



Arnold & Porter Tax Cuts and Jobs Act Update

July 2024

Introduction

This newsletter provides timely information about the key policy discussions happening in Washington D.C. that may affect the tax reform/TCJA reauthorization bill through 2025 and possibly into 2026.

The 2024 elections will set the stage for legislative negotiations that some are already calling the “Super Bowl of tax.” The expiration of numerous provisions of the Tax Cuts and Jobs Act (TCJA) is likely to force Congress to reckon with trillions in federal tax revenue — recent Congressional Budget Office (CBO) scores indicate an extension of policies expiring under the TCJA will cost US\$4.6 trillion over the following decade. At the same time, burgeoning federal debt and deficits increase pressure on Congressional negotiators to raise revenue and reduce tax incentives. Stakeholders are likely to find that extension of the TCJA creates new winners and losers under the tax code as Congress considers changes even to non-expiring parts of the tax code, such as increases to the corporate rate.

Efforts to repeal, modify, or extend the TCJA are likely to touch almost every major sector of the economy: (1) the tax code’s corporate provisions — including provisions on energy, research, insurance, and others; (2) a number of the tax credit programs, such as the New Markets, Opportunity Zones, and other location-based incentives; (3) revising the international provisions to respond to policy changes relating to the Organization for Economic Cooperation and Development’s Pillar One and Pillar Two projects; and (4) incentives for investing in manufacturing, in particular for cleantech, biotech, and semiconductors and advanced computing.

The substantial fiscal impact of the legislation and search for revenue offsets also raises defensive concerns even for tax policies untouched under TCJA, as well as the opportunity to streamline new or uncompetitive provisions. It’s little wonder that current Ways and Means Chairman Jason Smith (R-MO) described this effort as the Super Bowl of tax policy, but it may be worth noting that a prior contest with respect to expiring tax measures — the 2012

Congressional-executive negotiation over the Bush tax cuts — were perhaps more alarmingly named “taxmageddon.”

Process Update

Republicans, Democrats Continue TCJA Member Education Process: Since the previous issue of this newsletter, Republicans and Democrats in both chambers have continued to outline their plans for educating members ahead of the 2025 “Superbowl of tax.” Several House Republican tax teams have held or finalized dates for field hearings and listening events that will convene stakeholders to consider the implications of specific provisions of the TCJA for business and individual taxpayers. Some tax teams, including Rep. Kevin Hern’s (R-OK) Global Competitiveness Team and Rep. Brian Fitzpatrick’s (R-PA) Working Families Team, will choose to draft white papers summarizing the results of their stakeholder engagement, rather than suggest specific legislative proposals to committee staff ahead of negotiations.

Senate Republicans have begun an effort to educate their members on the TCJA, including by creating a set of six tax teams, but are generally farther behind in the member education process than House Republicans. [Speaking to reporters](#), Senate Finance Committee Ranking Member Mike Crapo (R-ID) suggested the committee will avoid making any firm decisions on 2025 strategy until “we have the whole picture understood and in front of us — which would include knowing who controls the White House, who controls the Senate, who controls the House.”

Democratic tax writers have been similarly tight-lipped about their member education processes. Senate Finance Committee Democrats convened June 20, 2024 for their initial closed-door meeting to determine a strategy for the 2025 TCJA fight. Senate Finance Committee Chair Ron Wyden emerged from the meeting suggesting the committee plans to develop a “menu” of tax policy options and will prioritize credits for low-income individuals while generating revenue. Ways and Means Committee Democrats have not publicly indicated how they plan to approach TCJA extension.

The tax teams and their respective chairs include:

- American Manufacturing — Rep. Vern Buchanan (R-FL)
- Working Families — Rep. Brian Fitzpatrick (R-PA)
- American Workforce — Rep. Darin LaHood (R-IL)
- Main Street — Rep. Lloyd Smucker (R-PA)
- New Economy — Rep. David Schweikert (R-AZ)
- Rural America — Rep. Adrian Smith (R-MO)
- Community Development — Rep. Mike Kelly (R-PA)
- Supply Chains — Rep. Carol Miller (R-WV)

- U.S. Innovation — Rep. Ron Estes (R-KS)
- Global Competitiveness — Rep. Kevin Hern (R-OK)

Congressional Updates

Ways and Means Committee Republicans

- On June 27, 2024, Chair Jason Smith (R-MO) [published an op-ed](#) in the Washington Examiner in which he argued legislation to extend expiring provisions of the TCJA must also consider “new and innovative tax relief ideas,” including the elimination of income taxes on tipped wages proposed by President Donald Trump. Smith described the proposal as an example of “common sense pro-worker policy” that would benefit individuals making an average of \$35,000 annually.
- On June 25, 2024, Rep. Kevin Hern (R-OK) [reportedly argued](#) the Pillar Two global minimum tax will fail to fulfill its objective of eliminating tax competition globally. Rep. Hern argued the tax will simply change the tools nations use to shrink their tax bases and subsidize corporations. Rep. Hern also indicated his Global Competitiveness Team, which focuses on the Pillar Two global minimum tax, will have a field hearing August 8, 2024 in Atlanta, Georgia to solicit feedback from impacted businesses.
- On June 24, 2024, the Ways and Means Committee [published a joint statement](#) from Chair Smith and Rep. Jodey Arrington (R-TX) [highlighting an analysis](#) from the Congressional Budget Office and Joint Committee on Taxation suggesting permanently extending Obama-era health insurance subsidies would cost US\$383 billion over 10 years.
- On June 21, 2024, Rep. Greg Steube (R-FL) [issued a press release](#) announcing his Main Street Team held a listening session with several southwest Florida businesses to discuss the importance of permanently extending Sec. 199A of the TCJA.
- On June 21, 2024, Rep. Ron Estes (R-KS) [published a statement](#) describing Canada’s recently-adopted digital service tax as “retroactive” and “discriminatory,” and promised to continue to defend American businesses.
- On June 21, 2024, Rep. David Kustoff (R-TN) [issued a press release](#) stating he has held roundtables throughout his district to discuss the importance of extending the TCJA for small businesses in Tennessee. He argued allowing the TCJA to expire is “the last thing families and businesses need.”
- On June 20, 2024, Chair Jason Smith (R-MO) [published a statement](#) criticizing the Canadian government for advancing legislation to impose a digital service tax on international technology companies. Chair Smith described the action as a “step in the wrong direction and deserves a swift response.”

Ways and Means Committee Democrats

- On June 27, 2024, a bipartisan group of members from the state and local tax (SALT) Caucus [reportedly met](#) to outline a strategy for advancing the provision during the 2025 TCJA extension fight. The cap is favored by members in high-tax states, including New York, New Jersey, and California, but is generally opposed by Republicans and Democrats from low-tax states for disproportionately benefitting the wealthy.
- On June 18, 2024, Ways and Means Committee Ranking Member Richie Neal (D-MA) [published a press release](#) highlighting the Congressional Budget Office's recent update to economic assessments of the TCJA. Chair Neal argued the "wildest part is Republicans will read today's report and still believe they can sell their deficit-busting tax cuts for billionaires and big corporations as a means of raising revenue and growing our economy."

Senate Finance Committee Republicans

- On June 20, 2024, Sen. John Thune (R-SD) [delivered a floor speech](#) in which he criticized President Biden's economic policies for exacerbating inflation and argued President Biden's tax agenda would eliminate key provisions of the TCJA, increasing the average family's tax bill by \$1,600 annually.
- On June 19, 2024, Sen. Steve Daines (R-MT) [appeared on Fox News](#), where he described President Trump's plan to eliminate taxes on tipped wages as a "stroke of genius."

Senate Finance Committee Democrats

- On June 20, 2024, Senate Committee on Finance Democrats met to outline a strategy for extending the 2025 Tax Cuts and Jobs Act. During the meeting, Chairman Ron Wyden (D-OR) reiterated his commitment to developing a "menu" of tax policy options that aim to raise revenue while preserving individual tax credits. Sen. Wyden also indicated Democrats will prioritize housing finance reform and preventing tax hikes on individuals making under \$400,000 annually.
- On June 17, 2024, Sen. Elizabeth Warren (D-MA) [outlined her agenda](#) for the 2025 tax debate. In the speech, she called for increased corporate taxes, higher taxes on the wealthy, and additional funding for the Internal Revenue Service (IRS).

Legislative Branch Reports

- On June 18, 2024, the CBO [published a report](#) predicting federal tax revenue from corporations will drop relative to Gross Domestic Product (GDP) after the 2025 expiration of the TCJA. Individual tax receipts are projected to rise from 8.6% of GDP in 2024 to 9.7% in 2034 from the expiration of certain individual tax provisions. In CBO's projections, large deficits push federal debt held by the public to 122% of GDP in 2034. Economic growth slows to 2% in 2024 and 1.8% in 2026 and later years.

Administration Updates

- On June 24, 2024, Treasury Department Secretary Janet Yellen [delivered a speech](#) alongside Sen. Tina Smith (D-MN) in which she outlined the Biden administration's plan to address the housing crisis. Secretary Yellen urged Congress to act on legislation to expand the Low Income Housing Tax Credit and create a tax credit for first-time homebuyers. Secretary Yellen also detailed new Treasury Department housing initiatives, including administering an additional US\$100 million over three years via the Community Development Financial Institutions fund to promote affordable housing development.
- On June 21, 2024, an official from the office of the U.S. Trade Representative (USTR) [reportedly](#) noted USTR is considering options to punish Canada for implementing a 3% digital service tax. The official stated USTR is "open to using, all available tools that could result in meaningful progress toward addressing unilateral, discriminatory DSTs."
- On June 18, 2024, the Treasury Department and IRS [announced final rules](#) governing the prevailing wage and apprenticeship requirements associated with the Inflation Reduction Act's ([P.L. 117-169](#)) green energy tax credits. Projects that meet the prevailing wage and apprenticeship requirements will see their credit value increase by five times.

Upcoming Hearings

There are no upcoming hearings listed.

Key Headlines

- [U.S. House Global Tax Group to Meet in August, Draft Report \(Bloomberg, June 25, 2024\)](#)
- [Global Tax Overhaul Won't Squash Competition, U.S. Rep. Says \(Law260, June 25, 2024\)](#)
- [What CFOs Are Saying About Pillar 2 \(TaxNotes, June 24, 2024\)](#)
- [IRS Dumps Initiative to Audit More \\$10 Million Returns to Focus on Rich More Broadly, Watchdog Says \(Politico, June 24, 2024\)](#)

- [Better Digital Tax Ban in Pillar 1 Treaty, Treasury Official Says \(Law360, June 24, 2024\)](#)
- [U.S. Unwilling to Compromise on Key Provision of Global Tax Deal, Treasury Official Says \(Politico, June 24, 2024\)](#)
- [Tax Pros Predict Rocky Road for Basis-Shifting Initiative \(TaxNotes, June 21, 2024\)](#)
- [IRS Has Now Spent 10 Percent of Funding Windfall \(Politico, June 21, 2024\)](#)
- [Supreme Court Rejects Challenge To Tax on Foreign Corporate Investments \(NBC News, June 20, 2024\)](#)
- [Corporations Face Reversal of Fortune as 2025 Tax Debate Heats Up \(Politico, June 18, 2024\)](#)
- [Corporate Rate Revenue To Decrease After 2025, CBO Says \(Law360, June 18, 2024\)](#)
- [IRS: Targeting Sketchy Partnership Transactions Would Raise \\$50 Billion \(Politico, June 17, 2024\)](#)
- [Warren Cites Zuckerberg, Musk in Call for 2% Wealth Tax in 2025 \(Bloomberg, June 17, 2024\)](#)



Kevin O'Neill

Partner

Rated a Top Lobbyist by Chambers USA and Legal 500

kevin.oneill@arnoldporter.com

+1 202.942.6563



Mark Epley

Partner

Former General Counsel to House Speaker Paul Ryan (R-WI)

mark.epley@arnoldporter.com

+1 202.942.5964



Ron Kind

Senior Counsel

Former Member House Ways and Means Committee

ron.kind@arnoldporter.com

+1 202.942.5116



David J.M. Skillman

Managing Director

Former Chief of Staff to House Ways and Means Committee Member

david.skillman@arnoldporter.com

+1 202.942.6156

Amsterdam | Boston | Brussels | Chicago | Denver | Houston | London | Los Angeles
Newark | New York | San Francisco | Seoul | Shanghai | Silicon Valley | Washington, D.C.

©2024 Arnold & Porter Kaye Scholer LLP. All Rights Reserved.

arnoldporter.com