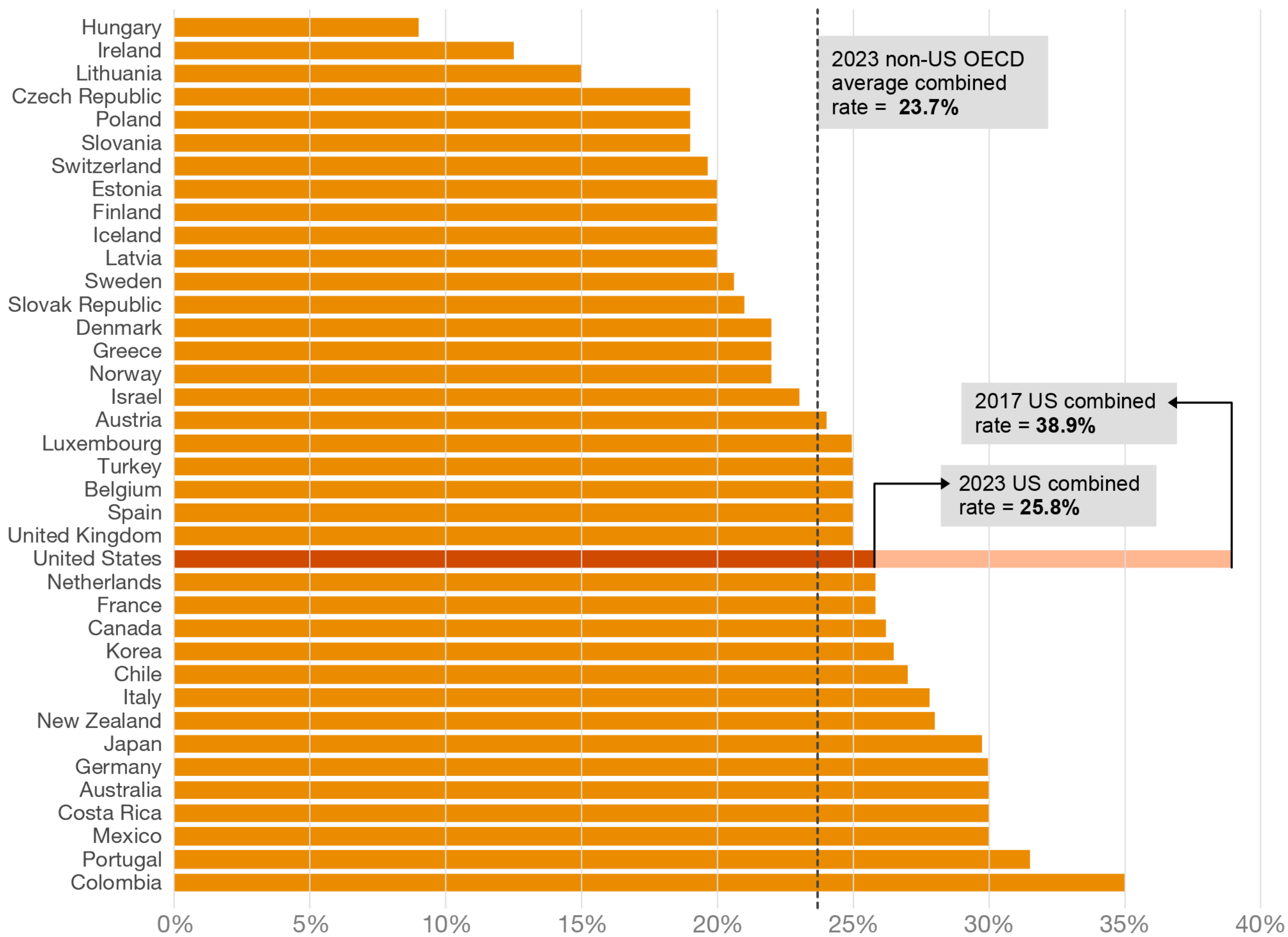
- Maintaining the current 21% federal corporate tax rate and other tax reforms – like the FDII incentive to manufacture and invest in intellectual property in the United States – are cited by many US companies as top priorities.

The current combined US corporate tax rate (federal plus the average state corporate rate) is 25.8%, which is still more than two points higher than the average combined corporate rate of other OECD countries, as shown below. Prior to the TCJA, the United States had a combined corporate tax rate of 38.9%, which was the highest among OECD countries.

- In the last Congress, the House and Senate under Democratic control did not support President Biden's proposed 28% corporate tax rate, but Ways and Means Democrats did initially approve a bill that would have increased the corporate tax rate to 26.5%. When coupled with average state corporate tax rates, a 26.5% federal corporate tax rate would have produced a combined US corporate tax rate significantly higher than the average combined corporate tax rate of other OECD counties.

Even if the current 21% corporate tax rate is preserved, Congress could consider other proposals that would result in an increase in the effective tax rates paid by US companies. For example, some commentators have suggested that Congress could consider a repeal of the corporate deduction for state and local taxes as part of a compromise agreement to repeal completely the current individual itemized deduction for state and local taxes.

Figure 10: US corporate tax rate (21% federal rate plus state average) moved closer to OECD average after enactment of the 2017 tax reforms



Source: OECD Tax Database

Figure 11 shows the projected revenue associated with a one-point increase in the US corporate tax rate over 10 years relative to the projected revenue effect of repealing the current corporate SALT deduction over the same period.

Figure 11: Relative revenue effects of select corporate tax changes

Source: JCT, OECD, PwC estimate

The role of tax incentives

Congress could review the role of tax incentives and their effectiveness as part of action to address the sunset of TCJA individual provisions. For example, there are ongoing discussions by tax policymakers of a need to review and possibly expand US tax incentives for research and development in response to actions taken by China and certain other countries to promote R&D activities in their domestic economies.

The clean energy tax incentives enacted in the 2022 Inflation Reduction Act also are the focus of ongoing debate. The IRA tax incentives at the time were described as the largest federal investment in clean energy in US history.

- The IRA clean energy tax provisions were originally estimated by the Joint Committee on Taxation (JCT) staff to cost $270 billion over 10 years. More recently, JCT estimated that the cost of these provisions may exceed $650 billion as more companies have leveraged the tax incentives to increase investments in clean-energy related projects and Treasury has interpreted the rules more generously than originally anticipated.

As noted above, the House Ways and Means Committee in June 2023 approved legislation that proposed to modify certain IRA energy tax provisions to offset part of the cost of other tax provisions, including renewal of certain TCJA business tax provisions. The Ways and Means Committee bill would have modified IRA clean energy tax incentives related to the clean electricity production credit, the clean electricity investment credit, and the clean vehicle credit. JCT staff estimated that the proposed changes to these three provisions would raise $216.1 billion over 10 years.

Other alternative revenue-raising options

Tax policymakers often consider alternative revenue-raising options to reduce the federal budget deficit or to fund new initiatives in ways that do not require raising direct income taxes on individual or business taxpayers.

Observation: While alternative revenue-raising options may advance certain policy goals, opposition to various proposals in the past has resulted in no action to enact significant new methods of raising federal revenues. For example, the United States is the only major industrial economy without a broad-based federal level value added tax (VAT), but Congress has never demonstrated a willingness to enact a US VAT-style consumption tax.

<u>Carbon taxes:</u> Various proposals have been offered to impose carbon-related taxes as a way to both address climate change and to raise revenues. The European Union has established a carbon border adjustment mechanism (CBAM), discussed below, that would apply to certain imported goods in an effort to prevent carbon leakage by EU-based companies that relocate their production outside the EU to avoid the EU's climate regulation costs on carbon. In the United States, a "foreign polluter fee" has been proposed by Senate Finance Committee member Bill Cassidy (R-LA) and Senator Lindsey Graham (R-SC) that would apply to products imported into the United States that are produced in ways that produce more pollution than similar domestically produced goods.

Destination based cash flow tax: House Ways and Means Republicans in 2017 considered a border-adjustable destination based cash flow tax (DBCFT) that was intended to replace income taxes on corporations and pass-through businesses.

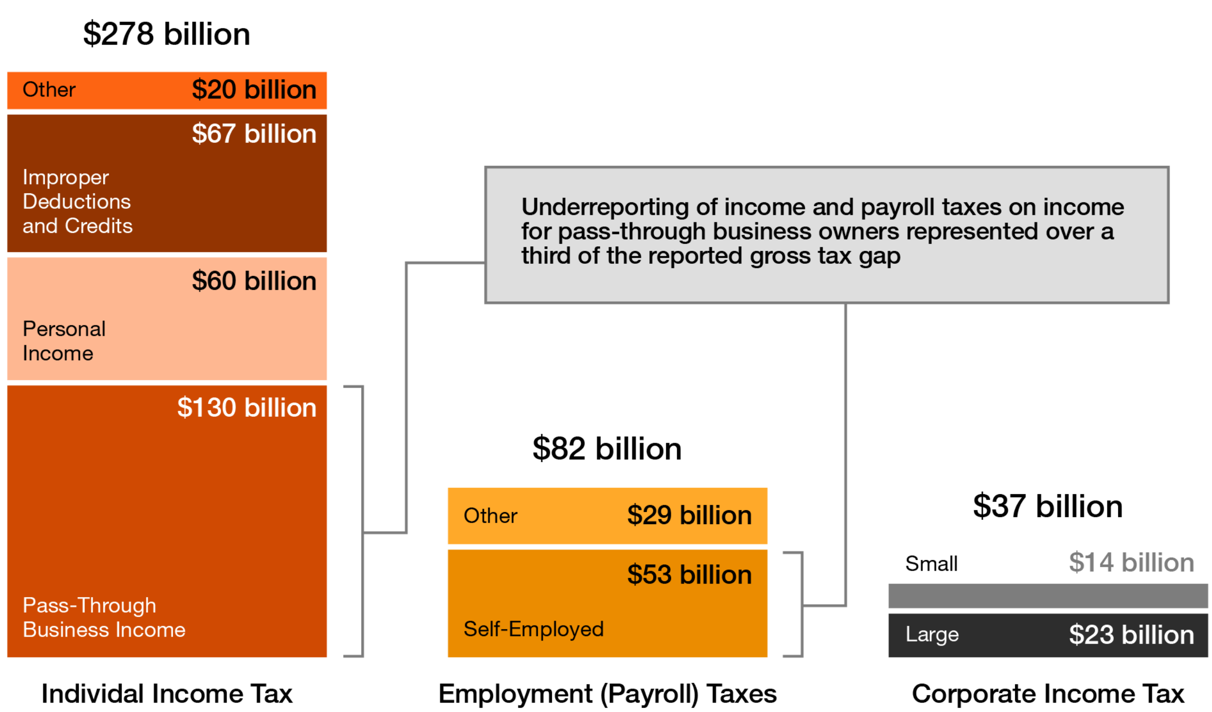
10% tariff on imports: Former President Donald J. Trump, as noted below, is reportedly considering a 10% increase in tariffs on all goods imported into the United States as a way to offset the cost of further reductions in the US corporate tax rate.

Closing the tax gap: Increased tax compliance efforts to close the federal tax gap – the amount of federal taxes that taxpayers legally owe but do not pay on time in a given year – are often cited as providing a way to collect more federal revenues without raising new taxes. IRS estimates that the average annual gross tax gap from 2014 to 2016 was $496 billion, or 15% of taxpayers' true tax liability.

Observation: The controversy over increased 1099-K reporting requirements, discussed above, demonstrates the challenge of implementing broad-based information reporting measures in an effort to close the tax gap.

As shown in Figure 12, the IRS reports that 80% of the tax gap is associated with underreporting of income and payroll tax liabilities. Compliance efforts to close the tax gap through increased IRS enforcement, however, have been opposed by Republicans in Congress and President Biden has directed the IRS to not increase audit rates on taxpayers with incomes below $400,000, as discussed below.

Figure 12: Underreporting accounts for most of the "tax gap"



*Note: Totals may not add due to rounding. Underreported tax liability accounted for 80% of the total gross tax gap. "Large" corporations are those with gross assets worth more than $10 million. The IRS estimated that estate tax underreporting cost the government an average of an additional $1 billion in lost annual revenues from 2014 to 2016.

Source: IRS, Federal Tax Compliance Research: Tax Gap Estimates for Tax Years 2014-2016, Publication 1415, October 2022.

President Biden's tax proposals

President Biden is expected to propose an FY 2025 budget in coming weeks that will largely resemble the FY 2024 budget he submitted to Congress last March. The President's FY 2024 budget proposed to increase taxes for corporations and for individuals with incomes above $400,000 as part of a plan intended to reduce federal budget deficits by $2.858 trillion over 10 years.

Key business tax provisions in last year's budget included a proposal to increase the US corporate income tax rate from 21% to 28%, and proposed reforms to US international tax rules that include raising the tax rate on the foreign earnings of US multinational corporations from 10.5% to 21% on a country by country basis and adopting an under-taxed profits rule (UTPR).

- The President also has proposed unspecified "additional support" for research and experimentation expenditures using revenue raised by repealing the deduction for foreign-derived intangible income (FDII). In addition, his budget last year proposed to increase from 1% to 4% the corporate stock repurchase excise tax that was enacted as part of the 2022 Inflation Reduction Act. The budget also included other tax proposals that would affect corporate and pass-through businesses.

Key individual tax increase provisions proposed by President Biden included measures increasing the top individual ordinary income tax rate from 37% to 39.6%, taxing capital gains income for high earners at ordinary rates, and imposing a 25% "minimum income tax on the wealthiest taxpayers."

For a listing of President Biden's tax proposals and their estimated revenue effect, see Appendix C.

Republican presidential candidates' tax proposals

Presidential candidates seeking the Republican Party nomination generally have stated that they intend to build on the TCJA tax reforms enacted in 2017, but have not laid out comprehensive tax proposals so far during their campaigns.

Former President Donald J. Trump is reported to be considering lowering the US federal corporate tax rate from 21% to 15% and has said that the cost of this proposal could be offset by applying a 10% tariff on all foreign exports of goods and services to the United States. He also has called for a new tax on the endowments of large private universities.

Florida Republican Governor Ron DeSantis has said that he would extend or make permanent TCJA individual tax provisions, and he has specifically endorsed making permanent 100% bonus depreciation. He has called for maintaining international tax reforms while strengthening base erosion measures. In addition, Governor DeSantis has called for new incentives to encourage the repatriation of US capital invested in China and to promote long-term domestic investment in the United States.

Former UN Ambassador Nikki Haley, who also served as South Carolina Republican governor, has called for further reductions in individual tax rates and tax brackets. She also has called for repeal of the federal excise tax on gasoline and full repeal of the federal individual deduction for state and local taxes. In addition, she has called for making permanent the TCJA's 20% deduction for certain pass-through business income and repeal of IRA green energy tax incentives.

Note: The candidates discussed above are those individuals who have public support higher than 5%, based on an average of national polls complied by RealClearPolitics as of January 3, 2024.

Congressional tax proposals

House

Ways and Means Committee Chairman Smith has noted a number of policy objectives, including continuing to hold field hearings in various parts of the United States to assess the impact of current tax policy on families and local communities. Chairman Smith also has stated that he plans to hold listening sessions to brief Ways and Means Committee members on policy choices that were made in 2017 during action on the TCJA, and on ways in which the 2017 reforms can be improved.

- Less than half of the current Ways and Means members served on the committee when the TCJA was enacted.

Chairman Smith also is expected to continue efforts in coordination with Ways and Mean Republicans and Senate Finance Committee Republicans to oppose efforts by other countries to implement the OECD's Pillar One and Pillar Two tax proposals in ways that result in US companies being exposed to extraterritorial or unilateral taxes, as discussed below.

Senate

Senate Finance Committee Chairman Wyden has signaled that he plans to continue to focus on a number of legislative issues, including proposals to establish a new "billionaires income tax" for taxpayers with more than $1 billion in assets or more than $100 million in income for three consecutive years, to reform partnership tax rules, and to modernize the taxation and regulation of derivatives.

IRS steps up audits and enforcement efforts

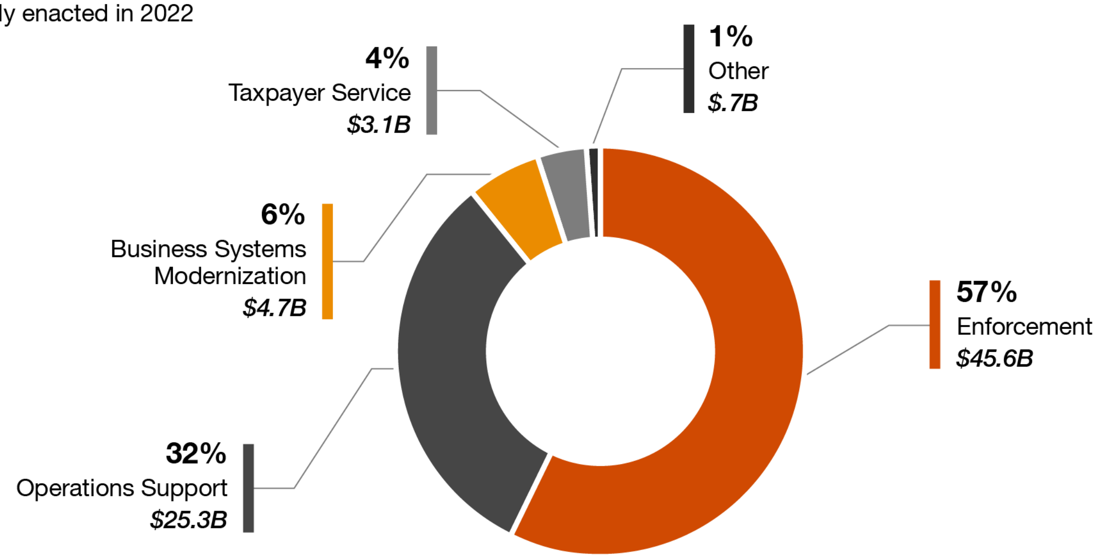
The Inflation Reduction Act (IRA) provided the IRS with $79.4 billion in additional funding over 10 years, with most of the funding allocated to enforcement and smaller amounts going to taxpayer services and improved technology — areas which many believe are the most in need of additional resources.

Beginning in September, the IRS has issued a series of public releases outlining its enforcement approach and priorities. The business community — which has started to feel the impact of this increased enforcement — should expect to see a significant increase in audits of large partnerships, large corporations, and high-income individuals in the coming years.

Observation: Given the Biden Administration's directive that audit rates will not increase for families and individuals making under $400,000 per year (i.e., the vast majority of US taxpayers), virtually all of the increase in enforcement funding must be focused on high-income individuals, partnerships, and large business taxpayers.

Figure 13: Over half of IRA funding for the IRS was devoted to increased enforcement activities

As originally enacted in 2022



Source: Inflation Reduction Act of 2022 (P.L. 117-169)

New IRS initiatives to leverage additional IRA funding

Increasing low partnership audit rates: The IRS is increasing core compliance efforts and launching new enforcement initiatives to address the low audit rates of partnerships.

- In September 2023, the IRS opened examinations of 75 of the largest partnerships in the United States, each with an average of more than $10 billion in assets, representing a cross-representation of industries, including hedge funds, real estate partnerships, publicly traded partnerships, large law firms, and other industries. This is a significant increase in the size of its Large Partnership Compliance (LPC) program, which was launched in 2021 to identify high-risk issues and apply resources to examinations of some of the largest and most complex partnership returns. The agency is leveraging AI in the expansion of its LPC program to select for examination additional large partnerships that historically have been subject to limited examination coverage.
- The IRS has identified indicators of potential noncompliance by partnerships with over $10 million in assets by analyzing ongoing discrepancies on their balance sheets. In October 2023, the agency requested information regarding these discrepancies from 500 partnerships, resulting in the addition of some of these partnerships to the audit stream based on their responses.
- The IRS announced in September 2023 the creation of a new pass-through group to be housed in the Large Business and International (LB&I) division as part of its enhanced compliance efforts focused on complex pass-through entities frequently used by higher-income groups.

Expansion of Large Corporate Compliance (LCC) program: LB&I's LCC program uses data analytics to identify potentially non-compliant large corporate taxpayers for audit. The LCC program, which replaced LB&I's continuous audit program several years ago, includes complex corporate taxpayers with average assets of more than $24 billion and average taxable income of approximately $526 million per year. LB&I plans to use a combination of AI and cross-border and corporate subject matter expertise to increase by 60 the number of large corporate taxpayers selected for audit.

Expanded nationwide hiring: The IRS announced in September 2023 the opening of as many as 3,600 positions nationwide to help with its expanded compliance efforts focused on complex partnerships and large corporations. The hiring would be for higher-graded revenue agents to fill specialized technical positions that generally focus on examinations.

Observation: The IRS's recruitment efforts have been challenged by the agency's high retirement rate and have not been as successful as planned. In addition to taking experienced personnel off-line to train new hires, the on-boarding process and ramp-up time delays the deployment of new resources to enforcement efforts.

Increased use of data analytics: The IRS is leveraging its IRA funding to use improved technology, including the use of AI and machine learning technology developed by data scientists and tax enforcement personnel to identify potential compliance and tax avoidance risk areas and improve case selection tools to avoid burdening taxpayers with "no-change" audits.

Customer service: Treasury Secretary Yellen in November announced plans for continued improvements in the 2024 filing season, including a goal of an 85% level of telephone service with an average call wait time of five minutes or less, expanded robust online support, more in-person assistance, greater ability of taxpayers to file more forms electronically, and the pilot of the free agency-run online tax filing system.

New IRS leadership structure: The IRS in December 2023 announced the first update to the top of the agency's organization chart in two decades; the new structure features a single deputy IRS Commissioner and four new IRS chief positions to oversee taxpayer service, tax compliance, information technology, and operations. These changes to be put in place in early 2024 are intended to streamline operational efficiency and align with major transformation work underway at the agency through IRA funding.

Observation: Although taxpayers may feel the impact of these taxpayer service and enforcement focus areas in 2024, it is more likely that it will be some time before these efforts have a real effect given the time required to hire and train employees. Taxpayers should continue to watch recent court decisions, particularly in the areas of economic substance and transfer pricing, because these are areas of IRS focus and IRS court wins are likely to result in additional audit scrutiny.

Efforts continue to claw back increased IRS funding

IRS funding continues to be one of the many open issues to be addressed by Congress early this year. The House and Senate need to enact legislation that sets the level of regular FY 2024 appropriations to be provided to the IRS and how much of the 2022 IRA funding increase should be retained by the agency.

- The House has proposed to fund FY 2024 IRS operations at FY 2022 levels ($11.2 billion, and would rescind $67 billion of IRA funding for the IRS.
- The Senate has proposed to fund the IRS at FY 2023 levels ($12.3 billion), and would rescind $10 billion in IRA funding in line with the debt limit agreement described below.

As discussed above, the FY 2024 spending agreement announced on January 7 by Speaker Johnson and Majority Leader Schumer calls for rescinding $20 billion of the additional IRA funding for the IRS as part of the pending FY 2024 spending bills. Under the original Biden-McCarthy agreement, $10 billion of the IRA funding for the IRS was to be rescinded in FY 2024, and another $10 billion was to be rescinded in FY 2025; $1.4 billion was rescinded as part of the FRA.

Observation: Even after agreed and potential reductions in the increased IRA funding, the increase in IRS enforcement funding is still many multiples of the agency's annual enforcement budget.

Global tax policy

Status of the OECD/G20 Inclusive Framework’s Two Pillar Project

Pillar One

Amount A: In October 2023, the OECD released a draft MLC to implement Amount A of Pillar One, a new formulaic allocation of a portion of deemed global residual profit among countries where customers are located (market jurisdictions), regardless of where the business’s physical activities are located. Amount A of Pillar One would apply to any MNC with global turnover (revenue) above EUR 20 billion (approximately USD 21.9 billion as of January 2, 2024) and profit margin greater than 10% (i.e., profit before tax divided by revenue). With some exceptions for the extractives and financial services sectors, any globally-engaged company that exceeds the established thresholds would be subject to Pillar One. When released, the MLC was not open to signature because several issues remained unsettled. In December 2023, the IF released a statement recognizing that the work to resolve the outstanding issues will continue into 2024. Their new goal is to finalize the text of the MLC by the end of March 2024 and hold a signing ceremony by the end of June 2024.

For the MLC to enter into force, it needs to be ratified by at least 30 jurisdictions including the headquarters jurisdictions of at least 60% of MNCs currently expected to be within Amount A's scope (this cannot be met without the United States). Certain key pieces of the MLC have already been subject to OECD public consultations and the comments received have helped inform IF negotiations. However, the recent release represents the first time that a complete draft text of the MLC documents has been made publicly available.

- The United States opened a 60-day public consultation on the draft MLC the day it was released. Subsequent comments from US Treasury Secretary Janet Yellen also indicate that countries will work into 2024 to settle outstanding issues.
- According to the OECD, the new goal is to have the MLC enter into force in 2025 if it is ratified by a critical mass of countries. However, it is unclear what it will actually take to gain sufficient ratification support for the MLC to take effect.

Observation: Because of the complex structure of Pillar One, and the many unresolved issues, it may not be possible for the United States to sign the agreement in 2024 – despite the leading role Treasury has played in its design. Even if the Administration did sign the agreement, prospects for the 67 Senate votes needed for ratification would seem highly unlikely. There are procedural challenges to treaty consideration in the Senate even when there is broad, bipartisan support for an agreement, which Pillar One currently lacks.

Amount B: In July 2023, the OECD released an updated public consultation document on Amount B of Pillar One, which attempts to simplify the transfer pricing of certain baseline wholesale marketing and distribution activities by providing agreed returns to the source country, as laid out in a "pricing matrix" for such activities. While the 2023 public consultation document identified several outstanding issues (mainly focused on scoping criteria), Amount B is meant to apply to a large range of industries buying and selling tangible goods, including consumer goods, alcohol and tobacco, construction, vehicles, IT hardware, software and components, textiles, machinery and tools, and pharmaceuticals.

- The IF plans to approve a final report on Amount B and incorporate agreed content into the OECD Transfer Pricing Guidelines (TPG) by January 2024. However, concerns from some IF members regarding the interdependence of Amount B and the signing and entry into force of the MLC to implement Amount A likely means a staged approach to its implementation.

Observation: The potential implementation of Amount B, contingent upon its final scope design, holds out the promise of streamlining existing transfer pricing procedures by providing certainty on pricing for specific activities for tax authorities and taxpayers alike. It is therefore crucial for businesses operating with limited risk distributors, commissionaires, and/or sales agents to closely monitor these developments and assess their implications for their current transfer pricing policies.

Renewed focus on Digital Service Taxes and other relevant unilateral measures

From the outset, a key impetus of the OECD's negotiations was to stop the proliferation of DSTs and other relevant similar measures by replacing them with a consensus-based reallocation of taxing rights among IF members. The draft MLC to implement Amount A of Pillar One mandates the removal of existing DSTs and other similar measures for all companies along with a pledge not to introduce such measures in the future.

- A list of existing measures that must be removed is in Annex A of the MLC; it includes nine measures in eight countries: two in India, one in Northern Africa (Tunisia), and six in Europe where DSTs were first applied (Austria, France, Italy, Spain, Turkey, and the United Kingdom). Furthermore, it demands a commitment to refrain from applying Significant Economic Presence (SEP) (or similar nexus) criteria to MNCs within its scope, a concept that has been championed by a few developing and emerging economies. Notably, the MLC rules are written so countries can either adopt Amount A of Pillar One to capitalize on the redistributed tax revenues or choose to continue with or implement new domestic DSTs.

The IF conditionally agreed to extend the moratorium on new DSTs and other relevant similar measures beyond December 31, 2023, if a critical mass of countries had signed the MLC in 2023. In effect, this pause was contingent on the United States and other major jurisdictions signing the MLC. While the OECD hoped that the MLC would be agreed upon and open for signature in 2023, the IF agreed in December to extend the timeline to finalize the text of the MLC by the end of March 2024, with a view to holding a signing ceremony by the end of June 2024. They also agreed to work to extend the standstill on DSTs and other relevant similar measures (which expired at the end of 2023). Treasury's 2021 "Unilateral Measures Compromise" agreements with Austria, France, Italy, Spain, the United Kingdom, Turkey, and India also expired on December 31, 2023. Treasury has mentioned that it is working to extend these agreements.

In some regions, DSTs have been encouraged. For example, in Africa a suggested approach to drafting a DST law has been developed and the African Tax Administration Forum (ATAF) has encouraged its members to consider enacting such a measure until a global solution is reached. In other regions, such as Latin America, there have been calls for a consolidated position of the region regarding the reallocation of taxing rights. This initiative, led by Colombia, could result in the proliferation of a different type of unilateral or multilateral measure in the region.

- As another example, Canada did not join the OECD agreement to extend the moratorium on DSTs and instead re-proposed a DST that, once implemented, will be retroactive to 2022. Furthermore, some countries may look to Canada's DST as a model if the United States deems it to be non-discriminatory.

Observation: What this means is that in 2024, and unless further agreements are made, MNCs should anticipate the proliferation of new unilateral measures, including DSTs, expanded withholding taxes on digital services, equalization levies, non-traditional nexus-based levies (e.g., SEPs), and other similar measures that will likely fall primarily on US businesses. A multilateral DST could also be proposed at the EU level.

Pillar Two

While the prospects for Pillar One remain uncertain, Pillar Two is already here. Many jurisdictions have enacted legislation with an effective date of January 1, 2024. Under Pillar Two, IF member countries agreed to enact a jurisdictional-level minimum tax system with a minimum effective tax rate (ETR) of 15%. Companies with global revenues above EUR 750 million will be within the scope of Pillar Two, with headquarter jurisdictions retaining the option to apply the rules to smaller, domestic MNCs.

- The Pillar Two global minimum tax (GloBE) rules are due to be passed into national legislation based on each country's approach, and some countries have already enacted or substantively enacted the rules. The OECD has recommended that the Pillar Two rules become effective in 2024, with the exception of the UTPR which is recommended to become effective in 2025.

In December 2022, the EU adopted a Directive to implement Pillar Two, requiring EU members to transpose the global minimum tax rules into their national legislation by December 31, 2023. To date, most of the EU member states have rules in place while others are quickly catching up.

- Outside of the EU, an increasing number of countries have moved forward with implementing Pillar Two or have announced target dates (including Australia, Canada, Colombia, Guernsey, Hong Kong, Japan, Jersey, Malaysia, Mauritius, New Zealand, Norway, Panama, Singapore, South Korea, Switzerland, the United Arab Emirates, and the United Kingdom).

Observation: Many jurisdictions around the world have either implemented or released draft legislation with effect from these start dates, with many more committing to do the same. MNC groups will therefore need to assess in what jurisdictions they may be subject to Pillar Two rules, and the dates that those rules apply.

The Pillar Two rules contemplate three different mechanisms for assessing tax on a MNC's income, and MNCs will have to comply with the filing requirements for each applicable rule. The so-called "primary" rule is the Income Inclusion Rule (IIR), which generally imposes tax on the parent entity of an MNC group to the extent that the foreign subsidiaries of the MNC are taxed at a rate less than 15%, as determined for Pillar Two purposes. The IIR is accompanied by a "backstop" rule, known as the UTPR, which permits a country to impose additional tax on an entity if that entity has any affiliated entities in other jurisdictions that are taxed at less than the 15% Pillar Two rate. More recently, the drafters of the Pillar Two rules added the concept of a Qualified Domestic Minimum Top-up Tax (QDMTT), which is a tax that a country imposes on income earned within its own borders to ensure that such income is taxed at a rate of 15% for Pillar Two purposes.

Observation: The Pillar Two ordering rules mean that in practice, QDMTTs will apply before any GILTI allocations and before the IIR and UTPR. For countries that adopt a QDMTT, any allocation of taxes paid under GILTI (or another CFC Tax Regime) will not be taken into account when determining the local QDMTT liability. This will also impact the US fisc, which could lose GILTI tax revenue because the rules give QDMTTs of other countries primacy over GILTI. This is significant considering many countries are looking to adopt Pillar Two through a QDMTT. A QDMTT safe harbor was also agreed that will exempt US members of MNC groups operating in jurisdictions that have implemented QDMTTs from the IIRs and UTPRs of other foreign countries. It also obviates the need to compute a jurisdictional ETR under the GloBE rules in respect of a given jurisdiction in which a group operates if such jurisdiction enacts a QDMTT. In such cases, MNCs will only have to compute one ETR for the jurisdiction in accordance with the domestic QDMTT legislation.

Earnings in jurisdictions where the MNC's ETR (as determined under the Pillar Two rules) is below the 15% minimum rate will be subject to an additional top-up tax. In addition, other countries that enact Pillar Two may be able to impose additional tax on US-headquartered MNCs if the tax imposed by the United States on the US profits of these MNCs is less than 15%.

Observation: In this regard, although the US corporate rate is 21%, certain credits (including the research tax credit), as well as other deductions and incentives, could cause the tax rate on US operations to fall below 15% for Pillar Two purposes. As a result, US-headquartered businesses would cede some of the benefit of those US credits and incentives to foreign treasuries. Moreover, UTPR taxes imposed by other countries will likely not be creditable in the United States.

- Adding to the complexity of Pillar Two is the interplay with existing domestic tax regimes. For US MNCs this includes the tax imposed on GILTI which must be allocated among the MNC's foreign jurisdictions to determine the Pillar Two ETR in each jurisdiction. Similarly, US taxpayers subject to the corporate alternative minimum tax (CAMT) must consider the interaction of the CAMT liability with their Pillar Two computations.

For many MNCs, compliance with new annual tax filings will be necessary for 2024 tax years. Filing of Pillar Two tax returns, including the GloBE Information Return (GIR) by each constituent entity or a designated filing entity, is required starting June 30, 2026 for calendar-year taxpayers. A QDMTT local tax return filing likely also will be needed in jurisdictions where a QDMTT is in place and may need to be filed before June 30, 2026.

Pillar Two Administrative Guidance

From December 2021 to as recently as December 2023, the OECD has released multiple documents providing guidance for implementing the global minimum tax. The first, and core, set of guidance, the Model Rules, was released in December 2021, and followed by supporting Commentary in March 2022, the transitional country-by-country reporting (CbCR) safe harbors and penalty relief in December 2022, and agreed administrative guidance in February, July, and December 2023. Each subsequent release built upon the preceding documents, further expanding the guidance provided and addressing questions raised to the OECD. The OECD said it expects to release additional implementation guidance on an ongoing basis throughout 2024 and beyond.

The OECD guidance includes certain safe harbors, which provide temporary and permanent exemptions from the Pillar Two rules.

- Transitional CbCR safe harbor: The goal of the transitional CbCR safe harbor is to exclude MNC group operations in low-risk countries from the compliance obligation of preparing the full Pillar Two calculation. As this only requires information to be pulled from a MNC's qualified CbCR and/or financial statements, this could provide for streamlined calculation/reporting of a MNC's top-up tax for many jurisdictions. If a MNC group qualifies for the safe harbor in a jurisdiction, the top-up tax for the jurisdiction is deemed to be zero and less disclosure is required. The CbCR transitional safe harbor is available for fiscal years beginning before January 1, 2027, and ending before July 1, 2028 (i.e., 2024 to 2027 for calendar-year taxpayers).

- Permanent QDMTT safe harbor: This safe harbor generally applies to an electing MNC group for a particular jurisdiction if that jurisdiction has a domestic minimum top-up tax that is considered qualified — i.e., a domestic minimum top-up tax that is consistent with the Pillar Two model rules and is applied using an acceptable accounting standard and is administered in an acceptable manner. When the QDMTT safe harbor applies to a MNC group for a jurisdiction, the top-up tax for the group entities in that jurisdiction is deemed to be zero. The QDMTT safe harbor, when applicable, eliminates the need for an MNC group to undertake a second calculation of top-up tax under the Pillar Two rules.

- Transitional UTPR safe harbor: This safe harbor is designed to provide transitional relief from the UTPR in the ultimate parent entity (UPE) jurisdiction during the first two years (for fiscal years that run no longer than 12 months that begin on or before December 31, 2025, and end before December 31, 2026) in which the Pillar Two rules come into effect. Under the Transitional UTPR safe harbor, the UTPR top-up tax amount calculated for the UPE jurisdiction will be deemed to be zero for each fiscal year during the transition period if the UPE jurisdiction has a corporate income tax rate of at least 20% based on the nominal statutory rate and accounting for subnational taxes.

Observation: When an MNC qualifies for both a transitional CbCR and UTPR safe harbor in a jurisdiction in a fiscal year, the MNC should consider electing the transitional CbCR safe harbor, rather than the UTPR safe harbor, to avoid losing the benefit of the CbCR safe harbor in a subsequent fiscal year under the so called "once out, always out" approach.

US proposals responding to extraterritorial and unilateral taxes

House and Senate Republicans have opposed the Biden Administration's support for the OECD's Pillar One and Pillar Two tax proposals and Treasury's approach to the OECD negotiations. Republican members in both chambers have raised issues regarding the extent to which Treasury has consulted with Congress and have expressed concern that these proposals will put the United States at a competitive disadvantage relative to other countries.

- As noted above, the OECD's Pillar Two rules include a UTPR that applies as a backstop when a top-up tax is not charged through an IIR with respect to low-taxed entities that are subject to an effective tax rate below 15%. The UTPR, and its impact on US MNCs, has attracted significant derogatory attention in Congress as other countries have begun to move forward with legislation that will adopt a UTPR based on the OECD's model rules.

Republicans proposed several pieces of retaliatory legislation in 2023 designed to combat the impacts of the global tax deal, including the minimum tax:

- In May 2023, House Ways and Means Committee Chairman Jason Smith (R-MO) and all Ways and Means Republicans introduced the Defending American Jobs and Investment Act. The proposed legislation would increase income tax and withholding tax rates, initially by 5%, increasing up to 20% on certain foreign citizens, foreign corporations, and foreign partnerships of any foreign country that enacts "territorial taxes and discriminatory taxes." The UTPR under Pillar Two and DSTs (and other similar measures) are the targets of this legislation.

- In July 2023, House Ways and Means Committee member Ron Estes (R-KS), joined by Ways and Means Chairman Smith and other colleagues, introduced the Unfair Tax Prevention Act that amends the Base-Erosion and Anti-Abuse Tax (BEAT) calculation for specified "Foreign-Owned Extraterritorial Tax Regime Entities." The bill was introduced to discourage foreign countries from enacting the UTPR.

The House Appropriations Committee, also critical of the OECD's two-pillar project, proposed to eliminate US funding for the OECD.

There are questions about the creditability of QDMTTs and Pillar Two top-up taxes under the Foreign Tax Credit (FTC) regulations. In December 2023, Treasury issued Notice 2023-80 that foreshadows forthcoming FTC regulations that generally would allow a credit for QDMTTs but not for IIR top-up taxes (apparently motivated by a desire to avoid recursive calculations under the Pillar Two and US FTC rules).

Observation: While the guidance addresses issues related to QDMTTs and the IIR, it does not cover the UTPR. The notice says that "the Treasury Department and the IRS continue to analyze issues related to the UTPR and intend to issue additional guidance." Since the UTPR is not expected to apply until 2025 or possibly later (e.g., if the transitional UTPR safe harbor applies), Treasury can provide guidance in the proposed regulations that will implement Notice 2023-80.

Observation: Pillar Two represents the most significant corporate tax reform in a generation and will fundamentally change how large businesses calculate and pay tax internationally. Pillar Two's global adoption, including the anticipated divergence in local rules, poses additional complexities that cannot be underestimated. These historic changes will affect ETRs, significantly increase compliance obligations, impact legal structures, change deal values, and force MNCs to source data that might be difficult to obtain. While there may be adjustments to the workings of Pillar Two, the clock cannot be turned back as other countries continue to move forward.

Subject to Tax Rule

On October 3, the IF announced the conclusion of negotiations on a multilateral instrument (MLI) to implement the Pillar Two Subject to Tax Rule (STTR), which is open for signature by all countries. The STTR allows countries to increase taxes on certain cross-border payments (not including dividends) among associated entities under a bilateral tax treaty where the nominal rate in the recipient country is below 9% (adjusted for tax base reductions such as tax exemptions and tax credits).

Observation: IF jurisdictions can implement the STTR by electing to sign the MLI or by amending bilateral treaties when requested by developing IF jurisdictions. The OECD has noted that there are currently more than 70 developing IF jurisdictions that are entitled to request inclusion of the STTR in their treaties.

Other global tax policy developments

EU developments expected to affect MNCs

Belgium takes over the Presidency of the Council of the EU from Spain in the first half of 2024, followed by Hungary in the second half of 2024. The Belgium government's priorities in the field of taxation include measures aiming to curb tax evasion, tax avoidance, aggressive tax planning, and harmful tax competition. Belgium's government has noted that this will include updating the EU's list of non-cooperative jurisdictions, progressing the Business in Europe Framework for Income Taxation (BEFIT) package, exploring rules in relation to mobile workers, implementing the Unshell Directive, and ensuring greater tax transparency to reinforce the exchange of relevant information within the EU, specifically regarding Pillar Two.

- EU Foreign Subsidies Regulation: The Foreign Subsidies Regulation (FSR) enables the EU Commission to review "financial contributions" received from non-EU governments or governmental entities: grants, loans, certain tax incentives, contracts that are not at market terms. This would include US tax credits and incentives granted under the CHIPS Act, the Inflation Reduction Act, and other US statutes. From October 12, 2023, certain M&A transactions and participation in certain public procurement processes in the EU trigger notification requirements (with stand-still obligations) to the Commission when certain thresholds are met. The Commission can order a wide range of "redressive measures," including repayment of the subsidy, granting of licenses to IP, or prohibiting an M&A transaction or participation in a public procurement process if it considers the foreign subsidies have a distortive effect in the EU (and EEA). The FSR will require the collection of large amounts of new data and the maintenance of such a database on (at least) a three-year rolling basis.

- Unshell Directive: While the objective of Unshell was debated throughout 2023, most recently it has been viewed as a potential reporting regime for the exchange of information between tax authorities relating to shell entities. In this regard, Unshell could establish a minimum standard for substance criteria, though there has been some concern about a lack of harmonization. The actual consequences of having a shell entity will be determined once the objective of the proposal is finalized.

- BEFIT: Business in Europe-Framework for Income Taxation (BEFIT) is the EU Commission's plan to reduce compliance costs, by streamlining the calculation of the tax base of companies in EU Member States. In its current form, garnering unanimous EU Member State support for BEFIT will be difficult given issues such as timing (no transitional period for Pillar Two) and lack of alignment with Pillar Two.

- Transfer Pricing (TP): While most EU Member States are also OECD Members, the role and status of the OECD TP Guidelines varies across the EU. The TP proposal would incorporate the arm's length principle and key TP rules into EU law, clarify the role and status of the OECD TP Guidelines, and create the possibility of establishing common binding rules on specific aspects of the rules within the EU.

- Head Office Tax (HOT): The HOT system would allow small and medium sized enterprises (SMEs) to compute the profits of permanent establishments according to the rules of the head office location, creating a one-stop-shop in the head office State for filing, assessment, and collection of tax. Stringent requirements would apply to qualify for the simplification.

- DAC8: The DAC8 Directive was adopted in October 2023, amending the EU rules on administrative cooperation in the area of taxation. The amendments primarily pertain to the reporting and automatic exchange of information on certain revenues from crypto asset transactions and the provision of advance tax rulings for high net worth individuals. The Directive aims to strengthen the existing legislative framework by broadening the scope for registration and reporting obligations and improving overall administrative cooperation between tax administrations.

- FASTER: The Faster and Safer Relief of Excess Withholding Taxes (FASTER) initiative is designed to encourage investment in the EU market by making withholding tax procedures in the EU more efficient and secure for investors, financial intermediaries, and Member State tax administrations. The proposal includes anti-avoidance provisions, as well as new obligations for both financial institutions and tax administrations. EU working party meetings have progressed this initiative forward, with some changes made to the original text. Technical work is expected to continue in advance of submission to the EU Council for approval on the general approach.

- Public CbCR: The EU's public CbCR directive, published in December 2021, is being transposed into individual Member States' legislation. The latest date for this to apply is for accounting periods beginning on or after June 22, 2024. The EU public CbCR Directive would apply to both EU and non-EU based MNCs operating through a branch or subsidiary with total consolidated revenue of more than EUR 750 million in each of the last two consecutive financial years. Romania specifically adopted the Directive early, making it applicable for accounting periods starting from January 1, 2023. However, the Romanian government has not provided guidance on whether companies need to report early. Spain has a shorter reporting deadline (six months after the financial year), which could catch some non-EU headquartered businesses with Spanish subsidiaries off guard. There is also overall uncertainty in terms of what information is "commercially sensitive" and how companies can avail themselves of deferred reporting.

- CSRD: In November 2022, the EU formally adopted the Corporate Sustainability Reporting Directive (CSRD), which requires companies operating in the EU to publicly disclose and report on Environmental, Social, and Corporate Governance (ESG) issues. Expected to impact 50,000 companies operating in the EU, including certain US and other non-EU companies and their EU subsidiaries, the Directive will become effective upon implementation within each EU member state. The rules will start applying between 2024 and 2028, depending on the size of the company.

- Carbon Border Adjustment Mechanism: The Carbon Border Adjustment Mechanism (CBAM) was formally adopted by the EU Council in 2023, with the transitional phase's entry into force on October 1, 2023, for certain products. The CBAM is aimed at preventing carbon leakage by EU-based companies that relocate their production outside the EU to avoid the EU's climate regulation costs. It will, however, impact all importers of such products from anywhere in the world. Until the end of 2025, the CBAM only entails a reporting obligation. The levying of import charges will only commence in 2026 and will be introduced gradually over a period of nine years.

Observation: It is anticipated that the EU Council working groups will continue working on all of the pending files. However, it is uncertain which initiatives will be treated as actual priorities by the Belgian and Hungarian Presidencies throughout 2024. Recent EU tax proposals, particularly the CSRD and Public CbCR, mark a new era of "sustainable reporting" as well as tax transparency, going beyond current non-financial reporting requirements. MNCs operating in the EU should prepare for increased compliance with these requirements as well as an increasing proliferation of sustainability disclosures from the SEC and the International Sustainability Standard Board (ISSB). CBAM also presents as an initial new reporting obligation, but ultimately for MNCs, CBAM would represent an additional cost of exporting to the EU market. There are expectations that other countries may implement measures similar to CBAM (e.g., Australia proposed a carbon border tax in November 2023).

The United Nations moves to assert a greater role in global tax policy

In November 2023, the UN General Assembly's finance committee adopted a resolution mandating the UN to start discussions on international taxation standards, effectively challenging the OECD's role in this space.

Specifically, the United Nations Second Committee (Economic and Financial) voted 125 to 48 in support of a resolution to promote inclusive and effective international cooperation on tax matters at the United Nations. The resolution, which was proposed by Nigeria on behalf of the African Group, calls for the establishment of a "member-state led, open-ended" ad hoc committee to draft the terms of a framework convention with a view to agree on measures against illicit financial flows and taxing income from cross-border services. The resolution also requires a report from the ad hoc committee to be considered at the 2024 session of the UN General Assembly.

Observation: The United States, the EU, the UK, and Japan have raised concerns that the UN international tax cooperation effort would be duplicative and undermine OECD progress.

Tax treaty action

Chile

On December 19, the US-Chile income tax treaty entered into force after an extended period of delays related to objections by Senator Rand Paul (R-KY) to information exchange provisions in US tax treaties. Chile previously ratified the treaty in 2015 but had to approve it again last year after the US Senate made changes to reflect TCJA international provisions before approving it in June 2023.

Taiwan

On November 30, the House Ways and Means Committee unanimously approved a bipartisan bill (H.R. 5988) to provide relief from double taxation on cross-border investment between Taiwan and the United States. The bill modifies the tax code to provide certain treaty-like tax benefits to residents of Taiwan and authorizes the President to negotiate a tax agreement that provides additional bilateral tax relief.

The Ways and Means bill combines separate bills approved by the Senate Finance and Foreign Relations Committees. S. 3084, the US-Taiwan Expedited Double-Tax Relief Act, was unanimously approved by the Finance Committee on September 14, and formally introduced by the chairmen and ranking members of the Ways and Means and Finance Committee on October 19. The Foreign Relations Committee on July 13 approved a bill (S. 1457, the Taiwan Tax Agreement Act of 2023) to authorize the negotiation of a tax agreement with Taiwan.

In a November 29 joint statement, the chairmen and ranking members of the Senate Finance and Foreign Relations Committees endorsed the Ways and Means bill and called for its "swift" passage.

The treaty-like tax benefits under H.R. 5988 would not take effect until Treasury determines that Taiwan has provided reciprocal tax benefits to US taxpayers. In a colloquy during the November 30 mark-up, Ways and Means Chairman Smith and Ranking Member Neal stated that the Congressional intent is that Treasury, in making the reciprocity determination, is expected to ensure that Taiwan does not impose tax on business income, such as a withholding tax on services income of US taxpayers, except for business income that is effectively connected with a permanent establishment of that US person in Taiwan.

Russia

In an October 26 letter, Finance Committee members Catherine Cortez Masto (D-NV) and John Cornyn (R-TX) called for President Biden to terminate or suspend the tax treaty between the United States and Russia in response to action taken by Russia to suspend certain tax treaty provisions.

Hungary

The US Treasury Department's termination of the US-Hungary tax treaty took effect on December 31, 2023. The treaty termination applies to US-source dividends, interest, and royalties for payments made on or after January 1, 2024.

Other treaty developments

The United States continues to negotiate new tax treaties with various countries, including Israel and Switzerland. Other treaties that have been signed by the United States but not yet ratified by the Senate may require modifications to reflect TCJA international provisions.

State tax policy

Overall uncertainty in state revenues, the economic outlook, the end of pandemic-related federal funding, and upcoming elections are the backdrop as state legislatures begin their 2024 sessions. State personal and corporate income tax revenues declined steeply overall in the beginning of 2023, although that trend improved somewhat later in the year. Sales tax revenues increased in nominal terms but decreased in real terms, reflecting the impact of inflation.

- While many states enacted income tax cuts or provided rebates and other one-time tax relief measures in prior years, significant tax cuts are less likely in 2024. Instead, revenue-raising measures and spending freezes or cuts seems more likely, especially in states dealing with significant budget deficits.

New York, for example, faces an estimated $4.3 billion upcoming fiscal year deficit, rising to about $9.5 billion the following year. California's budget problems are more severe, with the state facing an estimated $68 billion deficit. In both cases, reliance on federal relief funds to cover general expenditures coupled with the importance of income tax receipts for the general fund have contributed to these fiscal difficulties.

Corporate tax policy outlook

There likely will be little legislative action on federal tax conformity barring significant changes to the federal tax code in 2024. Even without such federal changes, however, states likely will continue to examine their approaches to R&E amortization, immediate expensing for fixed assets, the interest expense limitation, and GILTI, with a mixture of legislative actions and administrative interpretations addressing conformity and state-specific rules.

- Unitary combined reporting will continue to be considered in a few states, with Pennsylvania's House advancing a measure late in 2023 and Maryland likely to consider mandatory combined reporting proposals in 2024.
- Mandatory worldwide combination became a focus in Minnesota in 2023 before it was withdrawn in favor of GILTI taxation.
- Other states are likely to examine worldwide combined reporting in 2024, and the issue may rise to greater prominence in the states given the uncertainty around US adoption of Pillar 2.

The few remaining states that do not have single sales factor apportionment and market-based sourcing may revisit their historic methods, following the enactments of single sales factor in Massachusetts, Montana, and Tennessee in 2023. Last year also saw a mini-trend of throwback and throwout rule repeal, with enactments in Arkansas and Louisiana, respectively. However, these measures often take multiple years of proposals before achieving enactment, and such revenue-reducing measures are less likely in 2024 given the expected fiscal challenges facing the states.

State corporate tax rates are likely to continue to be a focus of debate in various parts of the United States.

- The enactment of corporate rate cuts may be less likely in 2024. Instead, there could be consideration of rate increases, such as proposals in New Jersey to reinstate the corporation business tax surcharge. Alternative minimum assessments, NOL and credit utilization limitations or freezes, and other measures to increase corporate tax receipts without rate increases also could gain traction in this environment.

Indirect tax outlook

Taxation of the digital economy likely will continue to be a major focus of legislative consideration in 2024, following proposals for the sales taxation of digital products, digital advertising gross revenue taxes, and "data taxes." For example, New York had proposals for all three of these measures in 2023, including a sales tax on digital products in the Assembly version of its budget legislation.

- The New York Assembly budget also included a proposed retail delivery fee, similar to a measure that was adopted in Minnesota in 2023. Minnesota is likely to consider amendments to its retail delivery fee to address technical concerns with its application ahead of its July 1, 2024 effective date. Similar measures could be introduced in other states in 2024, following the initial lead of Colorado in this area.

Remote seller and marketplace facilitator provisions also likely will continue to be amended in the states in 2024. Even though every state that imposes a statewide sales tax has already enacted receipts-based nexus standards and marketplace facilitator collection requirements, these rules continue to change as states examine threshold changes, include new tax types under their collection regimes, and provide further guidance on the reach of their marketplace facilitator laws to different industries and business models.

Exemptions also will continue to be a focus of state policymakers, although providing these tax benefits may prove difficult given the fiscal environment. Still, popular consumer exemptions and sales tax holidays likely will continue to be proposed and enacted in some form in many states.

- Business-to-business exemptions are more difficult to enact — for example, California has been unable to provide a full R&D and manufacturing sales tax exemption despite strong business support for this measure.

Excise taxes also will continue to be an area of interest for state policymakers, with rate increase proposals more likely in a challenging fiscal environment. New excise tax revenue streams, such as from the regulation of "igaming" (online casino games), may be considered in multiple states such as New York.

Passthrough entity taxes and individual tax outlook

Passthrough entity (PTE) taxes — providing a credit or deduction to offset the federal tax limitation on the individual itemized deduction for state and local taxes (the “SALT cap”) — have been a ubiquitous feature of state legislation for the last several years. Only Maine, Pennsylvania, and Vermont had PTE legislation still pending at the end of 2023. Full adoption of PTE taxes across the country will be sought by affected taxpayers in 2024, as will further amendments to existing regimes to address issues such as limitations on the benefit for certain PTE members and partners (e.g., in states that limit the tax base to state-sourced income, rather than all taxable income, for resident members).

Observation: Future federal tax legislation in 2025 addressing the federal SALT cap and other expiring TCJA individual provisions could affect state PTE taxes. Some federal policymakers have proposed to increase the federal SALT cap but others have proposed to proposed to repeal the federal deduction for state and local taxes entirely, as discussed above. Legislation affecting the federal deduction for state and local taxes could affect both individuals, pass-through businesses, and corporations.

For individual taxpayers, rate reductions will continue to be a focus, especially in Republican-controlled states. Budget constraints are likely to slow this trend in 2024.

- On the other hand, there may be a renewed focus on capital gains legislation and so-called “wealth taxes” in Democratic-controlled states. In some of these states, Governors may be a deciding factor in whether such measures advance and ultimately are enacted, especially when such measures are considered as part of the budgeting process.

Appendix A: Key policymakers

Congressional leadership in the 118th Congress

House Leadership	
Speaker of the House	Mike Johnson (R-LA)
Majority Leader	Steve Scalise (R-LA)
Majority Whip	Tom Emmer (R-MN)
Republican Conference Chair	Elise Stefanik (R-NY)
Republican Conference Vice Chair	Blake Moore (R-UT)
Republican Congressional Campaign Committee Chair	Richard Hudson (R-NC)
Republican Policy Committee Chair	Gary Palmer (R-AL)

Minority Leader	Hakeem Jeffries (D-NY)
Minority Whip	Katherine Clark (D-MA)
Assistant Democratic Leader	James E. Clyburn (D-SC)
Democratic Caucus Chair	Pete Aguilar (D-CA)
Democratic Conference Vice Chair	Ted Lieu (D-CA)
Democratic Policy and Communications Committee Chair	Joe Neguse (D-CO)
Democratic Congressional Campaign Committee Chair	Suzan DelBene (D-WA)

Senate Leadership

President of the Senate	Vice-President Kamala Harris (D)
President Pro Tempore	Patty Murray (D-WA)
Majority Leader and Democratic Conference Chair	Charles Schumer (D-NY)
Majority Whip	Dick Durbin (D-IL)
Democratic Policy and Communications Chair	Debbie Stabenow (D-MI)*
Democratic Policy and Communications Vice-Chairs	Joe Manchin, III (D-WV)*, Cory Booker (D-NJ)
Democratic Conference Vice-Chairs	Elizabeth Warren (D-MA), Mark Warner (D-VA)
Democratic Conference Secretary	Tammy Baldwin (D-WI)
Deputy Democratic Conference Secretary	Brian Schatz (D-HI)
Democratic Senatorial Campaign Committee Chair	Gary Peters (D-MI)
Democratic Steering Committee Chair	Amy Klobuchar (D-MN)
Democratic Outreach Committee Chair	Bernie Sanders (I-VT)
Democratic Outreach Committee Vice-Chair	Catherine Cortez Masto (D-NV)

Minority Leader	Mitch McConnell (R-KY)
Minority Whip	John Thune (R-SD)
Republican Conference Chair	John Barrasso (R-WY)
Republican Conference Vice-Chair	Shelley Moore Capito (R-WV)
Republican Policy Committee Chair	Joni Ernst (R-IA)
National Republican Senatorial Committee Chair	Steve Daines (R-MT)

*Not running for re-election in 2024

House and Senate tax-writing committees

House Ways and Means Committee

The Ways and Means Committee currently is composed of 25 Republicans and 18 Democrats.

House Ways and Means Committee Members, 118th Congress

Republicans	Democrats
Chairman Jason Smith (R-MO)	Richard Neal (D-MA), Ranking Minority Member
Vern Buchanan (R-FL)	Lloyd Doggett (D-TX)
Adrian Smith (R-NE)	Mike Thompson (D-CA)
Mike Kelly (R-PA)	John Larson (D-CT)
David Schweikert (R-AZ)	Earl Blumenauer (D-OR)*
Darin LaHood (R-IL)	Bill Pascrell Jr. (D-NJ)
Brad Wenstrup (R-OH)*	Danny Davis (D-IL)
Jodey Arrington (R-TX)	Linda Sanchez (D-CA)
Drew Ferguson (R-GA)*	Brian Higgins (D-NY)*
Ron Estes (R-KS)	Terri Sewell (D-AL)
Lloyd Smucker (R-PA)	Suzan DelBene (D-WA)
Kevin Hern (R-OK)	Judy Chu (D-CA)
Carol Miller (R-WV)	Gwen Moore (D-WI)
Greg Murphy (R-NC)	Dan Kildee (D-MI)*
David Kustoff (R-TN)	Don Beyer (D-VA)
Brian Fitzpatrick (R-PA)	Dwight Evans (D-PA)
Greg Steube (R-FL)	Brad Schneider (D-IL)
Claudia Tenney (R-NY)	Jimmy Panetta (D-CA)
Michelle Fischbach (R-MN)	
Blake Moore (R-UT)	
Michelle Steel (R-CA)	
Beth Van Duyne (R-TX)	
Randy Feenstra (R-IA)	
Nicole Malliotakis (R-NY)	
Mike Carey (R-OH)	

*Not running for re-election in 2024

Senate Finance Committee

The Finance Committee currently includes 14 Democrats and 13 Republicans.

Senate Finance Committee Members, 118th Congress

Democrats	Republicans
Ron Wyden (D-OR), Chairman	Mike Crapo (R-ID), Ranking Minority Member
Debbie Stabenow (D-MI)*	Charles Grassley (R-IA)
Maria Cantwell (D-WA)	John Cornyn (R-TX)
Robert Menendez (D-NJ)	John Thune (R-SD)
Thomas Carper (D-DE)*	Tim Scott (R-SC)
Benjamin Cardin (D-MD)*	Bill Cassidy (R-LA)
Sherrod Brown (D-OH)	James Lankford (R-OK)
Michael Bennet (D-CO)	Steve Daines (R-MT)
Robert Casey, Jr. (D-PA)	Todd Young (R-IN)
Mark Warner (D-VA)	**John Barrasso (R-WY)**
Sheldon Whitehouse (D-RI)	Ron Johnson (R-WI)
Maggie Hassan (D-NH)	Thom Tillis (R-NC)
Catherine Cortez Masto (D-NV)	**Marsha Blackburn (R-TN)**
Elizabeth Warren (D-MA)	

* Not running for re-election
Senators subject to re-election in 2024 in **bold**

Key Treasury and other Administration officials

Treasury Secretary	Janet Yellen
Director, National Economic Council	Lael Brainard
Director, Office of Management and Budget	Shalanda Young
Chair, Council of Economic Advisers	Jared Bernstein
Treasury Assistant Secretary for Tax Policy	Lily Batchelder
IRS Commissioner	Daniel Werfel
IRS Chief Counsel, *Acting*	William Paul
IRS Chief Counsel, *Nominated*	Marjorie Rollinson

Appendix B: Senators up for election in 2024

Democrats/Independents	Republicans
Baldwin, Tammy (D-WI)	**Barrasso, John (R-WY)**
Brown, Sherrod (D-OH)	**Blackburn, Marsha (R-TN)**
Butler, Laphonza (D-CA)*	Braun, Mike (R-IN)*
Cantwell, Maria (D-WA)	Cramer, Kevin (R-ND)
Cardin, Benjamin (D-MD)	Cruz, Ted (R-TX)
Carper, Thomas (D-DE)*	Fischer, Deb (R-NE)
Casey, Robert (D-PA)	Hawley, Josh (R-MO)
Gillibrand, Kirsten (D-NY)	Romney, Mitt (R-UT)*
Heinrich, Martin (D-NM)	Scott, Rick (R-FL)
Hirono, Mazie (D-HI)	Wicker, Roger (R-MS)
Kaine, Tim (D-VA)	Pete Ricketts (R-NE)**
King, Angus (I-ME)	
Klobuchar, Amy (D-MN)	
Manchin, Joe, (D-WV)*	
Menendez, Robert (D-NJ)	
Murphy, Christopher (D-CT)	
Rosen, Jacky (D-NV)	
Sanders, Bernard (I-VT)	
Sinema, Kyrsten (I-AZ)	
Stabenow, Debbie (D-MI)*	
Tester, Jon (D-MT)	
Warren, Elizabeth (D-MA)	
Whitehouse, Sheldon (D-RI)	

* Not running for re-election
** Special election for last two years in the term
Senate Finance Committee members shown in **bold**

Appendix C: Key tax proposals in President Biden's FY 2024 budget request

Business tax provisions	10-yr cost (billion)
Increase the corporate income tax rate to 28%	$1,325.8
Increase the excise tax rate on repurchase of corporate stock	$237.9
Tax corporate distributions as dividends	$1.4
Reduce the ability of related parties to use a partnership to shift partnership basis among themselves	$64.4
Limit tax avoidance through inappropriate leveraging of parties to divisive reorganizations	$39.2
Limit losses recognized in liquidation transactions	$5.4
Conform definition of "control" with corporate affiliation test	$5.6
Strengthen limitation on losses for noncorporate taxpayers	$71.3
Accelerate and tighten rules on excess employee remuneration	$14.2
Modify energy taxes	$36.5
Improve tax administration and compliance	$13.6
Modernize rules, including those for digital assets	$31.6

International tax provisions	10-yr cost (billion)
Revise the global minimum tax regime, limit inversions, and make related reforms	$493.3
Adopt the undertaxed profits rule (UTPR) and repeal the base erosion and anti-abuse tax (BEAT)	$549.0
Repeal the deduction for foreign-derived intangible income	$115.6
Restrict deductions of excessive interest of members of financial reporting groups	$41.3
Revise rules that allocate Subpart F income and GILTI	$3.6
Eliminate exploited mismatch in calculation of earnings and profits of controlled foreign corporations	$3.5
Reform the taxation of foreign fossil fuel income, including changing to the tax rule for dual capacity taxpayers	$66.1
Provide tax incentives for locating jobs and business activity in the US and remove tax deductions for shipping jobs overseas	$0.0

Individual tax provisions	10-yr cost (billion)
Increase top marginal income tax rate to 39.6%	$235.3
Tax capital income for high earners at ordinary rates	$213.9
Impose new 25% minimum tax on high net-wealth individuals	$436.6
Increase from 3.8% to 5% the net investment tax rate and the additional Medicare tax rate for high-income taxpayers	$344.3
Apply the net investment income tax to pass-through business income of high-income taxpayers	$305.9
Modify income, estate, and gift tax rules for certain grantor trusts	$65.1
Revise rules for valuation of certain property	$12.3
Tax carried interests as ordinary income	$6.5
Repeal deferral of gain from like-kind exchanges	$18.6

Source: Budget of the U.S. Government Fiscal Year 2024

Appendix D: Congressional Budget Office estimates for the budgetary effects of alternative assumptions about spending and revenues

Extend TCJA individual tax provisions:

Provision	Revenue estimate over 10 years ($ billions)
10%, 12%, 22%, 24%, 32%, 35%, and 37% income tax rate brackets	-1,810
Modification of child tax credit	-604
Require Social Security number for child credit	12
Increase individual AMT exemption amounts and phase-out thresholds	-1,088
Modify standard deduction	-1,036
Repeal itemized deductions for taxes not paid or accrued in a trade or business (except for up to $10,000 in state and local taxes), interest on mortgage debt in excess of $750,000, interest on home equity debt, non-disaster casualty losses, and certain miscellaneous expenses	908
Treatment of certain individuals performing services in the Sinai Peninsula of Egypt	-0.01
Suspension of exclusion for employer-provided bicycle commuter fringe benefit	0.14
Repeal of exclusion for employer-provided qualified moving expense reimbursements (other than members of the Armed Forces)	7
Repeal of deduction for personal exemptions	1,593
Limitation on wagering losses	0.63
Qualified business income deduction	-548
Repeal of deduction for moving expenses (other than members of the Armed Forces)	9
Allow for increased contributions to ABLE accounts; allow saver's credit for ABLE contributions	-0.002
Rollovers from qualified tuition programs permitted for ABLE accounts	-0.003
Election to invest capital gains in an opportunity zone	-67
Limitation on excess business losses of noncorporate taxpayers	137
Increase estate, gift, and GST tax exemption amount	-126
Extend the TCJA changes to the tax treatment of investment costs	-325

Maintain Certain Business Tax Provisions Altered by the TCJA

Provision	Revenue estimate over 10 years ($ billions)
Deductibility of employer de minimis meals and related eating facility, and meals for the convenience of the employer	-25
Rate on modified taxable income and treatment of credits in the calculation of BEAT amount	-14
Deduction percentages for FDII and GILTI	-111
Expensing of certain costs of replanting citrus plants lost by reason of casualty	-0.01

Extend Certain Other Expiring Tax Provisions

Provision	Revenue estimate over 10 years ($ billions)
Extend expansion of health insurance premium tax credit	-271
Railroad track maintenance credit	-0.2
Safe harbor for absence of deductible for telehealth	-5
New markets tax credit	-5
Employer credit for paid family and medical leave	-4
Work opportunity tax credit	-19
7-year recovery period for motorsports entertainment complexes	-0.3
Special expensing rules for certain film, television, and live theatrical productions	-5
Look-through treatment of payments between related CFCs under foreign personal holding company income rules	-8
Empowerment zone tax incentives	-3
Exclusion for certain employer payments of student loans	-7
Transfer of excess pension assets to retiree health accounts	0.1

Appendix E: Congressional Budget Office estimates of select revenue-raising options

Provision	Revenue estimate over 10 years ($ billions)
Individual	
Increase maximum taxable earnings subject to social security payroll taxes	$670 - $1,204
Impose a new payroll tax	$1,136 - $2,253
Increase individual income tax rates	$502 - $1,329
Increase rates on long-term capital gains and qualified dividends by 2 percentage points	$102
Eliminate or modify head-of-household filing status	$71 - $192
Limit the deduction for charitable giving	$257 - $272
Eliminate or limit itemized deductions	$541 - $2,507
Change tax treatment of capital gains from sales of inherited assets	$156
Eliminate tax exemption for new qualified private activity bonds	$35
Expand the base of the net investment income tax to include income of active participants in S corporations and limited partnerships	$249
Tax carried interest as ordinary income	$12
Include VA disability payments in taxable income	$161
Further limit annual contributions to retirement plans	$152
Eliminate certain tax preferences for education expenses	$128
Lower the investment income limit for the earned income tax credit and extend that limit to the refundable portion of the child tax credit	$12
Require earned income tax credit and child tax credit claimants to have a social security number that is valid for employment	$25
Expand social security coverage to include newly hired state and local government employees	$132
Increase federal civilian employees' contributions to the federal employees retirement system	$44

Provision	Revenue estimate over 10 years ($ billions)
Business	
Reduce tax subsidies for employment-based health insurance	$500 - $893
Increase the corporate income tax rate by 1 percentage point	$129
Repeal the LIFO, lower of cost or market, and subnormal goods inventory methods	$90
Require half of advertising expenses to be amortized over 5 or 10 years	$76 - $154
Repeal the low-income housing tax credit	$77
Other	
Limit state taxes on health care providers	$41 - $526
Impose a tax on financial transactions	$264
Increase all taxes on alcoholic beverages to $16 per proof gallon and index for inflation	$92 - $114
Increase excise taxes on tobacco products	$42
Increase excise taxes on motor fuels and index for inflation	$240
Impose a tax on consumption	$1,950 - $3,050
Impose a tax on emissions of greenhouse gases	$571 - $865

Source: CBO, Options for Reducing the Deficit: 2023 to 2032, Volumes 1 and 2 (December 2022)

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