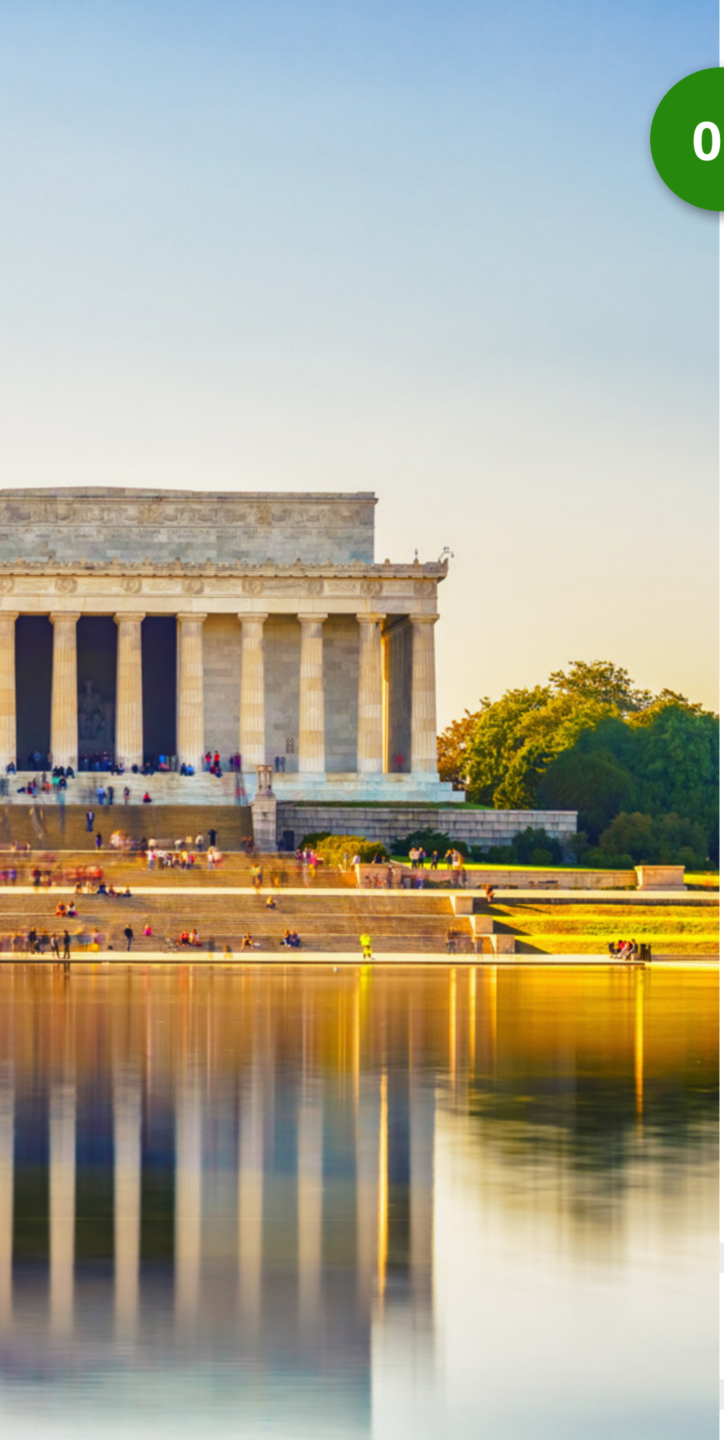
01 Tax policy



TAX POLICY

Implications of the 2024 election

The nation has voted and the results are now in: Donald Trump has been elected to serve as the forty-seventh president of the United States and will assume responsibility for the nation’s fiscal policy beginning on January 20, 2025.

Tax policy’s role in the campaign

Tax generally played a subordinate role during the election campaign, and when it did emerge as an issue, Trump and his Democratic challenger, Vice President Kamala Harris, presented their respective policy visions largely in broad strokes. One underlying component of the tax policy discussion was the future of the Tax Cuts and Jobs Act of 2017 (TCJA, P.L. 115-97), the signature legislation of the first Trump administration that moved through a Republican-controlled Congress under fast-track budget reconciliation protections.

That law fundamentally changed the tax treatment of US-based multinationals, lowered corporate and personal tax rates, doubled the child tax credit, and broadened the tax base for both businesses and individuals.

The bulk of the TCJA’s corporate changes are permanent law; however, because of long-term fiscal constraints baked into the budget reconciliation process—namely, that legislation moved under the special parliamentary procedure cannot increase the deficit in the years beyond the budget resolution that includes the underlying reconciliation instructions—Congress opted to make many of the provisions on the individual side of the tax code temporary, with sunset dates at the end of 2025.

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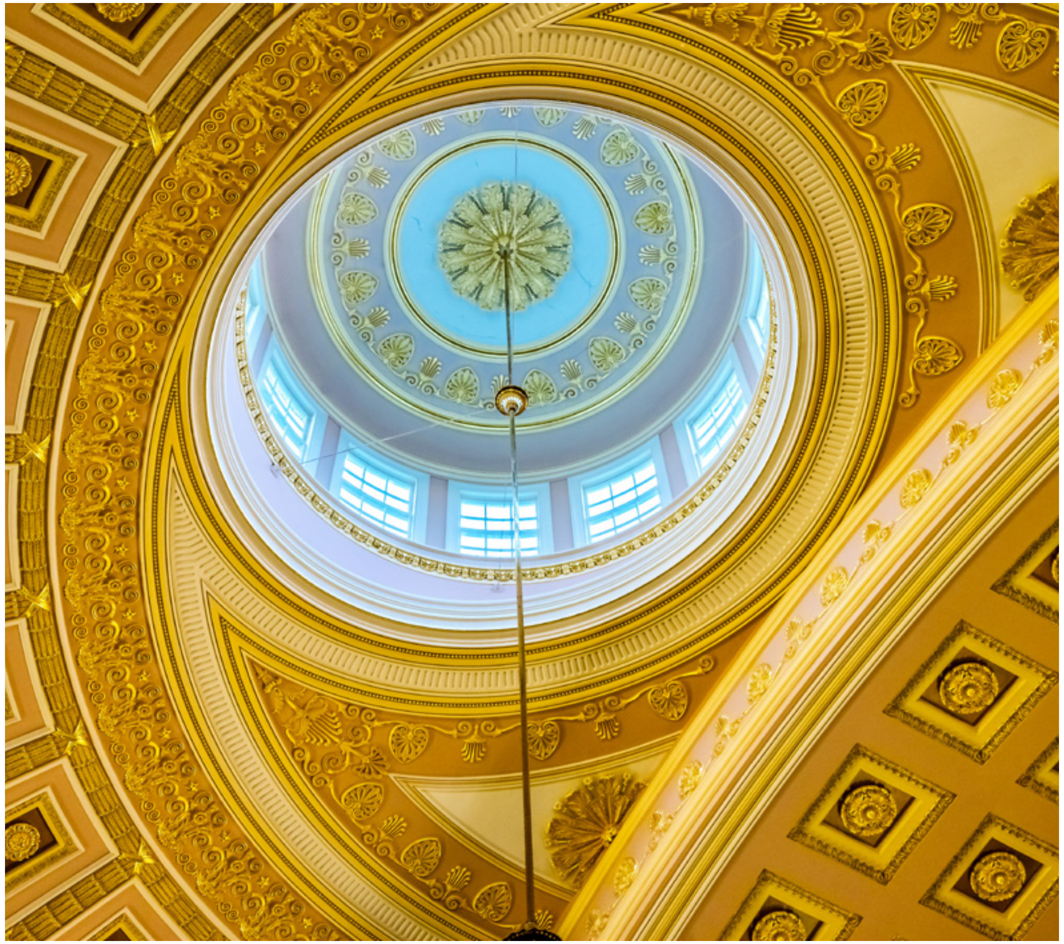

Among the more notable provisions scheduled to lapse are the reduced income tax rates for individuals, increased exemption amounts for the individual alternative minimum tax and the estate and gift tax, the doubled child tax credit, the increased standard deduction, and the 20% deduction for permanent passthrough business income. Lawmakers also included revenue-raising provisions with delayed effective dates, some of which have since come into effect, as well as other changes that will raise further revenue from multinational corporations and are scheduled to take effect after the end of next year.

All of this sets up the prospect of a massive fiscal cliff for former—and future—President Trump and the incoming 119th Congress as they grapple with how to address the pending expiration of marquee TCJA provisions. The nonpartisan Congressional Budget Office (CBO) estimated in May that the 10-year cost of permanently extending all of these provisions, as Trump has proposed, will come in at $4.6 trillion (including additional debt service costs). That represents a $1.1 trillion increase from similar projections the agency issued in 2023. Adding to the magnitude of the challenge ahead for the White House and Congress is the scheduled expiration next year of some significant temporary non-TCJA tax benefits, such as the new markets tax credit, the lookthrough rules for controlled foreign corporations in section 954(c)(6), and the enhanced tax premium tax credit for certain individuals who purchase health insurance on one of the Affordable Care Act exchanges.

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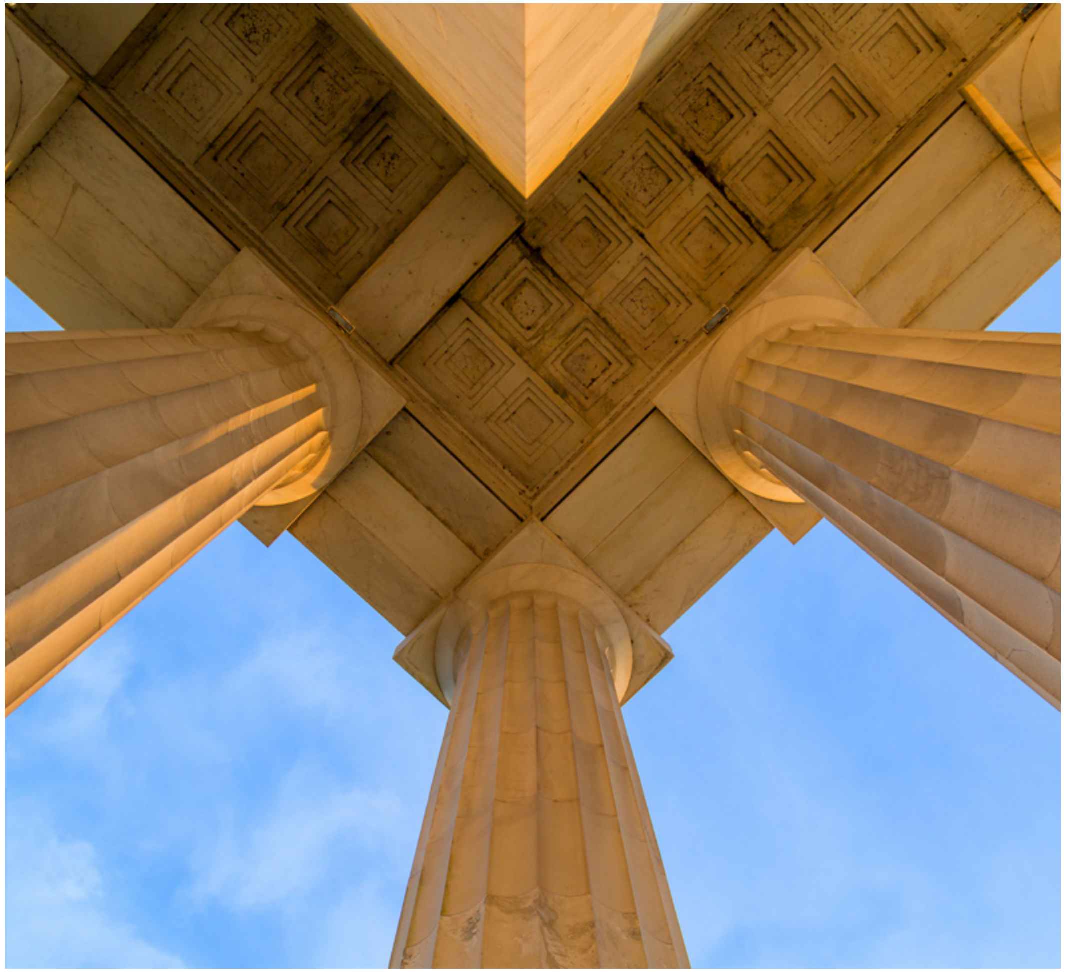
Trump's tax agenda

Trump has proposed long-term extensions of all of the TCJA's expiring tax cuts, so if his plan becomes law, taxpayers should expect to see key items such as their income tax rates and their AMT and estate tax exemptions continue at their current levels and for the 20% passthrough deduction to remain in place.

The former—and future—president's blanket TCJA extension includes one notable exception, however. In a move that took many by surprise, he announced during the campaign that he would allow the TCJA's $10,000 cap on the deduction for state and local taxes (SALT) to expire as scheduled at the end of 2025. Thus, the unlimited SALT deduction that had been in effect under prior law would be restored—a change that, if enacted, would be particularly beneficial to taxpayers who live in jurisdictions with high local income and property taxes.

Trump also has proposed to reduce the corporate tax rate to 15% for companies that manufacture their products in the US. (The TCJA permanently set the corporate tax rate at 21%.)

Beyond preserving the expiring TCJA tax cuts, Trump has proposed a series of tax relief measures targeted largely to less affluent taxpayers, including federal tax exemptions for tip income, overtime pay, and Social Security benefits, as well as new deductions for interest on automobile loan payments and for certain expenses associated with having a newborn child.



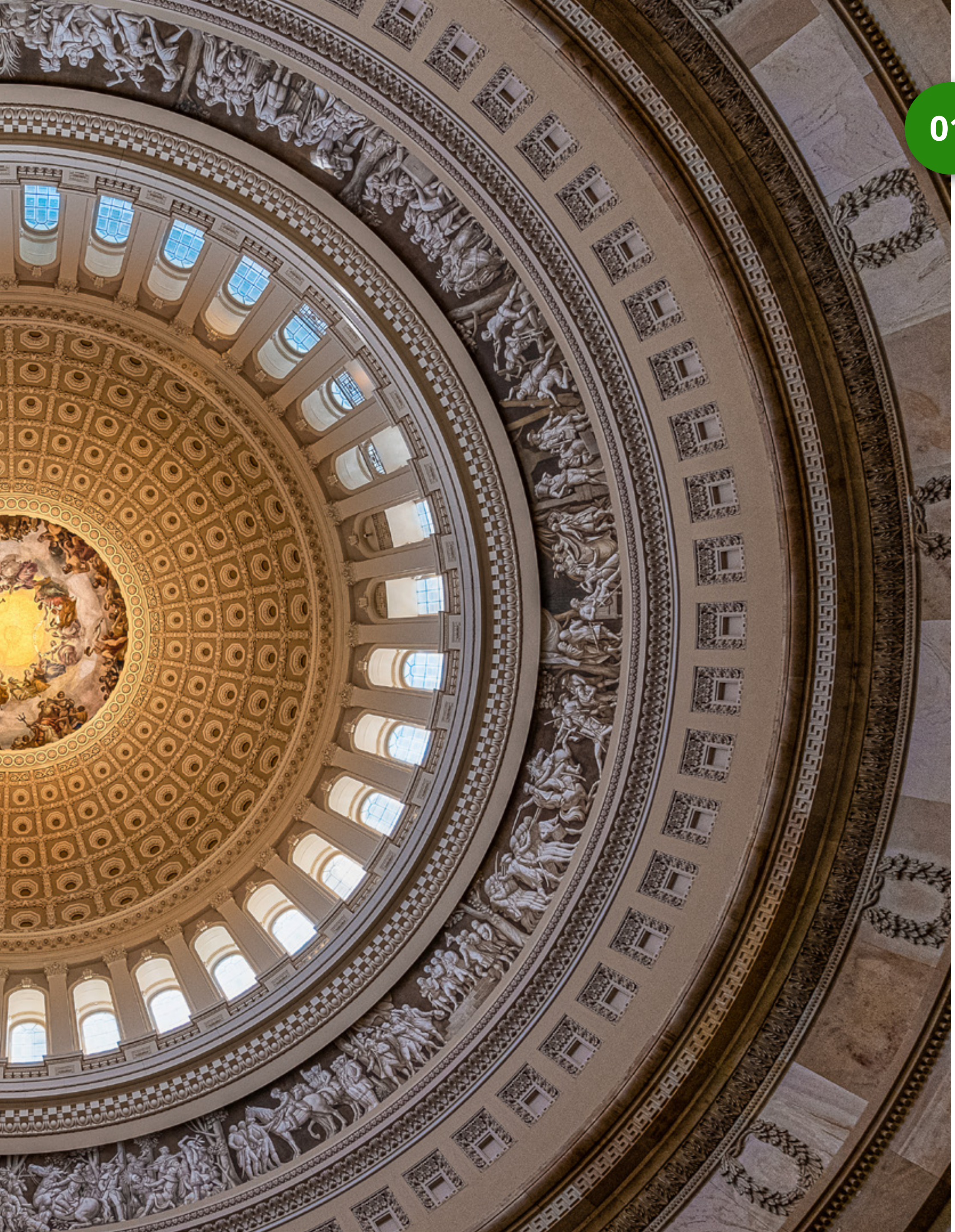
Implications of the 2024 election

TCJA extensions likely will require revenue raisers

As already noted, the nonpartisan CBO has estimated that extending all the expiring TCJA provisions, as Trump has proposed, would cost $4.6 trillion over 10 years (including additional debt service costs). And although official estimates are not yet available, his proposals to further reduce the corporate tax rate and provide additional tax cuts are likely to raise the overall cost of his tax plan even higher.

Given that reality, plus the CBO's increasingly gloomy long-term deficit outlook, there are growing calls within Congress for fiscal discipline, and even some lawmakers who previously had been averse to raising revenue to pay for tax cuts are beginning to acknowledge that the cost of extending the TCJA and enacting other tax relief next year may need to be at least partially offset with tax increases. House Ways and Means Committee Chairman Jason Smith appeared to open that door when he stated at a legislative seminar sponsored by BakerHostetler in May that there are Republican lawmakers who believe the corporate tax rate cut in 2017 may have been too deep, and who now may be willing to buck what has been regarded historically as GOP orthodoxy and consider an increase in the rate as a viable revenue raising option for a future tax bill.[1] It's worth noting that one GOP Senate taxwriter—Thom Tillis of North Carolina[2]—and one member of the conservative House Freedom Caucus—Chip Roy of Texas[3]—have since publicly stated that they would be open to a small corporate rate increase. It is unclear whether there is an appetite among congressional Republicans for raising revenue from individuals, either through tax increases or base-broadening provisions.

1. Cady Stanton. "Some House Republicans Want to Raise Corporate Rate, Smith Says," *Tax Notes*, May 9, 2024.
2. Joseph Zeballos-Roig. "Trump's idea to lower corporate tax rate draws more Republican skepticism," *Semafor*, Aug. 1, 2024.
3. Brian Faler. "Corporations face reversal of fortune as 2025 tax debate heats up," *Politico*, June 18, 2024.



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TAX POLICY

Implications of the 2024 election

How the new Congress may shape the agenda

President-elect Trump will come into office with a tax policy agenda, but writing tax legislation is the prerogative of Congress. Trump and congressional leaders will approach the tax policy debate with their own unique priorities and their own expectations regarding what an acceptable deal should look like, which means that at least some of his proposals could be revised—perhaps significantly—as they move through the legislative process.

Watchwords for taxpayers: Evaluate, model, plan

Despite uncertainty over the exact direction that future negotiations over tax policy may take, significant tax law changes—including corporate-focused revenue increases—remain a real possibility. It is not too early to start evaluating any proposals being put forward or any options that may have surface appeal, modeling potential outcomes, and planning the appropriate actions to take if and when these proposals go from high-level plans and talking points to fully framed legislative policies with substance, effective dates, and, presumably, anti-avoidance rules. Being nimble and not getting locked into any one theory of what will happen will be critical.

Find out more

Scaling the cliff: Tax policy implications of a Donald Trump presidency, a new publication from Deloitte Tax LLP, provides additional details on President-elect Trump's tax policy goals and how they may be shaped by a Republican-controlled House and Senate in the 119th Congress.