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Bipartisan tax deal clears Ways and Means; March funding bill emerges as possible legislative vehicle

A bipartisan tax agreement between the two top congressional taxwriters that would temporarily reverse certain taxpayer-unfriendly business tax provisions enacted under the Tax Cuts and Jobs Act of 2017 (P.L. 115-97) and temporarily enhance the current-law child tax credit cleared a significant hurdle this week after it won approval in the House Ways and Means Committee, although assorted lawmakers in both parties and both chambers continue to voice reservations about what is—and isn't—included in the proposal.
URL: https://www.congress.gov/115/plaws/publ97/PLAW-115publ97.pdf

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Meanwhile, the House and Senate approved and sent to President Biden a short-term continuing resolution that would avert a pending partial government shutdown and push the deadline for funding government operations for fiscal year 2024 into early March, so if the tax bill does advance in Congress, a subsequent appropriations package may be available to carry it to the White House.

Tax proposal at a glance

House taxwriters approved the Tax Relief for American Families and Workers Act of 2024 (H.R. 7024) during a committee mark-up on January 19 by a bipartisan vote of 40-3. (Democratic Reps. Lloyd Doggett of Texas, Linda Sanchez of California, and Gwen Moore of Wisconsin were the sole dissenters.) The framework for the measure was unveiled three days earlier by Ways and Means Committee Chairman Jason Smith, R-Mo., and Senate Finance Committee Chairman Ron Wyden, D-Ore., following months of behind-the-scenes negotiations.
URL: https://gop-waysandmeans.house.gov/wp-content/uploads/2024/01/AINS-to-H.R.-7024.pdf

At a high level, the marquee provisions in the bill would:

- Delay through 2025 mandatory capitalization of research expenditures under section 174—for domestic expenditures only—retroactive to expenses paid or incurred in tax years beginning after December 31, 2021;
- Reinstate 100 percent bonus depreciation through 2025, for qualified property placed in service after December 31, 2022;
- Reinstate through 2025 the allowance for depreciation and amortization for the 30 percent limitation on interest deductions, retroactive to taxable years beginning after December 31, 2023, and, if elected by the taxpayer, retroactive to taxable years beginning after December 31, 2021; and
- Enhance the child tax credit through 2025 by permitting the refundable portion of the credit to be calculated on a per-child basis (for tax years 2023, 2024, and 2025), gradually increasing the overall limit on refundability (for tax years 2023 through 2025), allowing parents to use prior-year income to qualify for the credit (for tax years 2024 and 2025), and indexing the maximum credit amount for inflation (for tax years 2024 and 2025).

Other provisions would alleviate double taxation burdens on Taiwanese companies operating in the United States, temporarily enhance the low-income housing tax credit, increase the small business expensing limit and index it for inflation, provide tax relief for victims of certain federally declared disasters, and increase the dollar threshold that triggers certain information reporting requirements for payments by a business for services performed by an independent contractor or subcontractor.

The measure also includes revenue-raising provisions that are intended to address perceived fraud in the pandemic-era employee retention tax credit (ERTC) program.

A section-by-section summary of the bill is available from the taxwriting committee staff. A description of the legislation as introduced and a description of certain technical modifications to the child tax credit and ERTC

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provisions that were included in an amendment in the nature of a substitute shortly before the mark-up are available from the nonpartisan Joint Committee on Taxation (JCT) staff.
URL:
https://www.finance.senate.gov/imo/media/doc/the_tax_relief_for_american_families_and_workers_act_of_2024_technical_summary.pdf
URL: https://www.jct.gov/publications/2024/jcx-2-24/
URL: https://www.jct.gov/publications/2024/jcx-4-24/

The JCT staff estimates that the amendment in the nature of a substitute would, on net, increase federal deficits by $399 million between 2024 and 2033. The tax relief provisions in the measure would reduce federal receipts by nearly $77.5 billion over the 10-year budget window while the curbs on the ERTC program would increase receipts by $77.1 billion over the same period.
URL: https://www.jct.gov/publications/2024/jcx-5-24/

What happens next?

With House leadership still noncommittal on moving the bill through the chamber, Ways and Means Chairman Smith is undoubtedly hoping that the bipartisan committee support it received at the mark-up will demonstrate the bill's bipartisan bona fides and increase its likelihood of passage in the House under suspension of the rules, an expedited process that provides for limited debate, no amendments, and a two-thirds vote for passage rather than the usual simple majority that is needed to pass legislation under a "rule."

"Today's strong bipartisan vote in the Ways and Means Committee shows there is a path forward for Republicans and Democrats to come together and deliver tax relief for workers, families, farmers, and small businesses," Smith said in a press statement shortly after the vote.

In noting his intent to vote in favor of the bill during the mark-up, New Jersey Democratic Rep. Bill Pascrell seemed to reflect the views of many Democrats on the committee, saying, "I think it's an attempt at fairness. . . . [I]f I was writing the bill, I would've obviously made some changes. . . . But you know that corny saying, the enemy of the good is the perfect."

The quickest timeline the House schedule will allow would put the legislation on the floor the week of January 29, after the chamber is back in session following a previously scheduled district work period; however, even this would not provide for enactment of the law before the filing season for tax year opens on January 29, as Finance Committee Chairman Wyden and others have repeatedly said is their goal.

If leadership were to try to move the bill through the House under so-called "regular order," it could be a more difficult process. Among other concerns, regular order could open the legislation up to amendments (not allowed under the suspension of the rules), which is the hope of some Republicans championing changes to the current cap on state and local tax (SALT) deductions. GOP members from states with high taxes on income and property, such as New York, New Jersey, and Illinois, have been clamoring for repeal of or an increase in the current cap of $10,000 per household.

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However, the bill's authors believe opening the legislation to further changes puts at risk the carefully balanced compromise they reached.

"If we continue to allow for additional changes like the state and local tax, it will sink the bill," Smith said on Bloomberg TV January 17, despite a remark to reporters from freshman New York GOP Rep. Mike Lawler claiming that Republicans seeking SALT deduction changes are the majority-makers who "gave Chairman Smith his job."

Democrats from states with higher taxes also have long sought to tackle the SALT cap, and taxwriter Bill Pascrell introduced an amendment during the Ways and Means mark-up that would have increased the cap to $60,000 for single filers and $120,000 for married couples filing jointly. That amendment was defeated on a party-line vote.

Much of the discussion and debate at the mark-up was around the child tax credit, which most Democrats in both the House and Senate have long advocated be made more generous than what is proposed in this new bill. Before voting against the legislation, Rep. Lloyd Doggett, D-Texas, said, "Compromise is good, but compromising children is not," and he argued that the bill lacked equity for working class families while providing "a massive tax cut" to large corporations.

As was the case with Pascrell's proposal to modify the SALT cap, three amendments proposed by Democrats to further enhance the child tax credit were rejected along party lines. Washington Rep. Suzan DelBene's amendment would have fully reinstated the credit as it was enacted on a temporary basis in American Rescue Plan, while other Democrats sought to revive pieces of the enhanced credit from that 2021 legislation. (California Rep. Linda Sanchez proposed to make the credit fully refundable and Alabama Rep. Terri Sewell sought to make the credit payable in advanceable monthly installments.)

Some challenges ahead in the Senate?

In the Senate, however, a polar opposite view on the child tax credit could be a key stumbling block for the bill—if it gets out of the House—as some Finance Committee Republicans have criticized the new structure of the credit and argued that it does not appropriately incentivize taxpayers to work. Earlier in the week, taxwriter Tom Tillis, R-N.C., told reporters, "We've still got work to do on eligibility work requirements."

Other Senate Republican taxwriters have been less specific about changes they would like to see in the legislation but have indicated they don't support the bill as crafted by Wyden and Smith. The committee's top Republican, Sen. Mike Crapo of Idaho, said this week when asked about his support, "There are issues."

Another taxwriter, Sen. John Cornyn, R-Texas, told *Politico* January 17, "This is something that the Finance Committee should take up and mark up here in the Senate separately, not just have these deals sort of cooked up behind closed doors."

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The path this legislation could take through the Senate is still an unknown. Stand-alone tax bills are rarely considered on the Senate floor, as they attract a large number of amendments from rank-and-file senators, and it can be hard for leaders to keep control of the process. So while Senate Majority Charles Schumer, D-N.Y., has endorsed the bill, and the supportive taxwriters in both chambers will want the legislation considered quickly, it's not clear how realistic that is.

A large bipartisan House vote in favor of the bill, similar to that at Ways and Means, could be seen by congressional leaders as an indication that this package is safe to include as part of another must-pass bill, such as one of the government funding packages that now will come due in early March. (More on that below.) Those spending bills will be subject to significant political wrangling and are not guaranteed to pass smoothly, however, so there is risk in relying on them for the tax bill's success; nonetheless, they are the next likely opportunities on the congressional horizon, assuming passage on a stand-alone basis is not possible.

White House on board

At the White House, meanwhile, Press Secretary Karine Jean-Pierre said January 19 that while President Biden would have preferred more expansive enhancements to the child tax credit, the Ways and Means-approved bill "is a welcome step forward and we believe Congress should pass it."

"Let's not forget this is for millions of families, millions of families," she said. "It's going to lift hundreds of thousands of children out of poverty and support construction of hundreds of thousands of affordable rental housing as well, in that bipartisan agreement."

Just-approved CR sets up early March government funding deadline

The chances that government funding legislation may be available to provide a vehicle for a tax package grew this week after the House and Senate approved and President Biden signed a continuing resolution (also known as a "CR") that will avert a government shutdown that otherwise would have taken place midnight on January 19, when a tranche of funding under the "laddered" CR that had been keeping the government's doors open was scheduled to lapse. Under the that CR—a construct of Speaker Mike Johnson, R-La., that was enacted late last year—government operations were continued at fiscal year 2023 funding levels through January 19 for some departments and agencies and through February 2 for others.

New deadlines of March 1 and 8: This week's CR (H.R. 2872) cleared the Senate on January 18 by a vote of 77-18 and was approved in the House later that day by a vote of 314-108. President Biden signed it into law on January 19.
URL: https://www.congress.gov/bill/118th-congress/house-bill/2872

The measure maintains a "laddered" structure, extending funding at fiscal 2023 levels through March 1 for the four appropriations measures that had otherwise been scheduled to lapse after January 19, and through March 8 for the remaining eight spending bills.

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"It's critical we . . . pass the strongest possible funding bills—and soon," Senate Appropriations Committee Chairman Patty Murray, D-Wash., said on January 17. "But as that work continues, we absolutely have to prevent a harmful government shutdown. . . ."

"So I am really glad there is bipartisan agreement in both chambers on a CR to avert that shutdown so we can get our bills done," Murray continued. "And I certainly hope that it is the last CR that we consider."

Senate passage of the CR was never in much doubt given the broad recognition among party leaders and top appropriators in that chamber that additional time is required to complete action on full-year spending bills for fiscal 2024, which began last October 1.

Passage through the House was a trickier exercise, however, since it meant Speaker Johnson had to renege on an earlier pledge that he would not consider additional short-term CRs after Congress approved the previous laddered stop-gap. Furthermore, Johnson had already drawn the ire of the conservative House Freedom Caucus, who have insisted on steep spending cuts and believe that he made too many concessions to Democrats in negotiating topline appropriations numbers for federal departments and agencies earlier this month. (That agreement largely adheres to the fiscal 2024 appropriations levels that were negotiated by President Biden and then-Speaker Kevin McCarthy, R-Calif., and signed into law last June in the Fiscal Responsibility Act (P.L. 118-5).) And with three Freedom Caucus members effectively holding veto power on the powerful House Rules Committee—the panel that sets the terms for debating bills on the House floor—Johnson was effectively forced to bring this week's CR straight to the floor under the fast-track "suspension of the rules" process.
URL: https://www.congress.gov/118/plaws/publ5/PLAW-118publ5.pdf

The suspension process is normally reserved for noncontroversial bills, but may become more commonly employed by Johnson given the fractures in his caucus—a reality that could further anger conservatives as Republican leaders are forced to rely on significant numbers of Democrats to get even basic legislation through the lower chamber.

Tax package 'under suspension'?: As already noted, there also has been speculation that, should Ways and Means Chairman Smith convince Speaker Johnson to attempt to move the bipartisan tax deal through the House on its own, rather than trying to attach it to appropriations legislation now not due until March, GOP leaders may have to place the tax bill on the suspension calendar in order to sidestep hazards such as demands by members of the so-called SALT caucus to address the $10,000 limit on the itemized deduction for state and local income and property taxes.

But even if House leaders were to move the tax bill under suspension, such an expedited process does not exist in the Senate where—absent a procedural effort by Senate Majority Leader Schumer to block the filing of amendments (a process known as "filling the amendment tree") the bill would be subject to debate and amendment on the floor and would need the support of at least 60 senators to move toward final passage. The possibility that the measure could become a target for amendment—as tax legislation often is—would weigh heavily on Senate leaders' decision-making as to legislative process.

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We expect to learn more about how these dynamics will play out in the days and weeks ahead.

— Alex Brosseau, Michael DeHoff, and Storme Sixeas
Tax Policy Group
Deloitte Tax LLP

Fiscal cliff in 2025 looms large in JCT's latest expiring provisions list

A slew of temporary tax provisions set to lapse after 2025—many of which were enacted in the Tax Cuts and Jobs Act of 2017 (TCJA, P.L. 115-97)—accounts for more than 40 percent of the 89 tax "extenders" that are scheduled to expire between 2024 and 2034, according to a recently released report from the Joint Committee on Taxation (JCT) staff.
URL: https://www.congress.gov/115/plaws/publ97/PLAW-115publ97.pdf
URL: https://www.jct.gov/publications/2024/jcx-1-24/

A reckoning for the TCJA

The Tax Cuts and Jobs Act moved through a Republican-controlled Congress in 2017 under budget reconciliation rules which, among other things, prevented the measure from increasing federal deficits outside of the 10-year budget window (at that time covering 2018 through 2027). To meet that constraint, lawmakers designed the net $1.3 trillion package to provide a mix of permanent tax cuts (generally focused on businesses) and temporary relief (generally focused on individuals and passthrough entities). As a result, under the measure as enacted, the bulk of the provisions on the individual side of the code (including for passthrough entities) are in effect only through 2025. Some of the headline tax relief provisions that are set to lapse include reduced tax rates on ordinary income; repeal of what's known as the "Pease" limitation on itemized deductions; increases in estate and gift tax exemption amounts, alternative minimum tax exemptions, the standard deduction, and the child tax credit; and the 20 percent deduction for certain passthrough business income.

Other notable TCJA provisions that are scheduled to sunset after 2025 include the higher deduction percentages for global intangible low-taxed income (GILTI) and foreign-derived intangible income (FDII), the limitation of the deduction for state and local taxes (SALT), and the repeal of the personal exemption.

That list could grow if Congress adopts provisions in the bipartisan tax package released this week by House Ways and Means Committee Chairman Jason Smith, R-Mo., and Senate Finance Committee Chairman Ron Wyden, D-Ore., that would renew expensing of some research expenditures and a more generous limitation on business interest deductibility (both of which have now lapsed under the TCJA) and reinstate 100 percent expensing of certain capital investments (which, as enacted in the TCJA phased down to 80 percent in 2023 and 60 percent in 2024). As currently proposed in the Tax Relief for American Families and Workers Act of

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2024 (H.R. 7024), those tax relief provisions also would expire at the end of 2025. (See separate coverage in this issue for additional discussion of that proposal.)
URL: https://gop-waysandmeans.house.gov/wp-content/uploads/2024/01/H.R.-7024-Bill-Text.pdf

Making the upcoming cliff even more precipitous is that fact that several significant non-TCJA tax incentives—such as lookthrough treatment of payments between certain related controlled foreign corporations, the new markets tax credit, the work opportunity tax credit, accelerated cost recovery for motorsports entertainment complexes, expensing of certain qualified film and live theatrical production costs, and the employer credit under section 45S for paid family and medical leave—that were renewed for five years under an omnibus tax-and-spending package enacted in December of 2020 are also scheduled to expire at the end of 2025.

The future of the TCJA tax cuts is likely to frame much of the tax policy debate ahead of the presidential and congressional elections this November. Republican candidates likely will push for long-term—or even permanent—extensions of the expiring provisions. Democratic candidates, meanwhile, are likely to contend that the TCJA's tax benefits should be extended only for less affluent taxpayers (such as those with incomes below $400,000, the threshold often cited by the Biden administration) or be allowed to lapse.

Two tranches of Inflation Reduction Act clean energy incentives

The Inflation Reduction Act of 2022 (P.L. 117-169)—the roughly $740 billion tax-and-spending package that moved through a Democratic-controlled House and Senate under fast-track budget reconciliation rules in the 117th Congress—will come in for its own reckoning with the scheduled sunset of 14 clean energy tax incentives in 2024 and another 12 in 2032. These provisions generally are intended to reduce consumer energy costs, increase domestic energy security and manufacturing, and reduce greenhouse gas emissions. Some of these are new incentives that were created in the Inflation Reduction Act, while others were available under prior law but were extended—and in some cases enhanced—under the reconciliation measure.
URL: https://www.congress.gov/117/plaws/publ169/PLAW-117publ169.pdf

Provisions expiring in 2024 include, among others, the beginning-of-construction date for renewable power facilities eligible to claim the renewable electricity production credit or the investment credit in lieu of the production credit; the beginning-of construction date for the increased credit for business solar property and the credit for fiber-optic solar property, fuel cell property, microturbine property, geothermal property, combined heat and power system property, small wind energy property, and waste energy recovery property; and incentives for biodiesel and renewable diesel, sustainable aviation fuel, and alternative fuel and alternative fuel mixtures.

Among the provisions sunsetting in 2032 are credits for carbon oxide sequestration; alternative fuel refueling property; nonbusiness energy property; clean hydrogen production; zero-emission clean nuclear production; advanced manufacturing production; energy-efficient home improvements; and for new clean electric vehicles, previously owned electric vehicles, and commercial electric vehicles.

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A detailed discussion of all the clean energy tax provisions in the Inflation Reduction Act is available from Deloitte Tax LLP.
URL: https://www2.deloitte.com/us/en/pages/tax/articles/inflation-reduction-act-2022-clean-energy-incentives.html

As is the case with the TCJA expiring provisions, support for or opposition to many of these incentives—particularly those targeted to clean energy products and projects—is likely to break largely along party lines. In this instance, Democrats are expected to back long-term or permanent extensions while most Republicans are expected to call for allowing them to expire or even repealing them ahead of their sunset dates.

Other highlights

Airport and Airway Trust Fund excise taxes are set to expire in a matter of weeks—on March 8 of this year—after Congress approved a short-term extension late last month.

Examples of other provisions that are due to lapse in the coming years include the advanced manufacturing investment credit, bonus depreciation, and the election to invest capital gains in an opportunity zone (in 2026); Highway Trust Fund excise taxes and the limitation on excess business losses for noncorporate taxpayers (in 2028); Superfund excise taxes (in 2031); and the residential clean energy credit and the beginning-of-construction date for the increased geothermal heat pump property credit (in 2034).

— Michael DeHoff
Tax Policy Group
Deloitte Tax LLP

No surprises at Senate Budget Committee hearing on tax code and corporate offshoring

Democrats and Republicans on the Senate Budget Committee stuck to largely familiar policy positions on issues such as the Tax Cuts and Jobs Act (TCJA, P.L. 115-97) and the Pillar Two global corporate minimum tax during a January 17 hearing on how the current tax rules affect the level of offshore activity among large multinational corporations.
URL: https://www.congress.gov/115/plaws/publ97/PLAW-115publ97.pdf

Tax Cuts and Jobs Act

Budget Committee Chairman Sheldon Whitehouse, D-R.I., who also sits on the Senate Finance Committee, contended in his opening statement that while the Trump administration and congressional Republicans claimed that the reduced corporate tax rate and other provisions in the Tax Cuts and Jobs Act—such as the global intangible low-taxed income (GILTI) rules, the foreign-derived intangible income (FDII) rules, and the base erosion and anti-abuse tax (BEAT) regime—would encourage US-based multinationals to bring money

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and jobs back to the US, the practical effect of the law has been to create new incentives for offshoring, including in low-tax jurisdictions.

"The [TCJA] supercharged the offshoring incentive, claiming to set guardrails that many pointed out were doomed from the start," Whitehouse said. "[W]ith the offshore tax breaks baked into law, . . . US multinationals reported nearly 60 percent of their foreign profits in 15 tax havens in 2020, dwarfing what they reported in countries where they did real business," he added.

Whitehouse touted his No Tax Breaks for Outsourcing Act, a proposal he introduced last year with Democratic House taxwriter Lloyd Doggett of Texas that would, among other things, tighten certain GILTI and FDII rules and treat foreign corporations that are managed and controlled in the US as domestic corporations for tax purposes.
URL:
https://www.whitehouse.senate.gov/imo/media/doc/No%20Tax%20Breaks%20for%20Outsourcing%20Act%20118th2.pdf

For his part, Budget Committee ranking member Charles Grassley, R-Iowa, who was in the hospital and did not attend the hearing, defended the TCJA in a prepared opening statement that was read into the record by committee member Ron Johnson, R-Wis.

Grassley contended that the TCJA modernized US international tax rules and aligned US corporate tax rates with those of our major trading partners. Moreover, he noted, the law "reversed a decades-long trend of a shrinking corporate tax base," adding that its enactment has had a chilling effect on corporate "inversion" transactions (in which a US entity merges with or is acquired by a foreign entity).

According to Grassley, the Biden administration's plans to undo major TCJA provisions and increase taxes on large US corporations, along with its support for a global corporate minimum tax, would mean a return "to an international tax system that puts US companies at a disadvantage in overseas markets while also surrendering our sovereignty and tax base to foreign nations."

Others on the panel addressed the impact of the TCJA more broadly. Budget Committee member Tim Kaine, D-Va., contended that benefits of the 2017 law accrued primarily to corporate shareholders while the major bills enacted in the Biden administration—notably, the Infrastructure Investments and Jobs Act (P.L. 117-58) and the Inflation Reduction Act (P.L. 117-169)—are having a greater economic impact through direct investments in infrastructure and domestic manufacturing.
URL: https://www.congress.gov/117/plaws/publ58/PLAW-117publ58.pdf
URL: https://www.congress.gov/117/plaws/publ169/PLAW-117publ169.pdf

Budget Committee member Chris Van Hollen, D-Md., asked the witnesses who appeared at the hearing if the TCJA bore out claims by the Trump administration and congressional Republicans that the tax cuts would "pay for themselves" through increased economic growth.

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Four of the witnesses—Kimberly Clausing (a former Treasury Department official in the Biden administration and now with the UCLA School of Law), Roy Houseman (of United Steelworkers), John Arensmeyer (of the Small Business Majority), and James R. Hines, Jr. (of the University of Michigan School of Law), agreed that the 2017 tax cuts did not generate sufficient economic growth to be revenue neutral. One witness—Mindy Herzfeld of the University of Florida Levin College of Law—stated that she was not qualified to offer an opinion. (Clausing, Houseman, and Arensmeyer were invited by the panel's Democrats. Hines and Herzfeld were invited by the panel's Republicans.)

Pillar Two

Chairman Whitehouse endorsed the Pillar Two 15 percent global corporate minimum tax being advanced through the OECD, arguing, among other things, that current US tax rules place large multinational corporations at a competitive advantage over domestic entities since multinationals have the flexibility to locate factories and jobs in low-tax jurisdictions.

Kimberly Clausing commented in an exchange with Whitehouse that Pillar Two addresses issues of corporate competition on two fronts: first, it sets a minimum tax rate of 15 percent globally, thus putting US multinationals on a level playing field with foreign competitors; second, it alleviates potential tax disparities between US multinationals and domestic corporations and makes the US a more attractive place to invest.

Upcoming fiscal cliff

Budget Committee member Ron Wyden, D-Ore., who also chairs the Senate Finance Committee, asked Clausing to identify the key priorities Congress should pursue as the nation approaches 2025, when a host of temporary tax provisions—including many of the TCJA's tax breaks for individuals and passthrough entities—are scheduled to expire. (See separate coverage in this issue for details on the recently released report from the Joint Committee on Taxation staff listing all the tax code provisions that are due to lapse between 2024 and 2034.)
URL: https://www.jct.gov/publications/2024/jcx-1-24/

Clausing replied that Congress should focus on making the tax code more progressive—for example, by enhancing the child tax credit and earned income tax credit as well as enacting provisions to ensure top-tier taxpayers are paying an appropriate level of tax on all of their income. She also recommended that the US work with its global partners to address international tax competition as well as climate change.

Clausing also agreed with Wyden on the merits of his proposal to impose an annual mark-to-market regime on high-wealth taxpayers to curb the so-called "buy, borrow, die" strategy employed by some ultrawealthy taxpayers to avoid taxes on appreciating assets. ("Buy, borrow, die" was the centerpiece of a Finance Committee hearing last November that examined how the tax code allows the most affluent individuals to minimize their tax bills. For prior coverage, see *Tax News & Views*, Vol. 24, No. 38, Nov. 10, 2023. For details on

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the mark-to-market proposal Wyden released shortly after that hearing, see *Tax News & Views*, Vol. 24, No. 40, Dec. 1, 2023.)
URL: https://dhub.deloitte.com/Newsletters/Tax/2023/TNV/231110_2.html
URL: https://dhub.deloitte.com/Newsletters/Tax/2023/TNV/231201_5.html

Tax, spending, and federal deficits

Budget Committee member Mike Braun, R-Ind., asked the witnesses to opine on whether changes to tax policy or spending policy would have a greater impact on bringing the deficit under control.

Clausing, Houseman, and Arensmeyer all agreed that tax policy plays a significant role in deficit reduction, although they noted that spending issues cannot be ignored. Hines and Herzfeld placed greater weight on the role of spending policy in addressing the deficit.

— Michael DeHoff
Tax Policy Group
Deloitte Tax LLP

Deloitte Tax looks at more year-end guidance from Treasury, IRS

New alerts from Deloitte Tax LLP discuss guidance from the Treasury Department and the Internal Revenue Service issued late last year on the conclusive presumption of worthlessness for debt held by regulated financial companies under section 166 and the treatment of certain basis adjustments under section 961(c), as well as recently released draft instructions for taxpayers requesting a Form W-9.

Worthless debt held by regulated financial companies

Proposed regulations (REG-121010-17) published in the Federal Register on December 28, 2023, revise the circumstances in which indebtedness is conclusively presumed to be worthless to the extent of a charge-off on an applicable financial statement. The conclusive presumption of worthlessness applies in determining a taxpayer's eligibility to claim a bad debt deduction under section 166. The proposed regulations apply to certain regulated financial companies and other members of certain regulated financial groups.
URL: https://www.taxnotes.com/research/federal/proposed-regulations/proposed-regs-address-bad-debt-deductions-financial-companies/7hqbq

Eligible companies may choose to apply the proposed regulations to claim bad debt deductions in taxable years ending on or after December 28, 2023; however, a taxpayer must obtain IRS consent to change to the method of accounting for bad debts provided by the proposed regulations before using this method.

A new alert from Deloitte Tax provides an overview of the proposed regulations.
URL: https://dhub.deloitte.com/Newsletters/Tax/2024/TNV/240119_2_suppB.pdf

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Section 961(c) basis adjustments

The Treasury Department and the Internal Revenue Service released Notice 2024-16 on December 28, 2023, announcing their intention to issue proposed regulations that address the treatment of basis adjustments made pursuant to section 961(c) in certain transactions in which a domestic corporation acquires the stock of a controlled foreign corporation (CFC) from another CFC in a liquidation to which section 332 applies, or in an asset reorganization described in section 368(a)(1).
URL: https://www.irs.gov/pub/irs-drop/n-24-16.pdf

A new alert from Deloitte Tax provides a general summary of the notice.
URL: https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/dttl-tax-alert-us-12-january-2024.pdf

Draft Form W-9 requester instructions

The government released a draft of updated Instructions for the Requester of Form W-9 on December 21, 2023. These instructions clarify the requirements for new Line 3b included in the draft Form W-9, Request for Taxpayer Identification Number and Certification, published on July 26, 2023, and provide guidance on Line 3a and other updates related to section 1446.
URL: https://www.irs.gov/pub/irs-dft/iw9--dft.pdf

A new alert from Deloitte Tax discusses the updates in the draft instructions.
URL: https://dhub.deloitte.com/Newsletters/Tax/2024/TNV/240119_2_suppA.pdf

— Michael DeHoff
Tax Policy Group
Deloitte Tax LLP

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