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2026 Midterms: What the Election Results Mean for Tax Policy

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Carrie Falkenhayn: Welcome to the Tax News and Views Podcast. In this series, we talk to specialists from Deloitte about the latest business issues. I'm Carrie Falkenhayn, your host for Tax News and Views, and today we are recording a special tax policy edition to discuss what we might expect following the 2026 Mid-term elections. Joining me today are my frequent guests on tax policy topics. We have Anna Taylor and Mark Roman from Deloitte Tax Policy Group. Thank you both for joining us. And Anna, I'm going to start with you. Let's just start with the election results. What were your biggest takeaways and what message did voters send to Washington?

Anna Taylor: Well, so we are recording a day after the election. And as of today, we have a Senate with a Democratic majority with 54 Democrats and 44 Republicans and two races remaining to be called, one in Alaska and one in Mississippi. Now, if you had said a month ago that the Mississippi Senate race was going to be too close to call the day after the election, people would have looked at you a little funny, but that's where we are in this moment. But Democrats clearly have a majority in the Senate and in the House as well. Democrats are projected to have north of 250 seats in the House, you needed 218 seats to have the majority there. You're going to have a House Democratic majority as well. And this was really a historic outcome. You had huge swings all across the country from the 2024 results. Democrats won seven Senate seats yesterday in states that Trump carried in 2024. And that's just so far. Like I said, there's two more that are still outstanding and could go either way. You have your first Democratic senator in Kansas since 1932, your first Democratic senator in Texas since 1988. Just, a really big swing from the electorate this

cycle. And in terms of what that means for the Democratic caucus, I think it's really interesting because you're going to see a caucus that has Democrats elected in these purple and red areas, and therefore expectations are you'll see some potentially more moderate, more centrist Democrats in the caucus. With that said, there definitely were candidates who were further to the left, who also when you had a Michigan Senate candidate who was further to the left who won his Senate seat as well. You're going to see leadership having to navigate maybe a fair way to put it is a much broader caucus in terms of the political leanings that will be with represented within the caucus and like, as they're going through making their decisions on how to set their agenda and what policies their positions they're going to take. But all of that, from the leadership perspective is a good thing because they have broadened their tent and they are now connecting with voters that they were not connecting with in the last cycle or two. And they see that as a very positive, positive thing, not just for today and this Congress, but they hope for the next few Congresses going forwards.

Carrie Falkenhayn: So clearly there were some historic results, but would you say anything surprised you?

Anna Taylor: Well, I think maybe what I just said, it was really kind of a nationwide realignment of voting patterns here where you saw these areas that they have not competed in many years become not just competitive, but winnable. I do think that that's going to change the way Democrats approach the whole country as you move into the next cycle. And I think that is a big deal and not something we necessarily expected as we approached Election Day.

Carrie Falkenhayn: All right, Mark, before we dive into the impact of these, the Midterms on the legislative landscape for next year, let's just talk a little bit more about what might happen through the end of this year, right? There's the potential for another government funding deadline, right, coming up on December 11th. There's also been speculation that Congress and the Republicans who are still in power there might want to move one more partisan reconciliation bill before they hand over the Senate and the House next January. And then, of course, we always have the lame duck session. What do you think might happen still this year?

Mark Roman: Yeah, Carrie, we're not out of the 119th Congress yet, right? There's still probably, a 6 or 7 week kind of sprint here. And Republicans, should they choose, have a pretty clean path to move forward. You have Speaker Johnson, who has said he's not going to run for leadership again. He's, not sort of holding those burdens. He's unencumbered to be able to do the dealing that he needs to do to keep the government open and functioning. You have in the House, Minority Leader Jeffrey, who's sort of primed to become speaker here. And he's kind of got such a big majority that Anna alluded to next Congress, that he can do a little deal making here too and not worry about his speaker vote next Congress. So, like there is a world where we could have kind of a clean government funding extension into next year. We could clear National Defence Authorization Act and there's kind of some low hanging tax items out there that could get cleared. There's a tax administration bill that the Senate passed that's sitting in the House, there's a Taiwan Tax Treaty. There are some technical corrections to a retirement package. There's digital asset taxation rules. And then there's some tax extenders items that could be addressed as well. That would be sort of the conventional path that this lame duck could take.

But I put an asterisk on that, and I put the asterisk being Republicans, when they come back here, are very quickly going to have a discussion about should they try another reconciliation package. And the reason for doing that would be kind of twofold. Number one, it would be to get the additional defence money that they've been seeking, that the president's been seeking, that will be much more difficult in divided government. And then also to clear a leverage point next Congress that Democrats would have, which would be another increase in the debt ceiling. Look, I think Republicans are going to have that conversation. I think they're going to make a go at it. I think they're going to come up short for a number of reasons. A big one being, you had so many members that just lost. Attendance is always an issue during a lame duck. You have folks that don't really want to be here, put it, don't really want to put in the late nights that are required for a reconciliation bill. I'm really kind of hard pressed to see them getting it done. But I think they're

certainly going to try. And when they try, that might complicate a lot of the bipartisan conversations that will be needed around some of those other issues. But those are some things to watch out for as Congress returns in a few short days here.

Carrie Falkenhayn: All right, Anna, we're going to have a new dynamic, right? We're going to have a divided government. What does that mean for the ability of Congress as well as the administration to advance their respective legislative priorities once we get to the next Congress?

Anna Taylor: Well, traditionally divided government has meant that you're going to see a focus on smaller kind of niche issues rather than sweeping legislation a la, OBBBA. You're unlikely to see both parties come together and do these massive, kind of reform packages that just hasn't happened in the last several years. And they can focus on smaller things they might be able to agree on. There's probably space for them to talk about housing policies, maybe something in the energy space. You've already seen the president willing to engage on this permitting reform negotiation that has gone on over the last several months. Would he be willing to talk about the tax side of energy as well? We'll have to wait and see, but it's possible. And then Democrats are going to be, of course, wanting to talk about health care affordability as well. And is there some room for them to do some sort of smaller deals in those spaces? I think jury's still out, but they may try. And then Mark alluded to this, I think, but there's definitely going to be inflection points where they have to work together. That particularly means, government funding, keeping the lights on. They're going to have to figure out how to do that and not, or we'll end up in a shutdown again. We'll see how that goes. We're going to have a government funding negotiation that's going to have to happen by December 11th of this year, which we talked about with respect to the lame duck session.

But whatever they decide to do there, whether it's some sort of short-term patch to get into the spring of next year, whether it's, best case scenario, they get, a year, at some point in the next year, you're going to have to see Democrats and the White House work together on government funding. And of course, debt limit, if it doesn't get dealt with in a reconciliation bill and lame duck, will have to be dealt with at some point next year too. That could be, those inflection points could be when they find the way to get to the deal on those smaller niche issues attaching those things as ways to negotiate the debt limit deal or the funding deal. And then I think it's important to know that you could see Democrats pursue Reconciliation bills, even though they don't have a White House that necessarily will sign them, and why would they do that? Well, they don't have 60 votes in the Senate. So, if they want to write policies in some of these spaces and have them pass the Senate, have them affirmatively pass the Senate, they'll need to do it under reconciliation. And could have House, Senate reconciliation bills that they basically dare the president to veto. It's not a certainty that they'll do that, but I do think it's a possibility and something to keep an eye on.

Carrie Falkenhayn: So given that possibility, what do we think the tax policies that the Democrats are going to focus on next year?

Anna Taylor: I like to think about it in kind of three buckets. And look, I will start by saying they probably don't know yet because they have a lot of new members who aren't even in Washington yet and who are going to have opinions and want to weigh in in setting this agenda. I think jury is definitely still out, but I think it's fair to say they're going to focus on kind of three buckets of things. The first is fixing policies that have either been enacted or not enacted over the past two years that they think were not handled correctly. I would put in that bucket the IRA energy credit changes that were made in OBBBA, the expiration of the Affordable Care Act premium credit enhancements, and then kind of the trade and tariff policies were at large. I think they want to attack all three of those and will want to do that sooner rather than later. And then in addition to those changes, I think they're going to want to look at other affordability policies. I think they would probably argue that a lot of those things I just mentioned will help taxpayers deal with affordability challenges, but they will probably look in other places as well, whether it's other energy policies or housing policies or, expansion of the child tax credit or the earned income tax credit. I think that they'll have conversations to try to figure out what they can do more broadly on affordability in addition to just kind of those fixing things up front. And then the last bucket I like to think about is, how do you, in a fiscally responsible way, enact those things in the first two buckets? All of those things or a lot of those things are

going to have a cost. And if they want to, try to pay for them, they're going to have to come up with revenue raising policies for the other side of the ledger. There are a number of different places I think they'll look on the revenue raising front, both on the corporate side of things, as well as on the high income individual side of things. And you can be certain that they're trying to figure out right now, kind of like, what is in that Venn diagram of like the things that the president might agree to on the revenue raising front that they also would be interested in. A couple of things come to my mind immediately that were discussed in OBBBA that weren't ultimately used. There was carried interest that was on the table that the president was apparently open to, if not interested in pursuing. And then they also talked about raising the top rate on the top individual income bracket. I think that that's another area where you could expect it them to say, do test the waters to see if they have any interest from the president on that.

Carrie Falkenhayn: Mark, where do you see the greatest opportunities for bipartisan cooperation in the next Congress?

Mark Roman: Yeah, it's a good one, Carrie. There's one thing that Anna said earlier that I think would take folks aback a minute, that Democrats without controlling the White House would pursue reconciliation. Republicans did that exact same thing in 2016. We wrote a reconciliation bill. It went on the president's desk. He vetoed it but it was to set up for when Republicans had the trifecta a few years later to be able to pursue it with president's signature. There's a lot of reasons why Democrats may try that. You asked me where they may find a willing partner in Republicans. Some of that's not going to be by choice. An example that Anna spoke about earlier was the debt ceiling. The debt ceiling being dealt with, if it doesn't get dealt with this Congress and gets dealt with next Congress, is going to necessitate bipartisan compromise. The tax code could be open in that moment. It could be open in one of two ways. A way to help get our fiscal house in order. So, are the parties looking for additional revenue in some of the places Anna just discussed? Or are they looking to attach taxpayer benefits to a debt ceiling increase to help with vote counting? What could that look like? Well, again, Anna mentioned a couple priorities to Democrats, a return of the enhanced premium tax credits, some of the IRA energy tax provisions. Could they look to attach some of those policies in a debt ceiling moment? That could be one moment where you see bipartisan deal making around the tax code. Another one that's going to have to happen is at the end of 2020. You have all those expiring individual provisions from One Big Beautiful bill. No tax on tips, no tax on overtime. You have the Trump account seed money, the additional deduction for seniors. Again, is that a moment where the code is open to just extend those things and potentially enhance them? Or is it open to look for offsets? We don't know yet but that's a potential area where you're going to have to have bipartisan compromise around the tax code. And then there may be an item that both parties just agree would be great to work together on. One that comes to mind for me is retirement savings. And the President's been out there and saying he wants to build on the savers match, build on some of the secure 2.0 provisions that help get more individuals into retirement accounts and more retirement savings. And Democrats have very much said the same thing. That could be a moment where both parties come together to work on some tax code measures around retirement savings. Those are some areas that I'm watching.

Carrie Falkenhayn: Even if divided government really limits the process for major tax legislation, the administration still has considerable authority through the regulatory and other administrative actions. What are you watching, Mark, on the regulatory front, particularly as Treasury continues OBBBA implementation?

Mark Roman: We're going to see a lot of action continue on the Treasury and sort of reg front, and that's going to kind of continue. And candidly, Democrats may do an uptick in some of that oversight as a result. But I think before year end, we're really watching some final rulemaking around some of the international changes in One Big Beautiful bill. Those changes were effective immediately. Therefore, kind of the regs need to be in place 18 months later. We're coming up on that year end. A big one we're kind of waiting on is final rules around prohibited foreign entities, foreign entity of concern around energy credits. There's a debt test question there that Treasury's, I think, been grappling with that everybody's kind of waiting on to see what direction that goes. That's something we expect out by end of the year. You could also see by the end of the year, Treasury's talked about additional changes to Form 990 around tax exempt entities. We've

heard that could come by year end. And then a big one that's supposed to come kind of Q1 early next year is kind of Treasury's put out a bunch of things around corporate alternative minimum tax they're supposed to put out a big sort of rolled up guidance and rulemaking around it. I'll be fascinated to watch how that goes, because again, that could trigger a lot of conversations on Capitol Hill around sort of CAMT and Treasury's regulatory approach there. Those are some of the ones that I'm watching, in the here and now and over the next six months.

Carrie Falkenhayn: All right, to close us out, a question I'd love to hear both of your thoughts on. How much of what happens over the next two years legislatively is really going to be driven by positioning for the next election cycle? The 2028 presidential election! What are your thoughts? Anna, I'll start with you.

Anna Taylor: Well, I hate to say it, but because I know voters don't want to hear it, but the cycle began today. We're back in it. We are in a presidential cycle and you better believe that both parties are already thinking about what 2028 is going to look like. And they're already starting to make decisions about how they want to prepare and be ready for it. Without a doubt, we can expect to see a lot of activity that is happening on Capitol Hill over the next several months and the next year or two to be intended to, not only necessarily be, your normal legislative work, but also to be positioning to get ready for that 2028 cycle. You're going to see individuals who both individually, who both want to run themselves for president and are trying to make sure that they are part of the conversation for 2028. And then you're going to see other members who just want the party and the presidential nominee to go a certain direction on specific policies. They're going to be trying to drive the caucus towards those positions as well. I do think that whether we like it or not, we're back in it already today.

Mark Roman: Anna was telling me earlier, and I think it's a fun way to look at it, you may have half of the United States Senate right now, pretty sure they're posturing one way or another to run for president. It's going to be fascinating to watch. I will just say, it's been, a decade plus here by the time we get to 28 since we've had an open presidential contest. That's going to be fascinating to watch on both sides. There's going to be names out there that we aren't even thinking about right now. You think about, how late in the process, President Obama emerged as the nominee, how late in the process Donald Trump emerged as a Republican nominee. You think about the wide array of names that exist on both sides, but the likelihood that it's a name none of us are even thinking right now is probably the reality. And that's going to be fascinating to watch as we go into what Anna is accurately describing as starting today, an open presidential contest.

Carrie Falkenhayn: Well, thank you both for your insights today, and I really look forward to our future conversations as things continue to develop. If our audience would like more information, I would encourage you to subscribe to the e-mail version of Tax News and Views. If you go to Deloitte.com, you can do that. You can also connect with Mark and Anna directly via LinkedIn. And as always, I hope you tune in for our future policy additions. In the meantime, everyone continue to be well! Take care!

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