KPMG report: U.S. congressional elections and tax policy; preliminary observations

November 18, 2022

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Introduction

Election Day in the United States was November 8, 2022. All seats in the U.S. House of Representatives and around a third of the seats in the U.S. Senate were in play.

As of 12:00 AM on November 18, 2022, results in a handful of House races were not yet official and the U.S. Senate race in Georgia was headed to a "run-off" election on December 6, 2022. However, it appears that, in the next Congress, Republicans will control the House and Democrats will control the Senate—but with very narrow margins in both cases.[1] Thus, it appears that, beginning in early January of 2023 (when the next Congress convenes), there will be divided government, with Democrats controlling the White House and the Senate and Republicans controlling the House.

As a general matter, divided government may make passage of major legislation in the next Congress difficult. As explained later in this report, bipartisan support would be needed for legislation to pass both chambers of Congress and to be signed into law by the president—but reaching agreement on significant legislation that has bipartisan support could be challenging in both chambers. Thus, although it is possible for Congress to pass some changes to tax law on a bipartisan basis, enacting major changes in tax policy could face significant hurdles.

This report provides preliminary observations regarding the potential tax legislative agenda in the 118th Congress (i.e., the Congress that convenes on January 3, 2023)—as well as what tax issues might be considered this year during the "lame duck" session of the current Congress (i.e., the period between the November 8th election and the end of the current Congress, expected in mid- to late-December).

This report is organized as follows:

[1] Election results in this report are based on widely reported results from major news sources.

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The big picture

As explained more below, divided government stands to make enactment of major tax policy changes difficult in the next Congress given the need to reach bipartisan agreement and to successfully navigate political challenges associated with the narrow margins of control by Republicans in the House and by Democrats in the Senate. Thus, major tax policy changes advanced by President Biden as part of his “Build Back Better” initiative that have not yet become law appear to have little chance of being enacted in the next Congress.

Nonetheless, as **explained below**, there is at least a possibility that some tax issues on which both Republicans and Democrats can agree might make their way into bipartisan legislation that can pass both chambers of Congress and be signed into law by the president.

It also is possible, but far from certain, that some tax law changes might be enacted in bipartisan legislation before the end of 2022, during the lame duck session of the current Congress. Retirement tax provisions and some tax “extenders” (i.e., provisions with scheduled expiration or modification dates) are in the mix of issues being considered for possible inclusion in year-end legislation.

In addition, IRS funding can be expected to receive significant scrutiny from congressional Republicans in both the lame duck session and in the next Congress—and cuts to IRS funding levels, conditions regarding how funding can be used, and reporting requirements potentially could be enacted in this Congress or the next Congress as part of the “give and take” of putting together bipartisan legislation.

Election results (so far)

U.S. House

The current House consists of 220 Democrats and 212 Republicans, with three (3) vacant seats.

Based on the election results as of 12:00 AM on November 18, 2022, it appears that, in the next Congress (the 118th Congress), the House will be comprised of at least 218 Republicans and at least 212 Democrats, with the results of 5 races not yet called.

Republicans, therefore, are expected to be in control of the House at the start of the next Congress. As such, Republicans would control the Speaker’s gavel, chair and maintain a majority on the various committees, and generally set the agenda for the House.

Nonetheless, the narrow margin of control means that House leadership may face a challenging task in navigating

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competing demands from different factions of a Republican caucus that include significant numbers of both conservative and moderate members.

U.S. Senate

The current Senate consists of 50 Democrats (including two Independents who caucus with the Democrats) and 50 Republicans. Democrats currently control the Senate because Vice President Kamala Harris is the president of the Senate and can vote in the Senate in the case of a tie.

Based on the election results so far, it appears there will be at least 50 Democrats and 49 Republicans in the next Senate. The run-off election for the Georgia seat is scheduled for December 6, 2022. Thus, Democrats apparently will continue to control the Senate in the next Congress, with the Georgia run-off determining whether they will increase the number of seats they hold from 50 to 51.

As a practical matter, however, at least 60 votes would be needed to advance legislation through the next Senate. (See **discussion below**.) As a result, even if all Democratic Senators were to support legislation, a significant number of Republican Senators would also have to be on board for the legislation to pass the Senate. In other words, legislation would need to have significant bipartisan support to pass the Senate.

Organizing the next Congress

The new Congress (the 118th Congress) is scheduled to begin on January 3, 2022. Any tax bills that were introduced in the current Congress (the 117th Congress), but that have not become law, will expire at the end of the 117th Congress and would need to be reintroduced in the 118th Congress to move forward in the legislative process—bills do not "carry over" to the next Congress.

Even though the 118th Congress does not begin until early next year, Republicans and Democrats have already started holding orientations for incoming members and conducting organizational activities for the new Congress.

Leadership of House and Senate

Republicans who will serve in the next House and Senate met the week of November 14 to elect their party leaders for the 118th Congress. Democrats are scheduled to meet the week of November 30 (i.e., after Thanksgiving) to elect their leaders. Committee assignments and designations of committee chairs and ranking members also are expected to take place during the lame duck session.

House

On November 15, 2022, the House Republican conference voted for Kevin McCarthy (R-CA) to be their leader. Rep. McCarthy prevailed against Rep. Andy Biggs (R-AZ), a former chair of the conservative Freedom Caucus, by a vote of 188-31.

Note, however, that the next House must vote to elect its Speaker. That vote will not take place until the next House convenes in early January of 2023. Designating the Speaker typically requires a majority vote of the House—at least 218 votes. Thus, almost all (or all) House Republicans would need to vote in favor of their party leader for that person to become Speaker if all the Democratic members were to vote for their party leader.

Some Republican members (including those who voted against Rep. McCarthy in the November 15 leadership election) might be expected to try to obtain concessions (such as certain changes to House rules) in exchange for

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their votes in the upcoming election for House Speaker. It is not yet clear to what extent this effort would be successful. Some of the proposed changes to House Rules, if adopted, could make leading a divided Republican conference even more challenging for the next Speaker.

Senate

In the Senate, it is expected that Sen. Chuck Schumer (D-NY) will continue to be majority leader.

On November 16, 2022, Senate Republicans re-elected Sen. Mitch McConnell (R-KY) as their leader. Sen. McConnell surmounted a challenge by Sen. Rick Scott (R-FL).

Tax-writing committees

Chairs, ranking members, and membership of the committees for the new Congress have yet to be determined.

Chairs

In the House, three current W&M members are vying for the top spot on the Committee of Ways and Means: **Vern Buchanan** (R-FL), **Adrian Smith** (R-NE), and **Jason Smith** (R-MO). Kevin Brady (R-TX), a former chair of the committee and current top committee Republican, is retiring at the end of the current Congress.

Meanwhile, Sen. **Ron Wyden** (D-OR) is expected to continue to be the chairman of the Senate Finance Committee, with Sen. **Mike Crapo** (R-ID) continuing to be the ranking Republican.

Membership and other issues

With Republicans taking control of the House, there would be more Republicans on the Ways and Means Committee than Democrats (reversing the current situation in which there are more Democrats on the committee than Republicans). As a result, there will be a number of new Republican faces on the committee (along with replacements for some committee members from the current Congress who will not be returning in the next Congress). New committee members and new leadership can be expected to bring new priorities to the committee’s agenda in 2023.

In the Senate, the outcome of the Georgia run-off race is expected to have an impact on the ratio of Democrats to Republicans on the Senate Finance Committee as well as on the rules for reporting legislation to the full Senate. Because the current Senate consists of equal numbers of Democrats and Republicans, Leaders Schumer and McConnell negotiated a power-sharing agreement near the start of the current Congress under which committees have an equal number of members of each party. The agreement allows Schumer or McConnell to move for a Senate floor vote to approve or disapprove the release to the full Senate a piece of legislation if a committee’s vote on whether to report the bill to the full Senate is tied.

If the next Senate has equal numbers of Republicans and Democrats, the party leaders might agree to similar power-sharing rules. However, if Democrats end up with 51 Senate seats as a result of the Georgia run-off election, such a power sharing agreement would be unnecessary. Accordingly, a clear majority will likely result in more Democrats than Republicans being appointed to the Senate Finance Committee. With a clear majority, committee Democrats would likely be more able to report legislation to the full Senate by majority vote without Republican support.

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Possible legislative agenda for next Congress

As indicated above, divided government, along with challenges associated with the House and Senate being narrowly controlled by different parties, may make it difficult for much in the way of major policy changes to become law in the next Congress -- other than "must pass" legislation, such as government funding bills, which may face their own set of challenges and may involve contentious negotiations.

The following discussion first briefly summarizes the general legislative process and then highlights what the respective tax priorities of the House and Senate might be and what priorities may have the best chance of becoming law.

General legislative process

For a bill to become law, both the House and Senate must pass identical legislation and the president must sign such legislation. Thus, for any legislation to be enacted in the next Congress, it would have to pass both the Republican-controlled House and the Democratically controlled Senate and be signed into law by President Biden.

House

In the House, the majority party controls the legislative agenda, and it only takes a simple majority to pass legislation. Thus, in the next Congress, it would not be surprising for the House to pass some "messaging" legislation reflecting Republican priorities with only Republican votes—assuming almost all Republican members (both conservatives and moderates) support the legislation.

The critical question, however, is to what extent the House might pass legislation that could also be agreeable to the Senate and the White House. House passage of bipartisan legislation could be challenging if some Republicans who oppose details of legislation pressure the Speaker not to allow floor consideration without their support or without modifying the legislation significantly.

Moreover, any House rules changes that might be made as part of organizing the next Congress might affect the analysis of how challenging it may be for the House to pass bipartisan legislation and how complicated it may be for the Republican-controlled House to negotiate compromise legislation with the Democratically controlled Senate and the White House.

Senate

Under current Senate rules, 60 votes are generally needed to avoid a filibuster of legislation. Thus, barring a change to long-standing Senate rules (a very controversial process known as the "nuclear option"), the support of at least nine or ten Republican senators generally would be needed to achieve this 60-vote threshold in the next Senate, even if all Democratic Senators were on board. In other words, legislation would need bipartisan support to pass the Senate.

There is an alternative to the general Senate rules—known as "budget reconciliation"—pursuant to which some types of legislation (including certain tax measures) can be moved forward in the Senate with only a simple majority vote. This was the process by which the laws commonly called the "Tax Cuts and Jobs Act" (TCJA) and the "Inflation Reduction Act" (IRA) were enacted in 2017 and 2022, respectively, when both chambers of Congress were controlled by the same party (the Republicans in 2017 and the Democrats in 2022).

Nonetheless, the use of budget reconciliation to move tax legislation through the next Congress appears unlikely

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because using this process requires both the House and the Senate to agree on and pass a budget resolution. This resolution creates "reconciliation instructions" charging specified committees to report legislation in the form of a "reconciliation bill" that achieves certain revenue objectives. It would be surprising for the Republican-controlled House and the Democratically controlled Senate to agree to a joint budget resolution that would allow the Senate to move legislation with fewer than 60 votes.

Thus, as a practical matter, any tax legislation that passes the Senate would need to be bipartisan. The critical question then would be whether such legislation could pass the House or would need to be modified and, if the latter, whether the House and Senate could negotiate a compromise that could pass both chambers.

President

It is unclear how President Biden will work with House Republicans. Nonetheless, it seems likely that the White House will work with Senate Democrats in attempting to advance administration priorities.

Possible non-tax agenda

It is impossible to predict the full agenda of the next Congress, but certain non-tax issues could take considerable time and could involve contentious negotiations.

"Must pass" legislation

The next Congress is expected to confront some "must pass" measures. Given the need for such legislation to be bipartisan, reaching agreement on these measures can be expected to involve challenging negotiations and "horse trading," with other issues potentially being added to reach a deal that can secure the necessary number of votes in both the House and the Senate. These "must pass" measures include the following:

- Depending upon what happens in the lame duck session, the next Congress may need to address government funding for the fiscal year that began in October of 2022 (FY 2023) one or more times before the next fiscal year begins in October of 2023 (FY 2024). It also will need to address government funding for FY 2024, whether through a continuing resolution (CR) that largely extends existing funding levels or through agreeing to appropriations bills for different government agencies. IRS funding levels can be expected to be among the contentious issues in these negotiations given concerns some Republicans have raised about the approximately $87 billion grant of funds to the IRS over a 10-year period provided by the Inflation Reduction Act.

- Depending on what happens during the lame duck session, Congress may need to pass legislation increasing the so-called "debt ceiling" to avoid defaulting on government debt obligations. Very generally, the debt ceiling is the total amount of government debt that can be outstanding under current law. Based on current projections, the limit is expected to be reached in late summer or early fall of 2023 (taking into account the extraordinary measures that Treasury typically employs to avoid "hitting" the ceiling and triggering a government default). Some congressional Republicans have indicated that they might only support an increase in the debt limit if the legislation includes other policy changes that most Democrats are not likely to support (such as spending cuts, changes to entitlement programs, or substantially reducing IRS funding).

New high priority issues also could develop related to future developments that are unknowable at the present time. Recessions and financial market disruptions have resulted in bipartisan legislation in the past, for example.

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Other issues

"**The Republican Commitment to America**" [PDF 1.38 MB] that was unveiled before the elections by current House Minority Leader Kevin McCarthy (R-CA), Rep. Patrick McHenry (R-NC), and members of the House Republican Conference highlights various other nontax matters that the Republican-led House might seek to address. Some of these issues might be addressed through "messaging legislation" that might be able to pass the House but that would not likely pass the Senate or become law.

The Commitment to America also indicates that the Republican House may hold hearings or investigations on various matters (such as Afghanistan, the origins of COVID-19, and how the IRS spends appropriated funds)—and it is possible that House Republicans may devote significant time to hearings and oversight activities.

Possible tax agenda

Given the apparent composition of the next Congress, enactment of legislation making *major* tax policy changes could be expected to be extremely challenging given different views of various Democratic and Republican lawmakers. Thus, for example, the major tax policy changes proposed in the Biden Administration's "Build Back Better" agenda that have not yet become law appear unlikely to be enacted in the next Congress. Likewise, extending the TCJA's temporarily lower income tax rates for higher income individuals beyond 2025 faces long odds of being enacted during the next Congress.

Nonetheless, as explained below, it is possible that bipartisan consensus might be possible on *some* tax issues in legislation that can pass both chambers of Congress and be signed into law by President Biden.

It also is possible that the House might pass some "messaging" legislation that signals Republican policy priorities but that does not have Democratic support and that does not advance beyond that chamber.

Possible enactment of some tax law changes

It is possible that bipartisan "must pass" legislation (such as a government funding or debt limit bill) could be a vehicle for tax provisions, with tax proposals (along with other policy proposals) potentially being part of the "horse trading" involved in putting together such legislation. Tax issues that might make their way into such legislation (or other legislation that can secure bipartisan support) might include, for example, retirement tax savings and tax extenders (if those issues are not addressed in the current Congress).[2] Non-controversial procedural changes also might be considered.

It also is possible that some tax issues might become priorities in response to future events and developments (such as possible economic "shocks" or other significant domestic or international events)—much as COVID-19 spurred tax legislation that had not been anticipated before early 2020. For example, if there is a recession, it is not beyond the realm of possibility that some tax components with bipartisan support might be included in a stimulus package—assuming it is possible for the divided Congress to put together legislation that can secure the necessary support to become law.

Finally, although not a tax issue per se, IRS funding can be expected to be the subject of discussion and hearings in the House. And, as was indicated above, Republicans in both the House and Senate might be expected to push for

[2] See the discussion of the possible agenda in **text below** for more information on retirement tax savings proposals and extenders. See **JCX-1-22** for a list of expiring provisions that was issued by the staff of the Joint Committee on Taxation ("JCT") on January 1, 2022 (i.e., before the enactment of the Inflation Reduction Act).

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the amount of IRS funding to be reduced and/or for "strings" to be attached in terms of what the IRS can do with the funds in the context of "must pass" legislation, such as government funding—with what is, or is not, ultimately included in such legislation dependent on the give and take of the negotiations process.

Possible "messaging legislation"

Prior to the elections, current House Republicans released some information about what their tax priorities would be in the next Congress. Many of these priorities might not attract the bipartisan support needed to pass the Senate and become law but could be the basis for messaging legislation that could pass the House (assuming almost every House Republican is on board).

For example, in rolling out the House Republican Commitment to America before the election, House Republican Leader Kevin McCarthy indicated that one of the very first priorities of a GOP-controlled House would be to "repeal 87,000 IRS agents"—apparently suggesting repealing or substantially cutting back the additional 10-year funding for the IRS provided by the Inflation Reduction Act.

In addition, the "**Growth Through Innovation**" [PDF 419 KB] document released as part of the Republican Commitment to America lists a variety of tax priorities, some of which reflect significantly different policy priorities than those of many Democrats. The list below, which is drawn from that document, includes a very short description of proposals, along with parentheticals referencing Republican members with proposals on these issues in the current Congress:

- Permanent middle-class tax cuts (Rep. Schweikert)
- Permanent doubling of the child tax credit (Rep. Jason Smith)
- Expanded 529 savings plans to cover homeschooling and educational therapy (Rep. Jason Smith)
- Additional middle-class tax relief, plus "death tax" relief for family-owned businesses and farms
- Make permanent the 20% Small Business Deduction (Rep. Jason Smith)
- Expand startup business tax incentives (Rep. Buchanan)
- Make the interest deduction equal to a full 30% of EBITDA accounting income (Rep. Adrian Smith)
- Provide for a doubling of the R&D tax credit (the late Rep. Walorski)
- Make permanent the expensing of R&D costs (Rep. Estes)
- Provide new incentives to bring valuable intellectual property and related jobs back to the United States (Rep. LaHood)
- Permanent full expensing for investments in U.S. facilities and equipment (Rep. Arrington)
- Providing new incentives for producing American-made medicines and critical medical supplies (Rep. Wenstrup)
- Providing support for innovators developing infectious disease treatments (Rep. Buchanan)
- Providing for bonus R&D tax incentive for infectious disease research (Rep. Buchanan)

In addition, in the current Congress, Ways and Means Republicans held a virtual meeting on making some of the temporary individual tax rates that were enacted as part of the TCJA permanent and highlighted tax law changes they would make as part of "Republicans' Commitment to An Economy That's Strong." Some of these tax priorities might be addressed by the next House as part of messaging legislation. Read a Republican Ways and Means **release** [PDF 148 KB] for more information on these proposals.

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The lame duck session

The lame duck session of the current Congress began on November 14, 2022, and will end when Congress adjourns at some point before the new Congress convenes early next January. In addition to activities associated with organizing the next Congress, the lame duck session has other priorities—with addressing continued funding for government functions for FY 2023 (which began in October of 2022) at the top of the list.

Although it is possible that the lame duck Congress may address some tax issues (such as retirement tax savings and extenders), whether it will do so or not is not yet certain.

Non-tax agenda

Continued funding for government agencies for FY 2023 is a major priority for the lame duck session. Government funding currently is scheduled to expire on December 16, 2022. Thus, unless funding legislation is enacted by that date, there would be a "government shutdown" in mid-December—a result that both Republican and Democratic leadership appear to want to avoid.[3]

As a result, discussions are ongoing regarding an omnibus appropriations bill that would fund the government through the end of the current fiscal year (i.e., through September of 2023) or a continuing resolution (CR) that would extend current funding of government agencies to some future (as yet undetermined) date. It is possible that, as part of this effort, some Republicans may try to reduce the IRS's funding for the remainder of FY 2023, to restrict how funding is used, or to impose reporting requirements on how the 10-year funding provided by the Inflation Reduction Act is spent.[4] Ultimately, a funding bill would need to have bipartisan support to become law, so compromises may be possible on this issue.[5]

Importantly, because a funding bill is viewed as "must pass" legislation, it could serve as a vehicle for some legislative proposals unrelated to funding government agencies. Negotiations regarding funding legislation will play out in the coming weeks and can be expected to involve compromises to secure the needed votes. Negotiations regarding some possible additions to the legislation may be contentious and could complicate the ability to reach an agreement that could secure sufficient votes—and it is possible that this might lead lawmakers to decide to simply keep the funding bill as "clean" of extraneous items as is possible.

Some of the *nontax* legislative issues that might come into play as part of the negotiations of funding legislation—or addressed separately—include:

- Authorizing Department of Defense activities for the fiscal year that began on October 1, 2022 (i.e., FY 2023)

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3 If such a shutdown nonetheless were to occur, note that the **contingency plan the Treasury Department released in September of 2022** [PDF 186 KB] (prior to the passage of the most recent CR) suggests that a shutdown might not affect normal IRS operations because of the additional funding the IRS received through September 20, 2031 for all IRS appropriation accounts in the Inflation Reduction Act.

4 Note that Sen. John Thune (R-SD) and Sen Chuck Grassley (R-IA) introduced on November 16, 2022, a bill requiring the IRS to submit a detailed annual plan to Congress on how the funding would be spent. The bill number is not yet available, but the bill is called the "IRS Funding Accountability Act."

5 This is in large part because 60 votes would be needed to move the legislation forward in the Senate. Some Republican votes also may be needed in the House as a practical matter.

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through the National Defense Authorization Act (NDAA)
- Supplemental funding for Ukraine
- Reforming and modernizing the 1887 Electoral Count Act
- Energy infrastructure regulatory reform
- Funding for pandemic programs
- Averting scheduled cut to Medicare provider payments
- "Marriage equality" legislation (currently being considered separately by the Senate)
- The treatment of undocumented immigrants who were brought to the United States as children

Increasing the debt ceiling also could end up being on the list of items addressed in a year-end bill. As explained earlier, the limit is not expected to be reached until late summer or early fall of 2023; however, Democratic leadership has mentioned trying to increase the debt ceiling early (i.e., before the end of this Congress), presumably to avoid the possibility that next year's Republican House may condition support for an increase in the debt ceiling on modifications to entitlement programs and spending cuts to which the Biden Administration and congressional Democrats would object. Negotiations over this issue could prove to be quite contentious and it is not currently clear whether there would be adequate support to address this issue in a year-end bill.

Finally, Senate Democrats are expected to try to move some nominations in the lame duck session—including not only judicial nominations that are already in the pipeline but also, possibly, the recent nomination of Danny Werfel to serve as IRS Commissioner. [Read ***TaxNewsFlash*** for President Biden's announcement of the nomination.] Nonetheless, it is possible that Senate leadership may not make confirming a new IRS Commissioner a priority in the lame duck session given apparent Democratic control of the Senate next year.

Possible tax legislative issues in lame duck

With such a crowded nontax agenda, it is not certain whether any tax law changes will be addressed in the lame duck session. However, some tax provisions relating to retirement tax savings and some extenders (including the treatment of R&E expenditures) are in the mix and have a fair chance of being acted on before the end of the year—although the ultimate outcome remains quite uncertain.

Retirement tax savings

There is bipartisan interest in advancing retirement tax savings legislation based on legislation passed by the House in 2021 (the "Securing a Strong Retirement Act of 2021") as well as a bill that was approved by the Senate Finance Committee earlier this year (the "Enhancing American Retirement Now (EARN) Act." Read ***TaxNewsFlash*** on the "Securing a Strong Retirement Act of 2021" and ***TaxNewsFlash*** on the EARN Act.

Key House and Senate tax writers have been discussing bipartisan compromise legislation on this topic, putting a retirement savings package in a good position in the event the door is opened to including tax provisions in a funding bill or to moving the package separately.

Extenders

The issue of whether the so-call "tax extenders" will be addressed in the lame duck session is more complicated and extends beyond the threshold question regarding how expansive or narrow the scope of a year-end bill might be. There are also differences that remain to be resolved regarding the size and scope of a possible extenders package.

As background, there are a number of tax provisions that are scheduled to expire or to be modified on specified

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dates. These include some tax provisions that have been on the "extenders list" for many years—such as the cost recovery treatment of racehorses. Many lawmakers also view some recently enacted provisions as extenders. These include the enhanced refundable child credit provisions that were enacted in 2021 as well as the following three scheduled changes that were enacted as part of the TCJA (two of which have already taken effect):

- Capitalization and amortization over a five-year period is required for specified R&E expenditures under section 174 paid or incurred in tax years beginning after December 31, 2021.
- For tax years beginning on or after January 1, 2022, the calculation of the limitation on the deduction of net business interest income changed (such that less of a deduction is allowed for some taxpayers).
- Bonus depreciation begins to phase down for property placed in service in 2023.

Some key lawmakers might be expected to want to address extenders in the lame duck session and to "clear the decks" of this issue in the next Congress. Indeed, extenders often are dealt with at the end of a Congress—without revenue offsets for the estimated revenue loss associated with the provisions.

Nonetheless, even if there is an opportunity to include "extraneous" provisions in a year-end bill, political trade-offs between the provisions that reduce business taxes, and the child credit might not be easily accomplished. Some congressional Democrats have indicated they will not support extenders legislation, which consists largely of provisions benefiting business, without some sort of expansion of the child tax credit. While reaching a compromise on the scope of both an expanded child credit and an overall extenders package appears to doable, negotiations are still ongoing, and the ultimate outcome is not certain.

Other

It is also possible that other tax issues might come up as part of negotiating year-end legislation, including issues of interest to particular members of Congress or to the Treasury Department. For example, qualified opportunity zones reporting and other miscellaneous "member" issues might be raised. Likewise, the possibility of changes to details of some of the tax provisions in the recently enacted Inflation Reduction Act being raised cannot be completely ruled out. The outcome of any issues that might be raised in the course of negotiations obviously is not clear at this time.

General explanation of Inflation Reduction Act provisions

Although not directly related to the future legislative agenda, it is worth nothing that, within the first several months of 2023, the staff of the Joint Committee on Taxation (JCT) may release a "blue book" describing the tax provisions in the Inflation Reduction Act, such as the new alternative minimum tax on certain large corporations (the CAMT). The JCT staff typically releases a general explanation of significant recently enacted legislation. Release of the blue book could be helpful to taxpayers in better understanding the CAMT and other provisions in the IRA, as well as to Treasury as it continues to implement the IRA.

Note that, although blue books can be relevant in interpreting a law, they do not constitute official legislative history. See, e.g., *United States v Woods,* 134 S.Ct. 557 (2013).

Learn more

On November 16, 2022, KPMG hosted a one-hour webcast on the implications of the elections on possible federal and state legislation. Topics addressed included:

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- An overview of federal and state election results so far
- Prospects for federal tax legislation in the next Congress
- Potential impact of the elections on Biden Administration tax priorities, tax extenders, and other tax issues
- State ballot measures and the impact of the elections on future state tax changes.

Listen to a **replay** of the webcast.

Stay tuned to ***TaxNewsFlash-Legislative Updates*** for developments relevant to potential federal tax legislation.

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