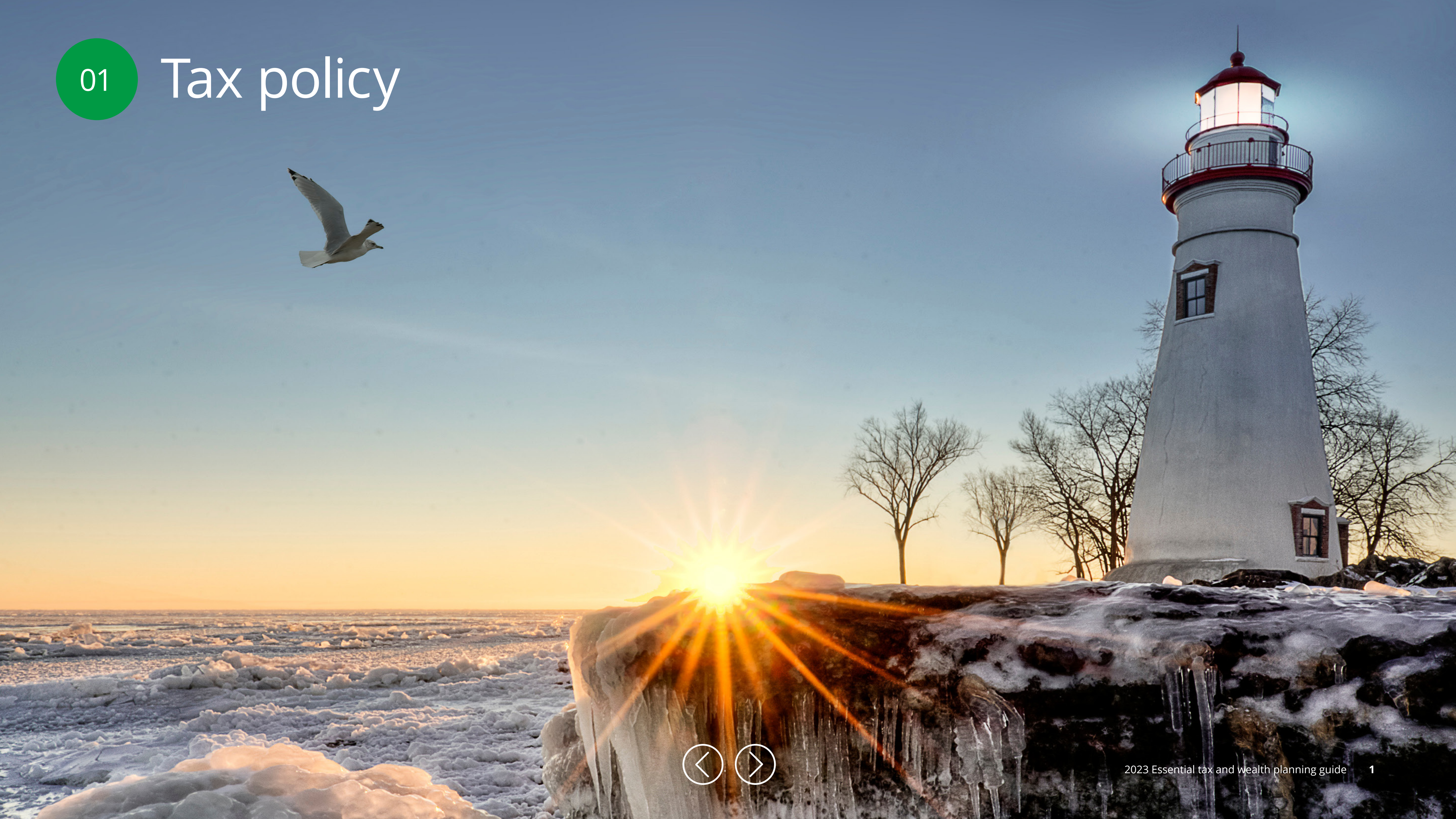
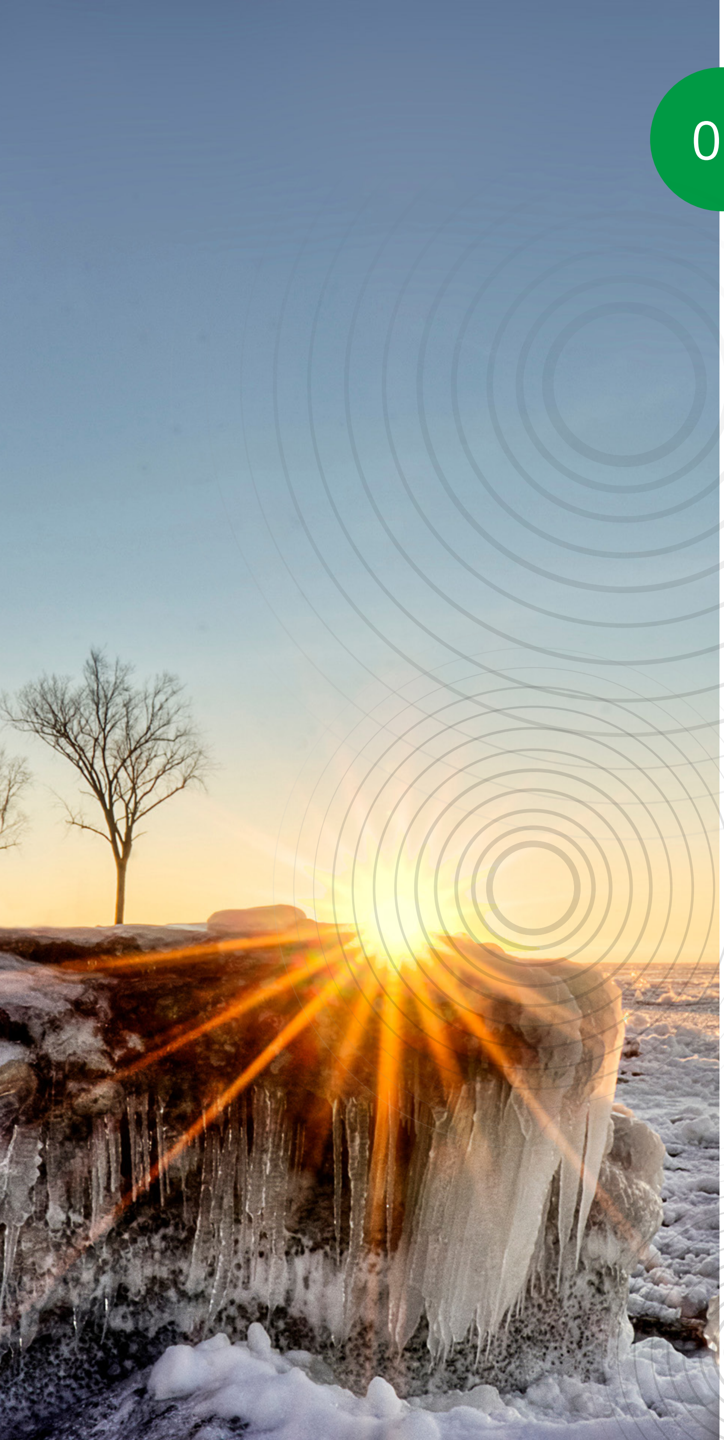


01 Tax policy



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TAX POLICY

Legislative outlook: Government funding is job #1, but year-end tax package is possible

The House and Senate enter the closing days of the 117th Congress having wrapped up work on the Inflation Reduction Act, the roughly $745 billion tax-and-spending plan that was signed into law in August.

The tax provisions in the new law focus heavily on the corporate side of the tax code, although it is worth noting that there is a two-year extension of the rules under section 461(l), which disallow certain business losses for noncorporate taxpayers. The measure also includes roughly $80 billion in new funds that will be available to the Internal Revenue Service over 10 years, with much of that amount set to be allocated to strengthening tax collection and enforcement efforts focused on wealthy individuals and large corporations as part of the Service's overarching goal of narrowing the "tax gap"—the difference between the amount of taxes owed to the federal government and the amount paid and collected on a timely basis. The new funding is expected to be directed largely to modernizing information technology, improving data analytic approaches, and hiring and training agents dedicated to auditing highly complex returns involving sophisticated tax transactions.

"Lame duck" government funding measure could include tax provisions

Congress's chief goal now is to keep the government's doors open for fiscal year 2023. The House and Senate were unable to agree on a unified spending plan in time for the start of the new fiscal year on October 1, so they instead adopted a short-term continuing resolution that funds the government at fiscal year 2022 levels through mid-December. Lawmakers are expected to approve a more durable funding agreement during a "lame duck" legislative session after November's midterm congressional elections.

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But tax policy could also be on the agenda during the lame duck as lawmakers seek to use the year-end funding bill as an opportunity to advance assorted tax-relief proposals that fell through the legislative cracks over the past year and possibly enact an additional round of retirement security reforms. Any agreement on tax issues likely would be combined with the government funding measures into an omnibus legislative package.

SALT cap relief: Congressional Democrats representing jurisdictions with high local income and property taxes may well resume their longstanding efforts to eliminate or relax the current-law $10,000 cap on the deduction for state and local taxes (SALT), which was enacted in the Tax Cuts and Jobs Act (TCJA) and is scheduled to expire after 2025.

The Build Back Better legislation that the House approved last November called for temporarily increasing the cap on the deduction to $80,000; however, that provision proved to be problematic for some Democrats in the Senate (who believed that it would primarily benefit wealthier taxpayers) and it emerged as one of many points of contention that kept Build Back Better legislation from advancing in that chamber. Although members of what has become known as the "SALT Caucus" had vowed this summer that they would block the Inflation Reduction Act (the successor legislation to Build Back Better) if it did not include a similar provision, they ultimately backed down from that position and SALT cap relief was left out of the enacted measure.

Retirement security: There is bipartisan, bicameral support for enacting another round of retirement security protections that would build on 2019's SECURE Act, particularly in light of the fact that two prominent boosters of retirement legislation—House Ways and Means Committee ranking member Kevin Brady, R-Texas, and Senate Finance Committee member Rob Portman, R-Ohio—did not seek re-election this year and will leave Capitol Hill when the 117th Congress expires.

The House overwhelmingly approved a bipartisan "SECURE 2.0" bill this past March. (For prior coverage, see ***Tax News & Views***, Vol. 23, No. 13, Apr. 1, 2022.) The Senate Finance Committee unanimously cleared its version of a SECURE 2.0 measure in June. (For prior coverage, see ***Tax News & Views***, Vol. 23, No. 22, June 24, 2022.) Finance Committee Chairman Ron Wyden, D-Ore., and ranking member Mike Crapo, R-Idaho, formally introduced that proposal in the Senate on September 8. (***Legislative text*** and a ***section-by-section summary*** are available from the Finance Committee staff.)

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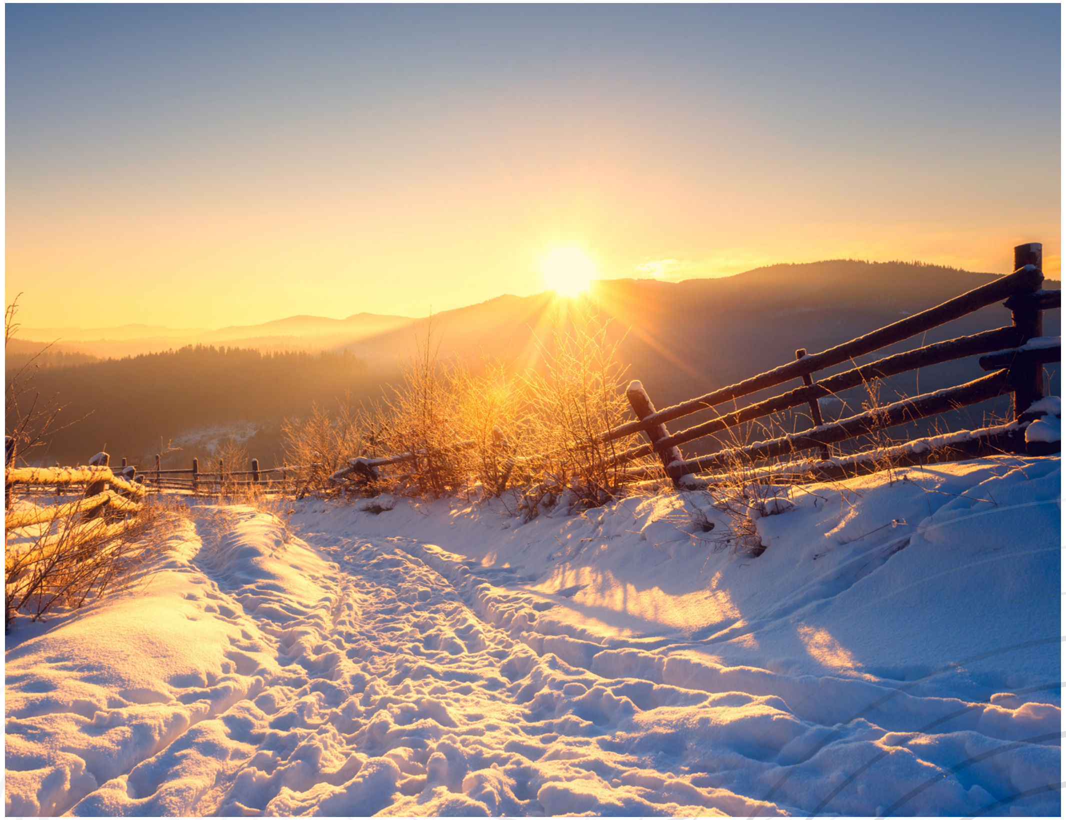
Both bills include provisions that, broadly speaking, are aimed at making it easier for businesses to offer tax-qualified retirement savings plans to their employees and for individuals to participate in retirement plans and grow their tax-preferred savings. The Joint Committee on Taxation staff estimates that both bills would generate relatively modest increases in federal receipts over the 10-year budget window, primarily by offsetting forgone revenue with provisions that would make certain retirement accounts and retirement account contributions subject to after-tax "Roth" treatment.

Other possible tax provisions: Lawmakers also could push for passage of several targeted business tax provisions that, among other things, would: reverse (or relax) certain TCJA changes related to the treatment of research expenditures, the interest expense limitation, and bonus depreciation; provide relief from more stringent 1099 reporting requirements for so-called third-party payment processors that were enacted in the American Rescue Plan in 2021 and took effect this year; modify the last-in-first out (LIFO) inventory recapture rules to assist car dealers impacted by recent supply chain issues; renew a handful of expired and expiring tax "extenders" provisions; and make so-called tax "technical corrections" to both the Tax Cuts and Jobs Act and the Inflation Reduction Act.



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TAX POLICY

Legislative outlook: Government funding is job #1, but year-end tax package is possible

Midterm results will determine how much gets done

The breadth of a potential lame duck bill is currently unclear. The election results will play a significant role in setting expectations for what can happen in a year-end legislative session since each party's appetite for striking a deal will depend in large part on how they perceive their relative power both before and after the 118th Congress officially convenes next January.

Moreover, to the extent a deal is possible, the wide range of issues in play could make for complex and difficult negotiations, and lawmakers would need to be careful to avoid producing a bill so big that it collapses under its own weight.

Find out more

For continuing coverage of tax legislative developments, see *Tax News & Views* from Deloitte Tax LLP.

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