2020 Tax Policy Outlook: Charting an Unfamiliar Path Forward

January 2020

Washington National Tax Services (WNTS)

www.pwc.com/us/tax-policy-outlook

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The Heart Of The Matter

Divided government, the House impeachment of President Trump, global tensions, and a focus on the 2020 elections will limit the prospects this year for significant tax legislation, including changes to historic US tax reforms enacted just over two years ago. While more than 2,300 pages of federal regulations implementing tax reform have been released, important questions remain, and significant guidance has yet to be finalized. At the same time, governments around the world are rethinking long-standing tax principles regarding taxation of cross-border activities during a time of public debate over whether companies are paying their 'fair share' of taxes.

While US and global tax rules constantly evolve, the scope and pace of the changes currently under consideration or already underway is unprecedented. The threat of disruption is increasing, creating an environment in which uncertainty is the status quo. What once was a world with more settled tax policy guideposts has shifted to a new, unfamiliar landscape at each level — international, federal, state, and even local. As a result, business leaders are confronted with the challenge of charting a path forward at a time when tax policy rules and principles are in flux and exposed to the possibility of dramatic shifts.

Overview

In 2019, President Trump signed into law two tax measures, both long in development and significant. The first, an IRS reform bill, was enacted last July, and the second, a year-end tax package, was enacted in late December as part of legislation funding the federal government through the end of the government's 2020 fiscal year (September 30, 2020). The year-end tax package, estimated by the Joint Committee on Taxation (JCT) staff to reduce federal revenues by $426 billion over 10 years, featured extensions to more than 30 expired or expiring tax provisions, modifications to certain 2017 tax reform act provisions, expanded retirement savings incentives, disaster relief tax provisions, and repeal of three Affordable Care Act (ACA) tax provisions.

Observation: Enactment of a significant year-end tax package in the final week of the previous session of Congress was in many ways both surprising and unsurprising. It was surprising in the narrow sense that key Congressional leaders had expressed doubts in preceding weeks over whether any tax measures would be included in the government funding legislation. But taking a broader view, it was unsurprising as this is how bipartisan tax legislation has increasingly been managed. Freestanding tax bills, even containing measures with supermajority support, are increasingly rare on Capitol Hill. Rather, such proposals are having to find a home in some other more urgent, must-pass legislation.

The year-end bipartisan action by Congress to address tax provisions affecting individuals and businesses in members' districts and states took place during the same week that the House voted generally along party lines to impeach President Trump. The House on the next day then gave strong bipartisan support to legislation implementing the United States-Mexico-Canada Agreement (USMCA) — the new free-trade agreement with Canada and Mexico that the Senate in January 2020 also approved to replace the North American Free Trade Agreement (NAFTA), as discussed below.

Congressional leaders and the Trump Administration, however, were unable to reach an agreement on comprehensive technical corrections to the 2017 tax reform act, a priority primarily for Republicans, or an expansion of refundable tax credits and new 'green energy' tax provisions, priorities primarily for Democrats. There will be limited opportunities for Congress to address these issues before the 2020 elections.

With government funding for fiscal year (FY) 2020 in place through the end of September, there are few must-pass bills requiring action by the House and the Senate this year that might carry tax legislation. Suspension of the federal debt limit — another must-pass measure — was previously approved through the end of July 2021 as part of a 2019 budget agreement. In addition to removing the debt limit as an issue before this year's elections, the agreement provided for a $325 billion increase in defense and non-defense spending for FY 2020 and FY 2021 above limits that had been set in 2011 and repealed spending caps for future years. Congress will need to act on new government funding legislation for FY 2021, which begins on October 1, 2020, to avoid a government shutdown shortly before the November 3, 2020 elections.

The 2020 elections could change control of the White House and the balance of power in Congress, affecting prospects for tax legislation in 2021 and beyond. President Trump and the Democratic presidential candidates vying to win their party's nomination have laid out sharply differing tax policy agendas — the President signaling his intent to propose additional tax cuts for middle-income individuals and business, and Democratic candidates proposing tax increases on business and wealthy individuals to fund various initiatives.

Enactment of major changes to the current tax laws, however, is likely to require unified control of the White House and Congress unless, as was the case with the 2019 year-end changes, the changes reflect the priorities of both Democrats and Republicans. Without bipartisan agreement, unified control with a super-majority in Congress likely would be required to enact major change. Change of White House control could have important consequences for the regulatory and administrative actions taken by President Trump.

Observation: Budget reconciliation procedures can be used to enact significant legislation if one party controls the White House and Congress, but the ability to pass such legislation with a simple majority in the House and Senate does not guarantee action. For example, the 2017 tax reform act was enacted using the budget reconciliation process with only Republican votes, but earlier in 2017 the Republican-controlled Senate was unable to secure a majority vote to 'repeal and replace' the ACA. As presidential candidates unveil proposals on the campaign trail, an important consideration is whether the proposal in question could plausibly garner the support of 50 Senators. Just as Republicans found with the ACA vote, Democrats could find getting a majority vote in the Senate to be the limiting factor in 2021 if they were to gain unified control of the executive and legislative branches of the federal government.

Mixed results on trade

Congressional ratification of the USMCA was completed early this year, eliminating what had been a major source of trade-related economic uncertainty affecting the United States, Mexico, and Canada. At the same time, the recently signed US-China 'Phase One' deal leaves in place significant increased US tariffs on Chinese imports, and uncertainty over trade relations between the world's two largest economies continues to be a drag on the economies of both nations as well as other countries.

Meanwhile, other global trade agreements remain in flux as a result of ongoing developments, including the President's continued use of his broad, unilateral tariff authority. The departure of the United Kingdom from the European Union raises significant transition issues for businesses operating in the UK and the EU. That said, Brexit may provide an opportunity for the United States and the UK to negotiate an improved trade relationship.

Observation: There have been some bipartisan proposals for Congress to reclaim its constitutional authority over trade matters, which has been delegated to the executive branch in a series of statutes over several decades. It appears unlikely, however, that the House and Senate will act to limit President Trump's tariff authority under current laws; such efforts in any case would almost surely face the threat of a presidential veto.

Global tax policy debates accelerate

Companies have relied on government-mandated, century-old international tax principles to determine their tax liabilities arising out of global operations. Although the debate surrounding 'fair share' has largely focused on 'digital' businesses, proposals to change the international tax system under consideration would apply more broadly. The debate over whether multinational enterprises pay an appropriate amount of tax in the countries in which they generate revenue has been a particular focus of certain governments and non-governmental organizations.

The Group of 20 nations (G20), representing the world's major economies, tasked the Organisation for Economic Co-Operation and Development (OECD) with finding a multilateral solution to governmental concerns about taxation of business in the digital age. To that end, the OECD has released two complementary proposals for consideration. One would alter the historic international profit allocation rules by providing enhanced taxing rights to market countries. The second lays out options for 'minimum taxes' and the denial of deductions aimed at ensuring profits are subject to at least minimum levels of taxation. The OECD effort is being pursued on an aggressive schedule, with G20 countries aiming to gain consensus on key issues by late 2020.

Meanwhile, a number of countries, including France, have enacted 'digital services taxes' (DST) aimed primarily at US high tech companies. In response to the French DST, a US Trade Representative (USTR) investigation report issued last December concluded that the French DST discriminates against US companies. The USTR has invited public comments on proposed options for retaliatory tariffs against French products and services.

Observation: Until consensus is reached on global tax principles, unilateral measures such as the French DST are likely to continue to spread. The potential for a US tariff response against each country that enacts a DST creates a new trade concern for 2020 and beyond. At the same time, there is a significant risk that the OECD proposals could lead to an increase in corporate taxes. While some businesses have expressed a willingness to accept higher taxes in exchange for tax certainty, certainty requires workable mechanisms to resolve tax controversies, which at this point are lacking.

Slowing economic growth

The US economy continues its longest economic expansion in history, at 127 months entering January. Economic growth slowed from 2.9% in 2018 to around 2% in the second and third quarters of 2019, however, and, as shown in Figure 1, Blue Chip economists forecast quarterly growth below 2% for each quarter of 2020.

While near-term concerns about a US recession have faded, the most recent Conference Board survey of global business leaders showed that risks of a recession currently are the top concern of US and foreign chief executive officers. Many business leaders cite continued US-China tariffs, general uncertainty over trade policy, and a slowing global economy as key factors that could hold back US economic growth.

World economic growth in 2019 was the lowest since the 2007-2009 recession, with most countries experiencing slower growth than in 2018. US business investment declined in both the second and third quarters, the first negative reading since 2016. Consumer spending has been supportive, however, bolstered by growth in nominal wage and salary income of 4.6% year-over-year and growth in nominal hourly wages of more than 3% throughout 2019. It is notable that unemployment is at 50-year lows and labor force participation has been rising (see Figure 2, below).

Observation: A strong economy historically has been a key factor affecting the re-election prospects of US presidents. While US economic growth is slowing, low unemployment rates and indications of strong consumer confidence should benefit President Trump's re-election prospects. At the same time, President Trump's overall job approval rating generally has averaged in the low 40% range since he entered office; as a result, some political analysts have questioned whether the traditional linkage between economic growth and a president's re-election chances holds true in the current US political environment.

Figure 1: Blue Chip economists forecast slowing US GDP growth

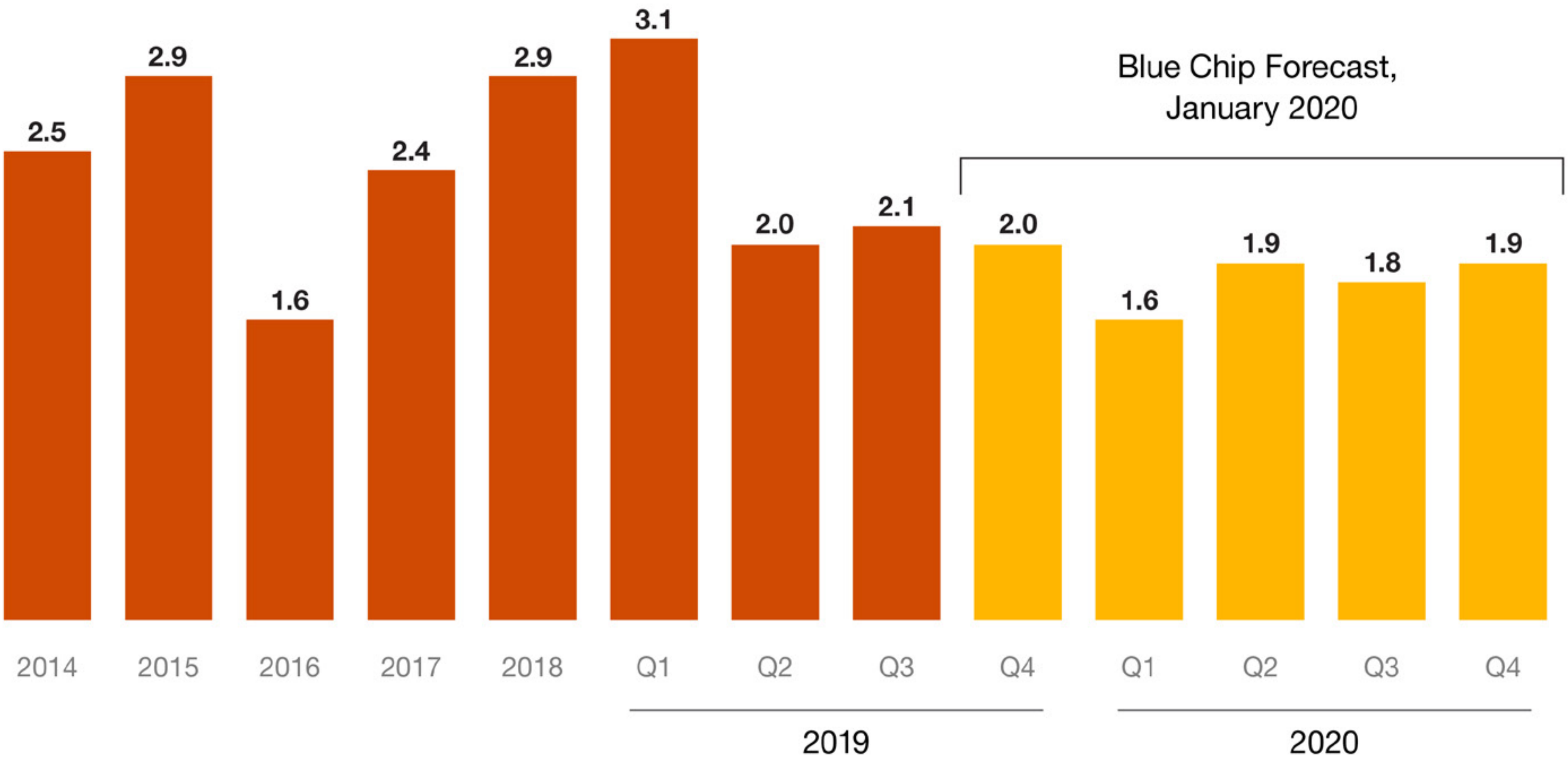
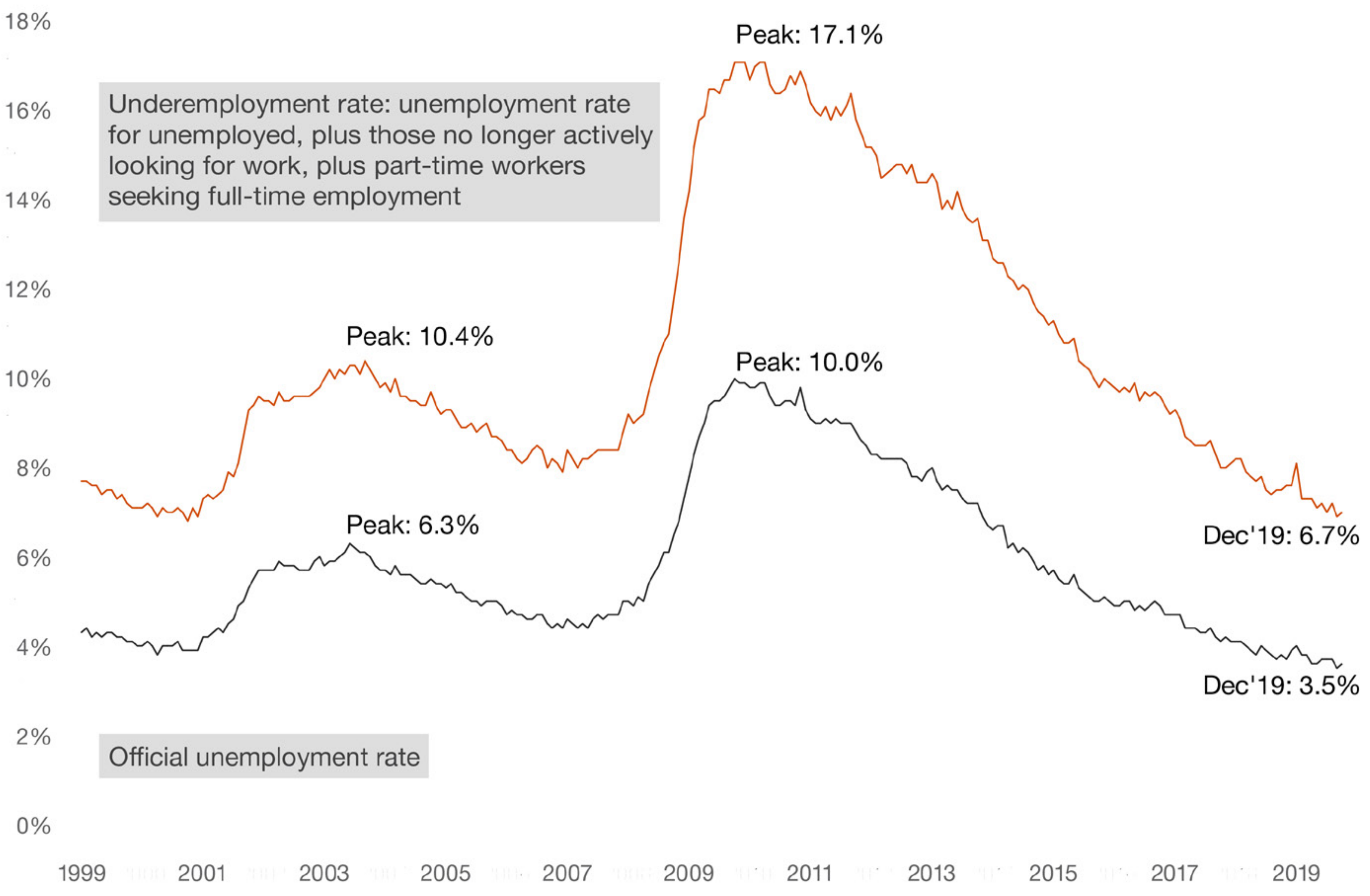


Figure 2: US unemployment at 50-year lows



Source: US Department of Labor

An In-Depth Discussion

Balance of power

116th Congress

The second session of the 116th Congress continues a period of divided government, with Democrats holding a majority in the House of Representatives and Republicans holding a majority in the Senate.

In the House, there are 232 Democrats and 198 Republicans (including one Independent who caucuses with House Republicans). Five vacant seats (two previously held by Democrats and three previously held by Republicans) will be filled by special elections or by the regular November 3 elections.

In the Senate, there are 53 Republicans and 47 Democrats (including the two Independents who caucus with Democrats). Senate procedures in effect generally require 60 votes to limit debate on legislation and bring about a vote on final passage. A Senate rule modification adopted in 2017 lowers the threshold for approving US Supreme Court nominations to a simple majority (usually 51 votes), which brings the requirement in line with a 2013 rule change that adopted a simple majority threshold for executive branch and non-Supreme Court judicial nominations.

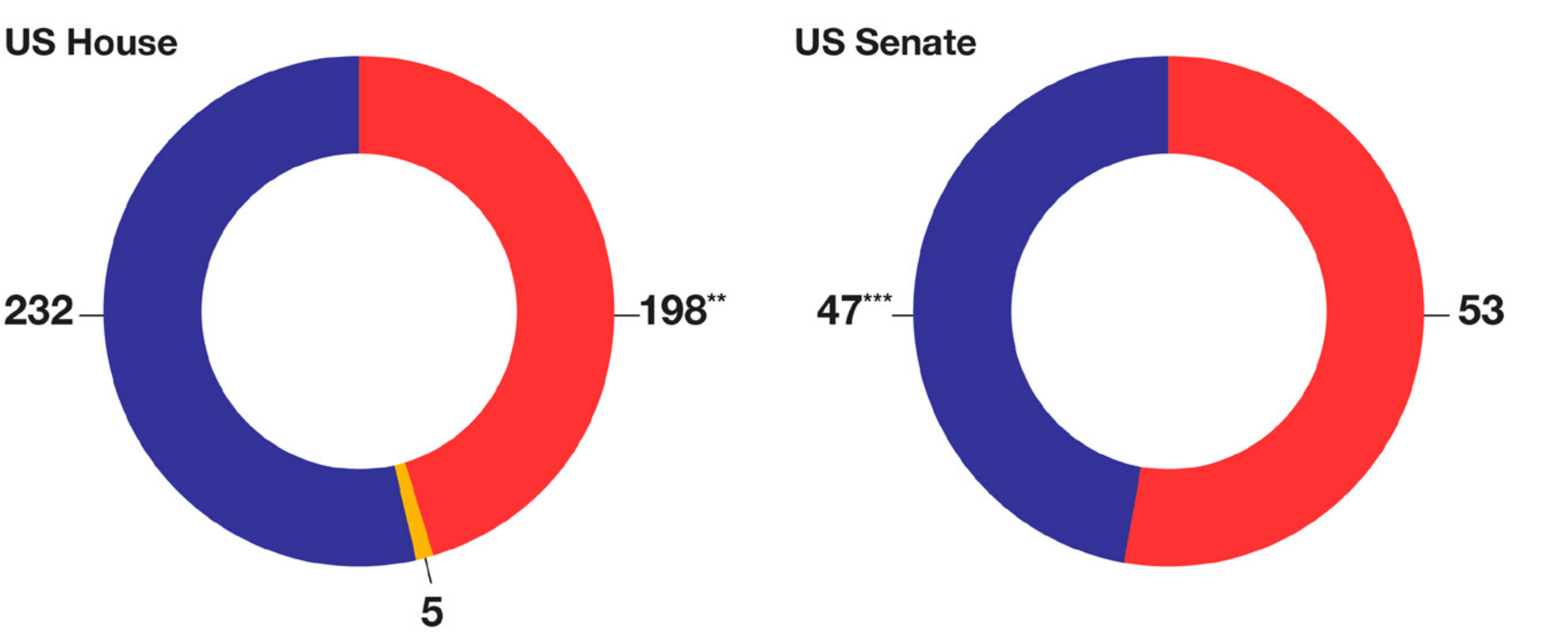
The President has the power to veto legislation passed by Congress, with a two-thirds majority of both the House and Senate required for a veto override. President Trump vetoed five bills during 2019, after not vetoing any bills during his first two years in office when Republicans held majorities in both the House and the Senate. None of the vetoed measures were overridden by Congress in 2019.

Figure 3: Current composition of the 116th Congress

Net change needed to gain control:

House Republicans +17*

Senate Democrats +4 (+3 with Democratic VP)



- Republicans
- Democrats
- Vacant

* Assumes vacant seats will be retained by same party.

** Includes Rep. Justin Amash (I-MI)

*** Includes two Independents: Senator Bernie Sanders (I-VT) and Angus King (I-ME)

House and Senate tax committees

Rep. Richard Neal (D-MA) continues as chairman of the House Ways and Means Committee, and Rep. Kevin Brady (R-TX) remains the Ranking Republican Member. There currently are 25 Democrats and 17 Republicans on the committee.

The Senate Finance Committee continues to be led by Senator Charles Grassley (R-IA). Senator Ron Wyden (D-OR) remains the Ranking Democratic Member. The Finance Committee is composed of 15 Republicans and 13 Democrats. Senator Ben Sasse (R-NE) was appointed to fill a vacancy on the Finance Committee created by the resignation of Senator Johnny Isakson (R-GA) at the end of last year due to illness.

A listing of House and Senate tax committee members and other tax policymakers is provided in Appendix A.

Looking ahead to the 2020 elections

The first election contest of the 2020 presidential campaign season is the Iowa caucuses on February 3. The Democratic national convention is scheduled for July 13 through 16 in Milwaukee, and the Republican national convention will be held August 24 through 27 in Charlotte. The presidential election and elections for Congress are scheduled for November 3.

President Trump has suggested that he will propose new middle class and business tax cuts during his re-election campaign, in addition to renewing his federal budget proposals to make permanent the individual and pass-through provisions of the 2017 tax reform act that are set to expire at the end of 2025. Administration officials have stated that a range of options is being considered as potential new tax cuts, including a reduction in the current 15% individual income tax rate and a reduction in the current 21% corporate tax rate.

Democratic presidential candidates have proposed a broad range of tax changes that would increase taxes for higher-income individuals and certain businesses and provide targeted tax relief for lower- and moderate-income individuals. Some Democratic presidential candidates also have proposed taxes on the 'wealth' of individuals that would apply to certain assets, including financial holdings and real property. All have proposed varying levels of increases to the current 21% corporate rate; for example, former Vice President Joe Biden has proposed a 28% corporate rate, former South Bend Mayor Pete Buttigieg and Senator Bernie Sanders (I-VT) have proposed a 35% corporate rate, and Senator Elizabeth Warren (D-MA) has proposed a 35% corporate rate plus an additional 7% tax on corporate profits above $100 million. These candidates also have proposed to make international tax rules more restrictive than they are under current law.

A listing of tax proposals offered by leading presidential candidates is provided in Appendix B.

Recent proposals to increase taxes on capital and wealth

In light of the fact that the highest-income taxpayers earn a larger share of their income from capital gains relative to other taxpayers, several proposals by Democratic presidential candidates have focused on taxing capital and wealth. Former Vice President Biden, former Mayor Buttigieg, Senator Sanders, and Senator Warren have each proposed increasing the top tax rate on capital gains from its current 23.8%.

Under present law, capital gains generally are subject to tax only when they are realized upon the sale or exchange of the asset. If the assets are held until death, the gains are not subject to income tax, since the basis is ‘stepped up’ to a date-of-death valuation (although the estate tax may apply). As a result, capital gains taxes create a ‘lock in’ effect, discouraging investors from realizing gains on appreciated assets. JCT staff have estimated that increasing the tax rate above a certain level could result in a loss of revenue as the effects of the higher rate would be more than offset by a decrease in dispositions; i.e., the higher rate would apply to a smaller amount of realized gains.

In part to address this concern, Senate Finance Ranking Member Wyden has proposed taxing not only realized capital gains but also accrued unrealized capital gains, by including the change in the market value of assets (gain or loss) every year in the income of their owners for federal income tax purposes. This so-called mark-to-market approach seeks to eliminate the ability of taxpayers to defer paying taxes on unrealized gains by delaying the sale of an appreciated asset. In addition to raising revenue by collecting tax before the assets are sold, the proposal seeks to avoid the revenue loss from reduced capital gains realizations by eliminating the ability of taxpayers to defer taxes by holding on to assets. Senator Wyden’s proposal generally would apply to taxpayers with annual incomes above $1 million and/or ‘covered’ assets above $10 million. Senator Wyden has requested public comment on his mark-to-market proposal and key design issues, including the treatment of non-tradable property, the valuation of assets, and the application to pass-through entities.

Taxing wealth, as Senators Sanders and Warren have proposed, effectively applies an additional tax to an individual’s assets. The wealth taxes are designed to apply to a small number of high-net-worth households. Senator Sanders applies graduated rates that start at 1% for net worth over $32 million and rise in steps to 8% for net worth above $10 billion. Senator Warren proposes a 2% tax on net worth between $50 million and $1 billion and a 6% rate above that.

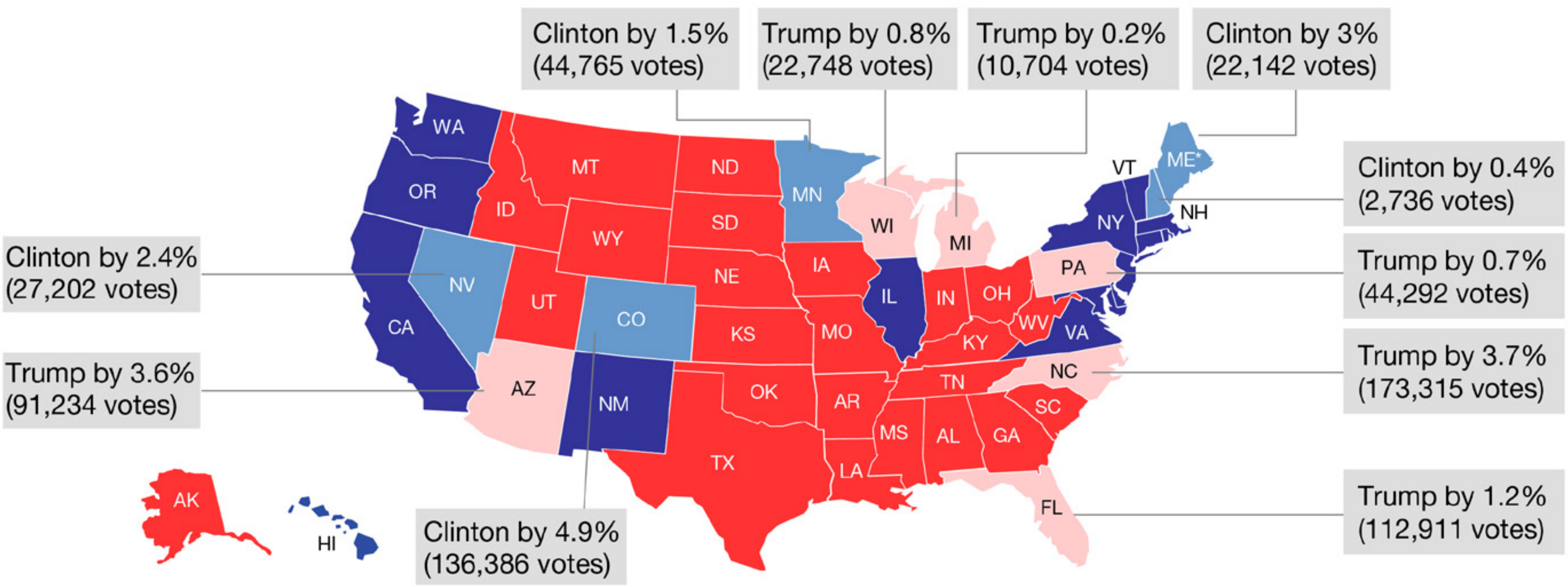
A tax of 6% of wealth on an asset that earns 10% (approximately the average rate of return for the S&P 500 over the last 100 years) is equivalent to a rate of 60% on the income from the asset. For assets earning less than 6%, a 6% wealth tax would be equivalent to an income tax rate above 100 percent. At a rate of 2%, in today’s low-interest-rate environment, many assets could bear an effective tax rate greater than 100% on the income from those assets. Such taxes would be in addition to federal, state, and local income taxes and, in some cases, property taxes that apply.

Battleground states

The outcome of the 2020 Presidential election will depend on the outcomes in key electoral college battleground states, rather than the popular vote. In the 2016 election, 11 states were decided by margins of less than 5%.

Figure 4: Electoral college battleground states

11 states were decided by less than 5% in 2016



Electoral college majority: 270

- Clinton won 232
- Trump won 306

* Clinton won Maine's statewide vote, but Trump received an electoral vote for winning the 2nd district

Source: Federal Election Commission

House and Senate elections

All 435 seats in the House are up for election every two years. Republicans would need to achieve a net gain of 17 seats in 2020 to regain control of the House. At this writing, 25 Republicans and nine Democrats have announced plans to retire from the House or seek other office. The Ways and Means Committee will have at least two new members in the next Congress, since Reps. Kenny Marchant (R-TX) and George Holding (R-NC) announced last year that they would not seek re-election to the House.

Roughly one-third of all Senate seats are subject to election every two years. Democrats would need a net gain of four seats in the 2020 elections to win a 51-seat majority in the Senate (three seats if a Democrat is elected Vice President and thus would be able to break a 50-50 tied Senate). Republicans would need a net gain of seven seats to achieve a filibuster-proof 60-seat majority.

In 2020, 35 Senate seats are up for re-election, including two special elections. Of the seats up for re-election, 23 currently are held by Republicans and 12 currently are held by Democrats. The Senate map for the 2020 elections is more favorable to Democrats than it was for the 2018 midterm elections, when 10 Democrats ran in states that had been won by President Trump. At the same time, non-partisan political analysts project that there are only a few 'toss-up' states in which neither party is currently favored.

Note: Under Arizona law, a special election will be held in 2020 to fill the Senate seat once held by the late Senator John McCain (R) and currently held by Martha McSally (R). In Georgia, a special election will be held for the remainder of the term of former Senator Isakson, who, as noted above, resigned at the end of last year and whose seat is currently held by Senator Kelly Loeffler (R).

At this writing, four Senators — Lamar Alexander (R-TN) and Tom Udall (D-NM) and Senate Finance Committee members Michael Enzi (R-WY) and Pat Roberts (R-KS) — have announced plans not to run for re-election in 2020. Senate Finance Committee members currently expected to run for re-election are John Cornyn (R-TX), Bill Cassidy (R-LA), Steve Daines (R-MT), Ben Sasse (R-NE), and Mark Warner (D-VA). A listing of all Senators whose seats are subject to election in 2020 is included in Appendix C.

2020 state elections

In addition to affecting state tax policy issues, the results of state elections will influence redistricting of US House seats following the 2020 census, which could affect the balance of power in the House for the next decade. Fifty-five state legislative chambers will be up for election in 2020, as well as 11 gubernatorial races. In assessing the impact of state elections, it is important to watch for changes in state single party ('trifecta') control, as well as legislative supermajorities that may be required in some states to enact tax increases. For example, the Virginia legislature went from Republican control to Democratic control in that state's elections last year, and Virginia also has a Democratic governor. Nationwide, 21 states are under full Republican control (both chambers and the governorship), 15 are under full Democratic control, and 13 have divided control. Ballot measures also will figure prominently, especially in California and other western states.

Figure 5: Congressional legislative schedule

Senate convened	January 6
House convened	January 7
Martin Luther King Jr. Day recess (House)	January 20 - 24
President's State of the Union Address	February 4
Presidents Day recess (House, Senate)	February 17 - 21
House and Senate recess	March 16 - 20
Spring recess (House, Senate)	April 6 - 17
House recess	May 1 - 11
Memorial Day recess (House, Senate)	May 25 - 29
Independence Day recess (House)	June 29 - July 6
Independence Day recess (Senate)	July 3 - 10
Democratic national convention	July 13 - 16
August recess (House)	August 3 - September 7
August recess (Senate)	August 10 - September 7
Republican national convention	August 24 - 27
House recess	October 5 – November 13
Senate recess	October 12 - November 6
Election Day	November 3
Veterans Day	November 11
Thanksgiving recess (House, Senate)	November 23 – 27
Target adjournment date (House)	December 10
Target adjournment date (Senate)	December 18

US tax policy

2017 tax reform act

Follow-up actions

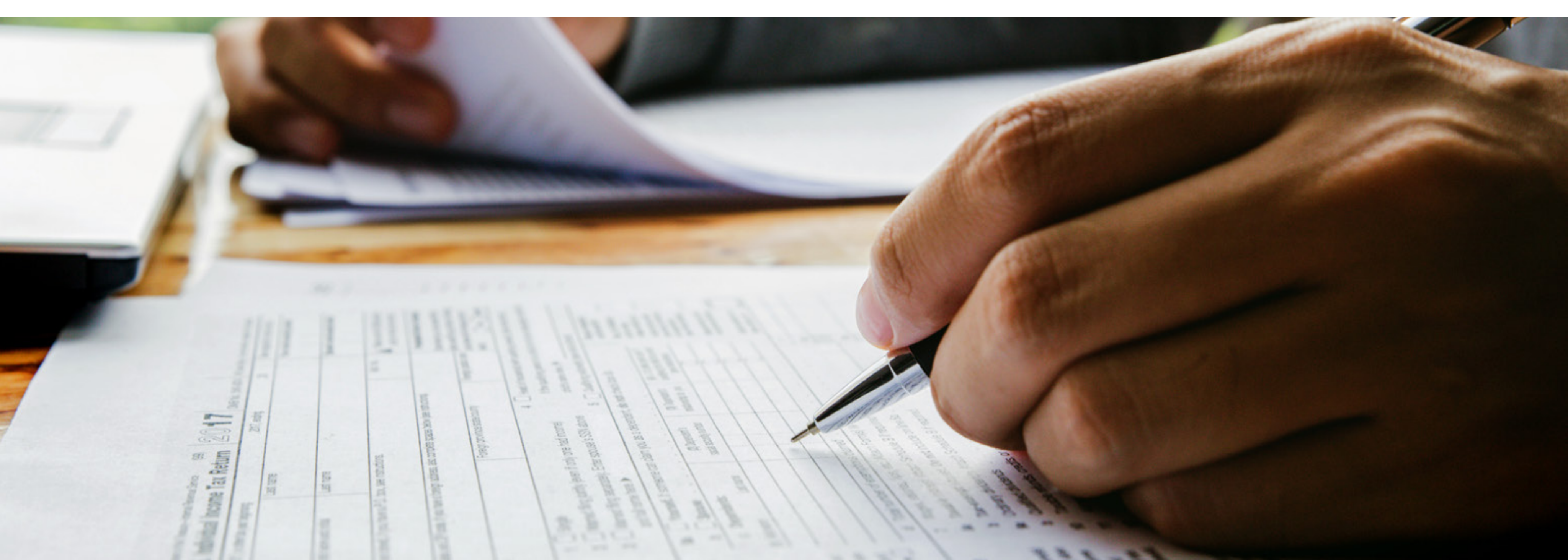
While the impact of the 2017 tax reform act is expected to be a feature of this year's political campaigns and legislative debate, the current Congress is unlikely to enact major changes, and even the outlook for technical corrections remains unclear. The House Ways and Means Committee has long been expected to hold a hearing to examine international tax provisions enacted as part of the 2017 act. The committee also is expected to consider the ongoing G20/OECD effort to develop an international consensus on tax issues arising from the digitalization of the global economy (discussed below). The Senate Finance Committee also may hold hearings on tax reform issues and the G20/OECD project.

The House in late December passed legislation to provide temporary relief from the $10,000 limitation on the state and local tax (SALT) deduction that was enacted as part of the 2017 act. The legislation would double the SALT deduction limit to $20,000 for married couples filing jointly for 2019, and would fully repeal the cap for all taxpayers for 2020 and 2021. To offset the cost of this provision and additional tax relief for educators and first responders, the bill would accelerate the scheduled 2025 sunset of the current 37% top individual tax rate and reinstate the 39.6% top individual income tax rate after December 31, 2019. The House passed this bill generally along party lines. Republican Senate leaders have said they do not plan to consider the bill during the current Congress, and President Trump issued a veto threat against the legislation.

Congress last year did enact some limited modifications to the 2017 tax reform act. The year-end tax legislation repealed a change in 'kiddie tax' rates that had affected children of military personnel receiving survivor benefits (commonly referred to as 'Gold Star' families), children of 'first responders' receiving survivor benefits, and certain low-income students receiving scholarships. That legislation also repealed retroactively a provision of the 2017 act that increased the unrelated business taxable income of religious organizations and other tax-exempt organizations that provide qualified parking and qualified transportation fringe benefits (commonly referred to as the 'church parking tax'). In addition, the legislation modified a 2017 act provision affecting the tax-exempt status of certain mutual or cooperative telephone or electric cooperatives.

2017 tax reform sunsets and automatic modifications

The 2017 tax reform act sunsets nearly all the individual and pass-through tax provisions after 2025. Sunsetting these provisions was necessary to comply with a Senate budget reconciliation rule that requires 60 votes to overcome a procedural point of order against any legislation increasing federal deficits outside the budget window (in this case, beyond 10 years). As noted above, President Trump has proposed to make permanent individual and pass-through tax reform provisions that are set to sunset.



House and Senate Republicans also had to adjust various business provisions to keep the overall cost of the 2017 legislation below the net $1.5 trillion revenue loss limit established by the GOP budget reconciliation instructions for the 10-year FY 2017-2027 budget period. Failure to abide by this requirement would have subjected the bill to a likely insurmountable 60-vote point of order. Base-broadening business provisions will result in higher US taxes if they take effect as scheduled.

Key business provisions set to become more restrictive include:

- Limits on interest deductions (EBITDA vs EBIT definition of taxable income) beginning in 2022.
- Capitalization and amortization of research expenditures over five years in lieu of expensing beginning in 2022.
- Depreciation of property and equipment in lieu of expensing beginning in 2023.
- Tightened international tax rules beginning in 2026, with a direct impact on global effective tax rates.

Observation: The President's last budget (FY 2021) did not address any of these scheduled business tax law changes and the current Congress is not expected to enact legislation affecting 2017 act provisions that are set to sunset or are subject to automatic modification. However, initial efforts are already underway to prevent some changes from taking effect. For example, House Ways and Means members John Larson (D-CT) and Ron Estes (R-KS) last year introduced a bill (H.R. 4549) that would repeal the five-year amortization requirement for research expenditures scheduled to begin in 2022. At the same time, Democratic presidential candidates have proposed to further tighten current international tax rules in addition to increasing top income tax rates for individuals and corporations, as noted above; similar proposals have been introduced by some current Democratic members of Congress.

Technical corrections

As noted earlier, Congress last year was unable to reach an agreement on tax reform technical corrections. In a 'Bluebook' technical explanation of the 2017 tax reform act, the non-partisan JCT staff identified more than 70 provisions that the staff concluded require technical correction. Technical corrections are considered to have no revenue effect and traditionally are effective as if included in the original statute. Then-Ways and Means Committee Chairman Kevin Brady (R-TX) proposed roughly 80 statutory technical corrections in early 2019, but they were not enacted into law.

Examples of technical corrections identified by JCT staff and Rep. Brady include provisions that deal with qualified improvement property, the effective date for modifications to carryovers and carrybacks of net operating losses (NOLs), settlement fees received by plaintiffs for claims of sexual harassment or sexual abuse, excess 'toll charge' remittance payments, CFC downward attribution rules, and qualified real estate investment trust (REIT) dividends.

Observation: While there is some bipartisan support for addressing all technical corrections as a package rather than select provisions, it will be difficult for legislative action on these tax issues to be taken during the 2020 election year, in part because key Democratic leaders have tied action on technical corrections to action on their tax priorities — refundable credits and green energy.

Regulatory guidance

Since the enactment of the 2017 tax reform act, Treasury and the IRS have released thousands of pages of regulatory guidance implementing the legislation, including extensive guidance with respect to the deemed repatriation of previously deferred foreign earnings under Section 965, as well as proposed or final rules with respect to major new components of the international tax system enacted by Congress, including provisions related to global intangible low-taxed income (GILTI), the base erosion and anti-avoidance tax (BEAT), and foreign derived intangible income (FDII). Guidance also has been issued for numerous additional provisions, including those dealing with interest deductions under Section 163(j), 'bonus' depreciation, the treatment of built-in gain or loss, the 20% deduction for certain pass-through income, executive compensation, employee benefits, opportunity zone investment incentives, and the cap on individual state and local tax itemized deductions.

Treasury officials have stated that their regulatory authority to provide taxpayer relief in certain areas is limited by the statutory language enacted by Congress. As noted above, Congress has been considering technical corrections to the 2017 act, but has not yet completed action to address provisions that have been identified as requiring corrections. Despite noting statutory limitations that prevent granting relief, Treasury officials have asserted a general regulatory authority to prevent outcomes not intended by Congress.

As of this writing, Treasury is expected to release additional regulatory guidance in the next several months further defining the new international tax system. Key guidance projects include:

- Final regulations are expected soon under Section 163(j), which, as revised by the 2017 act, generally limits a taxpayer's deduction for interest expense to 30% of the taxpayer's EBITDA. This guidance will address, among other topics, the application of this 30% limitation to a taxpayer's foreign affiliates, which was a significant area of focus in the proposed regulations previously released by Treasury.
- Treasury is expected to release regulations that finalize the proposed 'high tax exception' to GILTI. This guidance has been anticipated by many taxpayers adversely affected by the allocation of domestic expenses in their GILTI computations.
- Treasury has indicated it expects to release final regulations with respect to the computation of taxpayers' FDII deduction. These regulations, among other topics, likely will respond to numerous taxpayer comments with respect to the documentation required to be maintained in order to qualify for the FDII deduction. In addition, final FDII regulations are expected to provide further guidance with respect to the impact of expense apportionment (including expenses for domestically incurred research and development activities) on a taxpayer's FDII deduction.
- Regulatory guidance is expected in other areas as well, including so-called 'anti-hybrid' rules under Sections 267A and 245A, the tax treatment of distributions of previously taxed earnings and profits (PTEP, formerly known as PTI), and finalization of recently proposed regulations addressing taxpayers' ability to claim foreign tax credits on actual or deemed repatriations of foreign income.

Observation: Taken together, these regulations and other IRS guidance likely will have a significant impact on many globally engaged companies, potentially affecting decisions as fundamental as the capital structure of the parent and its subsidiaries, as well as decisions on where to own valuable intellectual property and where to conduct certain high-value activities (e.g., research and development of new IP). Particularly because of the limited likelihood of significant tax legislation in 2020, Treasury guidance will be a key area of focus for many companies, even as they consider the potential impact of the 2020 elections on future legislative activity.

Tax extenders

The 2019 year-end tax legislation extended more than 30 expired or expiring tax provisions (commonly referred to as 'tax extenders'). Provisions that had expired since the end of 2017 included numerous energy tax measures, special depreciation rules, and other targeted tax incentives. Provisions that had been set to expire at the end of 2019 included a look-through rule for payments between related controlled foreign corporations (CFCs), the work opportunity tax credit, and the new markets tax credit. Most of these provisions were extended through the end of 2020. A railroad track maintenance credit and a biodiesel and renewable diesel tax credit were extended through the end of 2022.

These tax extender provisions generally were renewed on a retroactive basis, except for certain provisions. For example, provisions reinstating an oil spill liability trust fund tax rate and a Black Lung liability trust fund excise tax were made effective on the first day of the first calendar month beginning after the date of enactment of the legislation.

For a year-by-year list of expiring tax provisions, including certain 2017 tax reform provisions that are subject to sunset or automatic modification, see Appendix D.

Healthcare

The 2019 year-end tax legislation permanently repealed three tax provisions enacted as part of the 2010 Affordable Care Act:

- a 40% excise tax on certain high-cost employer-provided health insurance plans (commonly known as the 'Cadillac tax'), effective for tax years beginning after 2019;
- a 2.3% medical device excise tax, effective for sales after 2019; and
- an annual fee on health insurance providers, effective for calendar years beginning after 2020.

These ACA provisions have faced bipartisan opposition since they were enacted in 2010 and had been suspended or delayed previously by Congress. The repeal of these three provisions represented $373 billion of the $426 billion total 10-year revenue cost of the year-end tax legislation.

Observation: Congressional action to repeal these ACA revenue-raising provisions, notwithstanding the effect on federal budget deficits and continued disagreements over health policy, may serve as a positive sign for the potential willingness of a future Congress to address key 2017 tax reform provisions that will sunset or are subject to automatic modification, as noted above. An earlier example of Congress acting to prevent scheduled tax increases from going into effect occurred in 2012, when then-President Barack Obama and Congress made permanent tax cuts that had been enacted in 2001 and 2003 under President George W. Bush, although in that case the 2012 legislation reinstated higher taxes for certain upper-income individuals.

Congress this year is expected to continue consideration of legislation to address prescription drug prices. The House in December passed a bill (H.R. 3) to require manufacturers of certain prescription drugs to negotiate prices with the Secretary of Health and Human Services (HHS). Under that bill, manufacturers that do not enter into negotiations or agree to prices by specified dates would be subject to an excise tax of up to 95% on the annual gross sales receipts for such drugs. Senate legislation to address prescription drug prices has been proposed by Finance Committee Chairman Grassley and Ranking Member Wyden, which differs from the House-passed bill.

Congress also may consider legislation this year to protect consumers from 'surprise' medical bills. The Ways and Means Committee in December announced bipartisan agreement on a plan to address surprise medical billing that could be considered this year.

The Fifth Circuit Court of Appeals on December 18, 2019 upheld a Texas District Court ruling that the ACA's individual mandate for the purchase of health insurance was unconstitutional since the tax penalty supporting the mandate had been reduced to $0 by the 2017 tax reform act. However, the three-judge panel of the Fifth Circuit Court of Appeals sent back to the District Court for further consideration the lower court's ruling that all parts of the ACA, including protections for pre-existing conditions, also are unconstitutional without the individual mandate tax. Attorneys General from California and more than 20 other states filed a petition in early January with the US Supreme Court requesting an immediate review of the Fifth Circuit's ruling to resolve uncertainty over the legal status of the ACA.

Green energy

Green energy tax proposals are playing a role in the 2020 presidential election debate over climate change and could lay the groundwork for broader legislation to be considered by the next Congress. In addition, there may be some opportunity for more targeted renewable energy proposals to be considered this year.

Ways and Means Committee Democrats in November 2019 released a discussion draft of the Growing Renewable Energy and Efficiency Now (GREEN) Act, which seeks to expand renewable energy use and reduce greenhouse gas emissions. The GREEN Act would provide incentives for renewable electricity, renewable fuels, energy efficiency, alternative vehicles, and green manufacturing. 'Green New Deal' resolutions (H. Res. 109; S. Res. 59) outlining a number of sweeping environmental goals, including net-zero greenhouse gas emissions, were also introduced last year by a group of House and Senate Democrats.

The 2019 year-end tax legislation did not include the green energy tax proposals that had been a priority for some Democrats. Such proposals included an expansion of the electric vehicle tax credit, an extension of the investment tax credit for solar producers that begins to phase out in 2020, and an expansion of the investment tax credit for battery storage.

Carbon taxes

Carbon tax proposals are being considered in the United States and other countries as a way to address climate change. While the current Congress is not expected to pass carbon tax legislation, action on climate change is a campaign priority for Democratic presidential candidates, and carbon tax proposals could be given greater consideration in 2021 if a Democrat wins the White House in this year's election.

Democrats and Republicans in the House and Senate have introduced several carbon pricing bills in the 116th Congress. Most of these proposals put a direct fee on carbon pollution, but one establishes a federal cap-and-trade program. The direct-fee bills vary in their rate, with initial fees ranging from $15 to $52 per metric ton of carbon dioxide equivalent (mtCO2e) and increasing either by a multiple of inflation or, in some cases, a fixed amount (e.g., $15 to $30 per year) if emission reduction goals are not being met. These proposals generally apply economy-wide with certain exceptions (e.g., military and agricultural uses).

All of these proposals impose some sort of border adjustment fee on fossil fuels and carbon-intensive imported goods to prevent US producers in energy-intensive, trade-exposed industries from being disadvantaged compared to foreign producers.

In addition, all of these proposals return to individuals at least some of the revenue raised. For example, the Climate Action Rebate Act, introduced by Senator Chris Coons (D-DE), Senator Diane Feinstein (D-CA), and Representative Jimmy Panetta (D-CA), would rebate 70% of the revenue collected to low- and middle-income Americans in the form of a monthly dividend and use the remaining revenue for energy infrastructure, job retraining for fossil fuel workers, and research and development.

While most Republican-backed federal carbon pricing proposals, including the Stemming Warming and Augmenting Pay (SWAP) Act introduced by Representative Francis Rooney (R-FL), call for a moratorium on the Environmental Protection Agency's ability to regulate carbon emissions, neither the Climate Action Rebate Act nor other Democratic-only plans curtail the federal government's ability to regulate emissions.

For more on US and international carbon tax proposals, see Appendix E.

Other tax legislative issues

Retirement savings

The 2019 year-end tax legislation included bipartisan retirement savings legislation. The Setting Every Community Up for Retirement Enhancement (SECURE) Act makes significant changes impacting retirement plans, including provisions that:

- modify rules for 401(k) and multiple employer plans,
- provide a fiduciary safe harbor for 401(k) providers offering annuity options,
- expand retirement savings incentives for small employers,
- repeal the maximum age limit for individual retirement account contributions,
- delay the beginning date for 'required minimum distributions' to age 72,
- modify 'stretch IRA' required distribution rules for designated beneficiaries, and
- increase certain failure-to-file penalties.

The year-end legislation also included provisions addressing coal miners' retiree pension and health benefits (Bipartisan American Miners Act), but did not include legislation addressing other underfunded multiemployer pension plans. The House on July 24 passed a multiemployer pension plan bill (H.R. 397) to address financially troubled multiemployer pension plans by allowing pension plans to borrow money needed to remain solvent. The loans and the cost of the program would be funded through the sale of Treasury-issued bonds to financial institutions. Senate Finance Committee Chairman Grassley and Health, Education, Labor and Pensions (HELP) Committee Chairman Alexander on November 20 released a multiemployer pension plan proposal (the Multiemployer Pension Recapitalization and Reform Plan) to address underfunded multiemployer pension plans and reform the plan rules to prevent future funding shortfalls.

Tax administration

The Taxpayer First Act, which was signed into law July 1, 2019, created an independent IRS Office of Appeals, required the IRS to submit a comprehensive customer service strategy to Congress within a year, and prohibited the IRS from referring low-income taxpayers' debt to private collection companies. The legislation also introduced two important changes for tax-exempt organizations — an expansion of the requirement to electronically file annual returns to include all Form 990-series returns and a requirement that the IRS notify an organization prior to automatically revoking its tax-exempt status for failing to file annual returns or notices under Section 6033(j).

Under the year-end government funding legislation, the IRS will receive $11.5 billion for the current fiscal year ending September 30, 2020. The overall FY 2020 funding level is an increase of $208 million over the previous year's budget of approximately $11.3 billion. Although the increase is smaller than some earlier budget proposals, it reverses the direction of several years of reduced funding levels that have affected the agency's operations.

Observation: The IRS 2019–2020 Priority Guidance Plan, which includes 203 guidance projects for the plan year July 1, 2019, through June 30, 2020, continues to prioritize implementation of the 2017 tax reform law, as well as implementation of the Taxpayer First Act, and other guidance.

Infrastructure

Despite calls from President Trump and Congressional leaders to make infrastructure a policy priority, little progress has been made in recent years due to a lack of consensus on the amount and source of funding. Reaching an agreement on funding will remain a significant challenge in 2020. Members of Congress are divided along party and geographic lines over other infrastructure issues, such as federal 'Davis-Bacon' prevailing-wage labor rules and the use of fuel excise taxes to fund mass transit. The Ways and Means Committee held a March 2019 hearing on the need to ensure adequate funding for the nation's infrastructure needs, but no legislation passed Congress in 2019.

The Fixing America's Surface Transportation (FAST) Act of 2015 (P.L. 114-94) provided $305 billion for federal transportation programs through FY 2020, with $235 billion coming from federal fuel excise taxes and the remaining $70 billion offset by non-transportation sources. The upcoming expiration of the FAST Act could provide a vehicle for infrastructure legislation this year, but Congress could consider a temporary extension of the FAST Act if an agreement is not reached on a multi-year bill.

House Speaker Pelosi has stated that efforts will be made to pass an infrastructure package this year. The Senate Environment and Public Works Committee last year approved a multi-year reauthorization of Highway Trust Fund programs, but that legislation did not include revenue offsets, which are under the jurisdiction of the Finance Committee. Finance Chairman Grassley has indicated that he does not expect the Senate to consider any increase in federal fuel excise taxes. It appears unlikely that Congress will approve a significant increase in infrastructure spending absent a bipartisan agreement on funding.

In 2018, Congress passed the Federal Aviation Administration (FAA) Reauthorization Act of 2018 (P.L. 115–254), a five-year reauthorization through FY 2023 for the FAA and federal excise taxes on aviation fuel and air transportation services.

Observation: Increased fuel efficiency and an increase in the sales of alternative-fuel and electric vehicles mean that current levels of federal fuel excise taxes are not sufficient to fund existing transportation programs, let alone provide funding for new infrastructure plans. Projected trust fund receipts fall short of the amounts needed to maintain current projected spending by roughly $20 billion per year.

The federal excise taxes of 18.4 cents per gallon for gasoline and 24.4 cents per gallon for diesel fuel have been unchanged since 1993. A number of bills have been introduced in recent years to index federal fuel taxes for inflation. For example, if the 18.4 cents per gallon gas tax had been indexed to inflation in 1993, it would be about 33 cents per gallon now.

Observation: In the absence of a federal consensus on how to fund increased infrastructure spending, a number of states have acted to increase state-level fuel excise taxes and/or enter into public-private partnerships that rely on toll revenues.

Federal budget deficits

If Congress were to immediately extend all 2017 tax reform legislation provisions, including business provisions set to become more restrictive, as well as to extend other expiring tax provisions, federal budget deficits would be projected to increase by about $2.1 trillion plus $0.2 trillion in debt service through 2030. Further, the 10-year budget cost of addressing 2025 sunsets and other automatic modifications to the 2017 tax reform legislation rises with each passing year. For 2020, the updated 10-year budget cost of these extensions is approximately $400 billion greater than it would have been if legislative action had been taken in 2019.

Under present law, the Congressional Budget Office (CBO) federal budget forecast currently projects larger deficits over the next 10 years. The budget deficit was just under $1 trillion, or 4.6% of gross domestic product (GDP), for FY 2019 and is expected to average 4.8% of GDP for FY 2020 through FY 2029. Despite rising tax revenues, the current $16.6 trillion in federal debt held by the public is projected to increase by $12.7 trillion over this period. Baseline revenues for this period are projected to average 17.3% of GDP, while baseline outlays for Social Security, Medicare, Medicaid, and other health subsidies, discretionary and other mandatory outlays, and net interest costs are projected to average 22.1% of GDP.

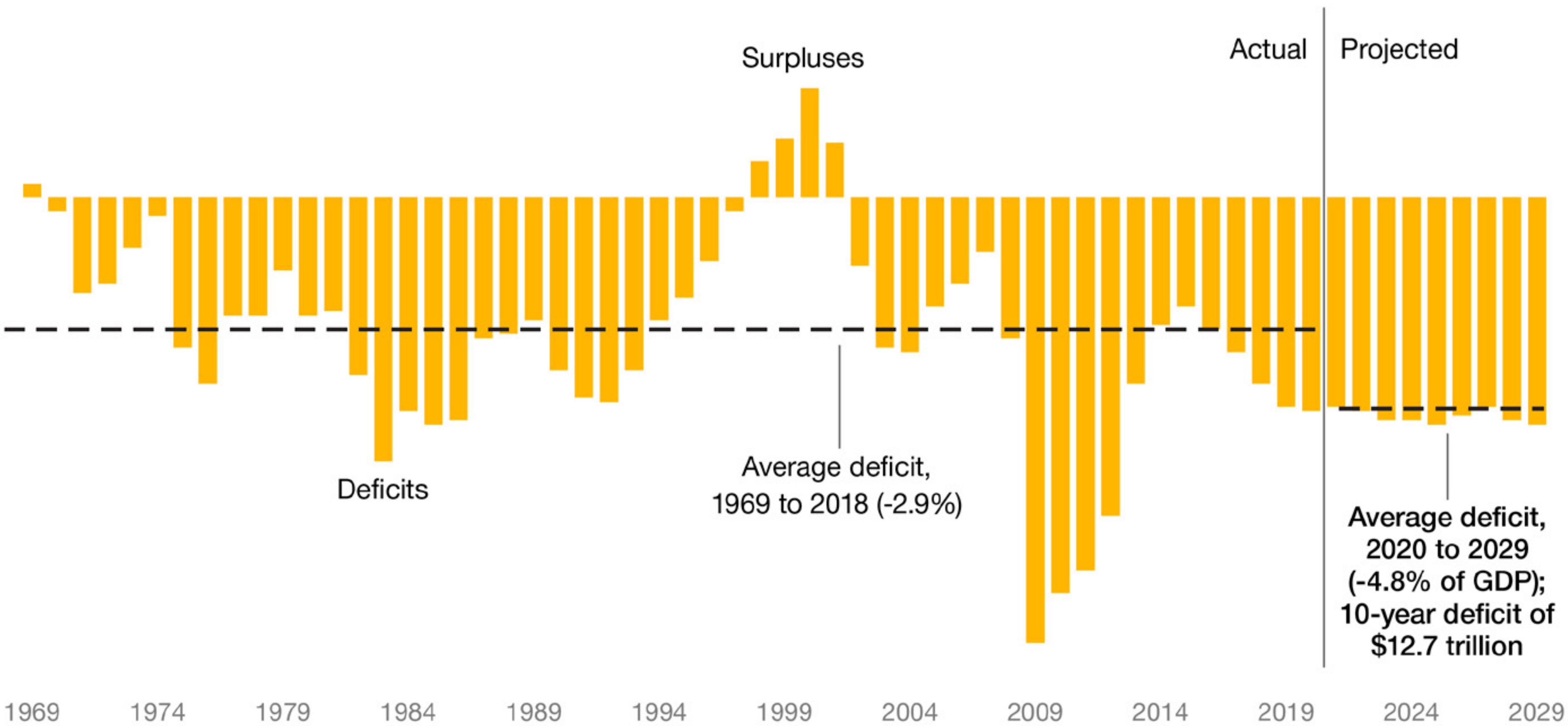
Major legislation enacted in 2019 accounts for $2.2 trillion of the $12.7 trillion 10-year deficit. The Bipartisan Budget Act of 2019 authorized the addition of $1.5 trillion to the deficit. The 2019 year-end tax legislation is estimated to add an additional $426 billion to federal deficits over 10 years, with $373 billion of that amount attributed to the cost of repealing ACA taxes that previously had been suspended or delayed and the remainder reflecting the cost of short-term extensions of temporary tax provisions and other miscellaneous provisions. Debt service associated with both acts is projected to add an additional $250 billion to the 10-year deficit.

Observation: To date, neither the 2020 presidential nor congressional campaigns have focused on deficit reduction. As noted above, President Trump has indicated that he may propose another round of tax cuts in addition to making permanent 2017 tax reform provisions, and he previously has ruled out changes to Social Security and Medicare, which are among the most significant sources of projected deficit spending. Democratic presidential candidates are proposing significant tax increases, but to fund new spending for healthcare, education, the environment, and other purposes — not for deficit reduction. As a result, it appears that federal budget deficits will continue at levels significantly higher than the past 50 years, absent a significant increase in interest rates or other events that might make deficit reduction a political priority.

CBO in late 2018 released its periodic report on options for reducing the deficit, describing the pros and cons of 121 policy options that would decrease federal spending or increase federal revenues over the next decade. The CBO report often has been used by elected officials and political candidates to identify provisions that may be proposed to reduce budget deficits or to fund new legislative proposals. While few of the policy options identified are new, the CBO report includes 40 tax-related items, such as increasing individual and corporate tax rates. For more details on select CBO revenue-raising options, see Appendix F.

Figure 6: Federal budget outlook: Larger deficits ahead

(Deficits as a percentage of Gross Domestic Product)



Source: CBO (August 2019) and PwC calculations reflecting other enacted legislation.
Deficit adjusted for fiscal year timing effects.

Trade policy

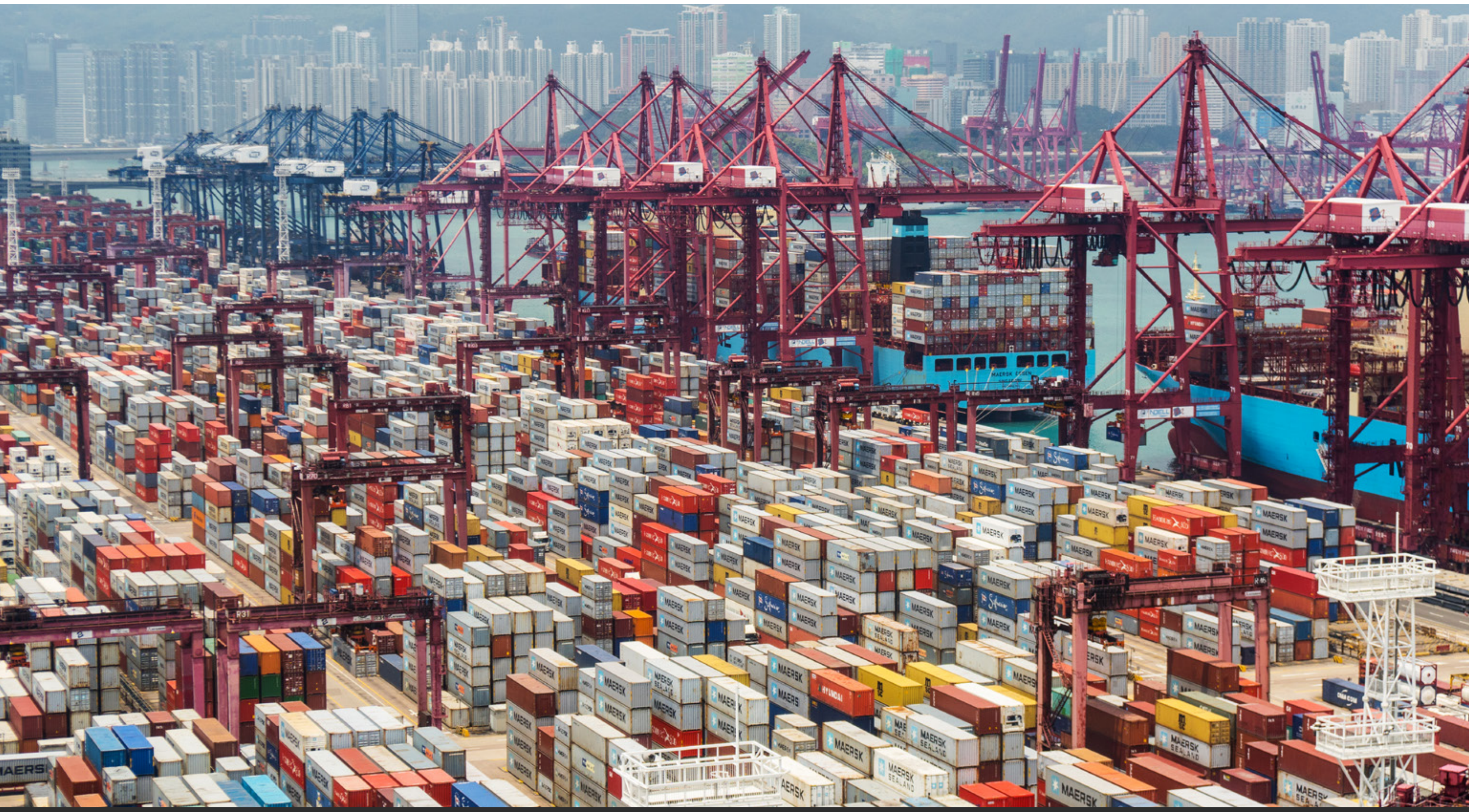
United States-Mexico-Canada Agreement (USMCA)

The House on December 19, 2019 voted 385 to 41 to approve USMCA implementation legislation. The Senate on January 16, 2020 voted 89 to 10 to give final approval to the USMCA legislation. More than a year has passed since November 30, 2018, when President Trump, Canadian Prime Minister Justin Trudeau, and outgoing Mexican President Enrique Pena Nieto signed the USMCA.

The new free-trade agreement leaves in place the basic NAFTA framework, but updates the arrangement with new labor and environmental standards, a new chapter on trade in digital goods, stronger intellectual property (IP) protections, and a more stringent set of requirements for automobiles and automotive parts to qualify for tariff-free access in North America.

While the Trump Administration last year called for speedy ratification of USMCA, House Democrats sought further commitments from the Mexican government to implement and enforce improved labor conditions in Mexico, as well as other changes to the new agreement related to environmental issues and pharmaceuticals. House Speaker Pelosi and Ways and Means Committee Chairman Neal on December 3 announced an agreement with US Trade Representative Robert Lighthizer on key issues that cleared the way for the US ratification process to proceed. The Canadian and Mexican governments also agreed to the newly negotiated changes.

Canada and Mexico have been following their respective domestic procedures, which must be completed before USMCA can take effect. Mexico on June 19, 2019 became the first of the three countries to ratify the new free-trade agreement, and quickly ratified the proposed changes to the new agreement in December. The timing of the ratification process in Canada remains unclear. Prime Minister Trudeau favors ratification, and the Canadian Parliament is expected to formally ratify the new deal shortly after lawmakers return from an extended break in late January. Assuming Canada also approves the agreement, it appears that USMCA will be ratified fully in early 2020, with the precise timeline for the ratified agreement to enter into force to be determined by a presidential order that Mexico and Canada are in compliance with the new agreement.



US-China trade

The United States and China on December 13 announced that the two countries had reached an agreement in principle on a Phase One trade deal. This agreement, which was formally signed on January 15, 2020 in Washington, sets forth certain actions by China, including structural reforms and other changes to China's economic and trade regime regarding intellectual property, technology transfer, agriculture, financial services, and currency and foreign exchange practices. The agreement also includes a commitment by China to increase purchases of US agricultural goods, energy, and manufactured goods by $200 billion over the next two years. For context, in 2018 the US exported $179 billion worth of goods to China.

The Phase One agreement was reached after multiple rounds of tariff increases by both the United States and China. President Trump imposed tariffs under Section 301 of the Trade Act of 1974, which provides the President with the ability to take retaliatory actions against any country that violates or otherwise denies benefits under any trade agreement with the United States.

Under this authority, the Trump Administration took a series of actions aimed at addressing US concerns over Chinese trade practices, and China responded with certain retaliatory trade actions:

- In April 2018, USTR Lighthizer proposed two phases (Lists 1 and 2) of Section 301 tariffs on $50 billion worth of Chinese imports.
- In September 2018, the United States began imposing a third phase (List 3) of 10% tariffs (increased to 25% on May 10, 2019) on $200 billion of Chinese imports.
- On May 13, 2019, China retaliated with tariffs of up to 25% on $60 billion of US goods.
- On August 13, 2019, USTR Lighthizer announced that the United States would impose additional Section 301 tariffs of 10% on the remaining $300 billion of Chinese imports beginning on September 1 for most products (List 4A) and December 15 for a subset of goods (List 4B).
- President Trump responded to China's August 23 announcement that it would impose additional tariffs on $75 billion of US imports by announcing a September 1 increase from 10% to 15% on List 4A tariffs on approximately $120 billion of Chinese goods and an October 1 increase from 25% to 30% on Lists 1 through 3 tariffs (the October 1 increase was deferred).

China moved to significantly reduce Chinese purchases of US goods in an effort to inflict strategic pain on key US business sectors, including agriculture. In response, the Trump Administration took various steps to assist businesses impacted by the US-China trade disputes, including the payment of more than $20 billion in trade-related assistance to affected farmers.

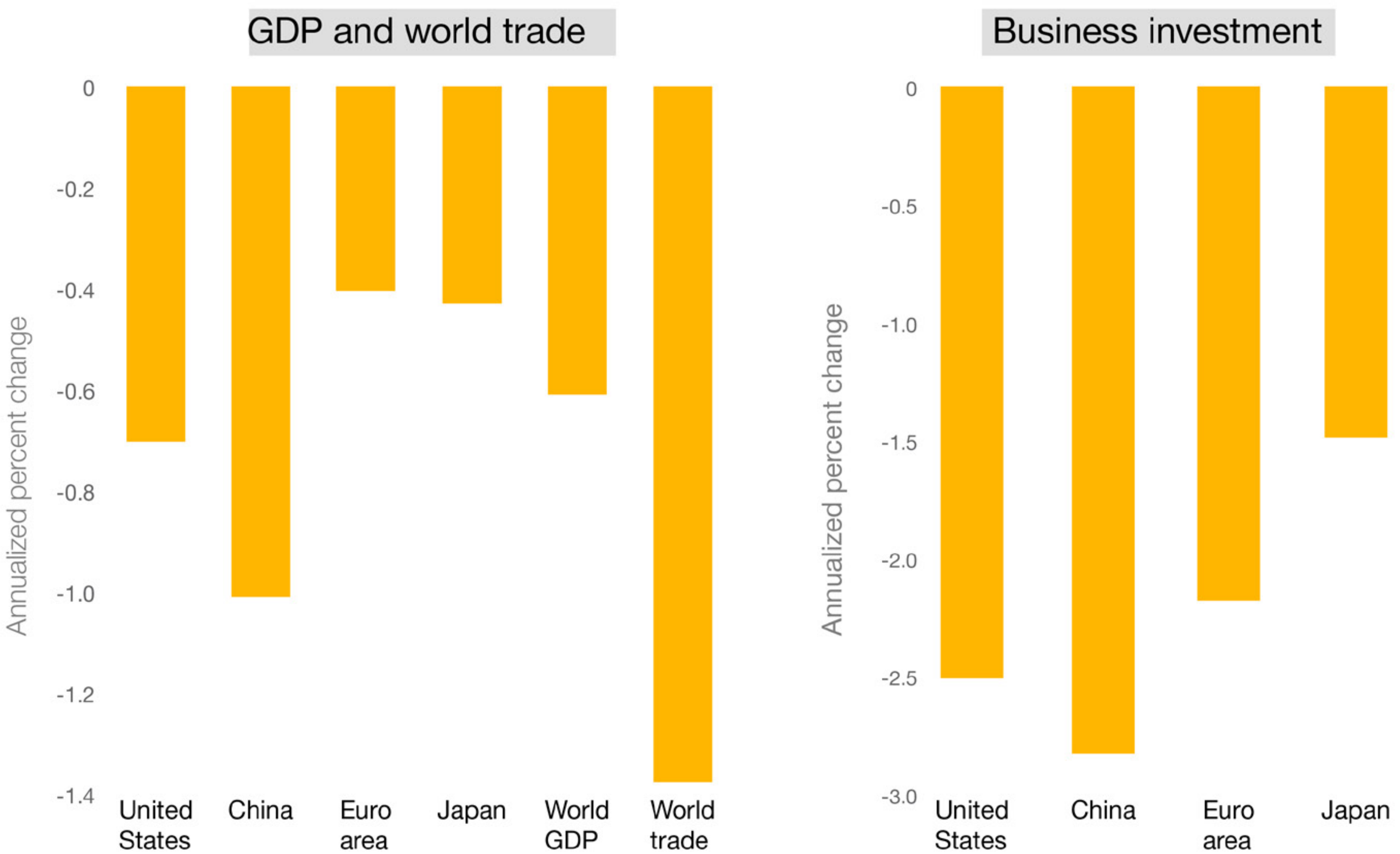
In exchange for China's Phase One commitments, the United States has agreed to modify its Section 301 tariffs. While the Lists 1-3 tariffs on $250 billion of Chinese goods will remain at 25%, the List 4A tariffs on $120 billion of Chinese goods will be cut from 15% to 7.5%, and the List 4B tariffs on $160 billion worth of Chinese goods scheduled to take effect on December 15 have been suspended indefinitely.

The Phase One agreement establishes a dispute resolution system intended to ensure prompt and effective implementation and enforcement by allowing either country to identify agreement violations and trigger expedited discussions. The trade deal also covers important intellectual property issues, including China's agreement to a suite of judicial reforms (particularly regarding counterfeit goods), to end its practice of forced or pressured technology transfers, and to provide transparency into judicial proceedings related to IP transfers.

Observation: The US-China Phase One agreement leaves in place significant increased US tariffs on over half of all Chinese imports, and uncertainty over trade relations between the world's two largest economies continues as a drag on the economies of both nations and other countries, as shown in Figure 7.

Figure 7: Estimated impact of US-China tariffs on world economy, 2021-2022

(change from baseline)



Source: OECD Economic Outlook, November 2019.

US-Japan trade

USTR Lighthizer and Japanese Ambassador to the United States Shinsuke J. Sugiyama on October 7 signed the US-Japan Trade Agreement and the US-Japan Digital Trade Agreement. Beginning January 1, 2020, the US-Japan Trade Agreement eliminates or reduces tariffs on certain agricultural and industrial products to enhance bilateral trade between the two countries. The Ways and Means Trade Subcommittee held a November 20 hearing on the US trade agreement and on-going talks with Japan.

Brexit

The United Kingdom – which was originally scheduled to leave the European Union on March 29, 2019 – has been granted several extensions and now is due to leave the EU on January 31, 2020. The Conservative Party secured a substantial majority in December 2019 elections, paving the way for approval of the withdrawal agreement that had been agreed with the EU but was not passed by the previous government. This withdrawal agreement includes a transition period, during which the UK is to abide by all EU rules (and enjoy all benefits except involvement in EU institutions), until the end of 2020.

Discussions will be held between the UK and the EU on the future relationship (e.g., trade agreements) that will apply after the transition period ends on December 31, 2020 (unless the transition period is extended beyond this date).

The Conservative Party's election victory also enables it to implement other pledges, including canceling the previously legislated corporate tax rate reduction to 17% (i.e., the rate will remain at 19%), and introducing a 2% DST to apply from April 1, 2020.

Observation: The UK corporate tax rate at 19% remains below the OECD average rate of 23.5% and the combined US corporate rate (federal and state) of 25.9%. By contrast, the Labour Party had proposed to increase the UK corporate tax rate to 26% and add an additional tax on multinational profits.

Trade disputes involving key manufacturing sectors

Aviation

The World Trade Organization (WTO) on October 2 ruled that the United States may levy tariffs of up to $7.5 billion on imports from the EU in response to the EU's subsidies to a European aircraft manufacturer. The ruling represents the largest arbitration award ever issued by the WTO and could lead to additional global trade tensions. The WTO had ruled in May 2018 that the EU subsidies of the aircraft manufacturer were illegal.

Following the WTO's arbitration grant and consistent with WTO rules, USTR Lighthizer announced that beginning October 18 the United States would impose tariffs of 10% on large civil aircraft and 25% on agricultural and other products, mostly on imports from France, Germany, Spain, and the UK, the four EU countries responsible for the illegal subsidies. The USTR has the authority to change the list of products affected, or increase the tariffs up to 100%, at any time.

The WTO is expected to rule in early 2020 on a separate EU case against US subsidies to a US aircraft manufacturer, also previously deemed illegal by the WTO, and to determine the value of US exports on which the EU may levy tariffs. The EU has prepared a list of US exports valued at $20 billion from which it would be able to select goods for tariffs.

Automotive

Secretary of Commerce Wilbur Ross on February 17, 2019 submitted a report to the White House on his investigation under Section 232 of the Trade Expansion Act of 1962, concluding that imports of certain automobiles and automobile parts threatened to impair the national security of the United States. Rather than immediately levying tariffs as authorized under Section 232, President Trump on May 17 directed USTR Lighthizer to negotiate agreements with respect to automobiles and certain automobile parts imported from the EU, Japan, and any other country. If negotiations were unsuccessful or ineffective after 180 days — or by mid-November, 2019 — the President could have taken other actions he deemed necessary, including potential tariff increases.

President Trump last November announced that he was delaying any decision on automotive tariffs. This announcement followed a November 5 floor speech in which Senate Finance Committee Chairman Grassley said he was working on bipartisan legislation to limit the President's authority under Section 232 to impose tariffs for national security reasons. A decision by President Trump to impose automotive tariffs could lead to renewed efforts by Senate Finance Chairman Grassley and others in Congress to address presidential trade authority.

Steel and aluminum

Section 232 tariffs on many steel and aluminum products, at 25% and 10% respectively, have been imposed since March 2018, on goods from many countries. However, the threat of tariffs was dropped for Argentina, Australia, Brazil, Canada, Mexico, South Africa, and South Korea. Tariffs on Turkish steel imports were raised to 50% on October 14, 2019. However, the status of steel and aluminum tariffs remain subject to change; President Trump on December 2 announced on social media that he would be imposing tariffs on steel imports from Argentina and Brazil in response to devaluations of those countries' currencies, but no further official action was taken at the time.

Generalized System of Preferences (GSP)

President Trump on May 16, 2019 announced that the United States had terminated Turkey's designation as a beneficiary developing country under the GSP program and on May 31 announced that the United States had terminated India's designation as a beneficiary developing country under the GSP program, meaning that goods previously imported into the United States from Turkey and India no longer are eligible for GSP duty-free treatment.

USTR Lighthizer on October 25 announced that President Trump was suspending $1.3 billion in trade preferences for Thailand under the GSP, citing Thailand's failure to adequately provide internationally recognized worker rights. The USTR also announced that President Trump would be restoring some GSP benefits for Ukraine following passage of legislation aimed at addressing shortcomings in its IP regime. In addition, the USTR announced that it is opening new GSP eligibility reviews for South Africa and Azerbaijan, and closing GSP eligibility reviews with no loss of GSP eligibility for Bolivia, Iraq, and Uzbekistan.

World Trade Organization

The terms of two of the last three judges on the WTO's seven-member appellate body ended on December 11, 2019, meaning that the WTO's dispute settlement body can hear cases, but losing parties will have no avenue to appeal its decisions as the appellate body no longer will be functioning. The number of appellate judges has decreased as the United States, under the past three administrations, has blocked new judicial appointments to protest what it sees as the appellate body's creation of new trading rules rather than simply enforcing rules to which members have agreed. The EU and other countries have been working to establish a substitute appellate body to arbitrate future trade disputes, but it is uncertain how many countries might join this effort.

WTO members on December 10 announced that the 20-year customs duty moratorium on electronic transmissions, which was due to expire in December 2019, will be extended until the June 2020 WTO Ministerial Conference in Nur-Sultan, Kazakhstan. Reconsideration of this moratorium may have implications for on-going digital taxation proposals.

Global tax policy

Digitalization of the economy

A global campaign to rewrite international tax rules continues to accelerate as political pressures mount around a variety of competing influences. Ongoing efforts by the G20 and OECD to develop a long-term consensus solution to tax challenges arising from the digitalizing economy are playing out at the same time that individual jurisdictions are resorting to unilateral tax measures. Concerns that these unilateral measures constitute discriminatory actions aimed at collecting revenue from US technology companies in turn are leading to increased trade tensions. Against this backdrop, the global tax policy agenda in 2020 likely will continue to feature unprecedented volatility.

OECD/G20 Inclusive Framework

In 2019, the OECD/G20 Inclusive Framework (IF), which includes more than 130 participating member governments, made significant efforts in developing a consensus solution for its digitalizing economy project. At the beginning of 2019, a policy note and initial consultation document sketched out a two-pronged approach to resolving perceived challenges in the current international tax system: Pillar One to introduce new profit allocation and nexus rules, and Pillar Two to deal with additional base erosion and profit shifting measures.

Pillar One offered three competing alternatives for a new profit allocation/nexus rationale:

- user participation (when user activities are deemed critical components of value creation);
- marketing intangibles (separate from trade intangibles and allocate some portion of global profits to market countries using agreed metrics);
- significant economic presence (look at revenue generated from ‘sustained interaction’ with customers/users via ‘digital technology’ and other automated means).

A Programme of Work released mid-year shifted the Pillar One focus somewhat by stating that the profit allocation could be based on either a modified residual profit split method, fractional apportionment, or distribution-based approach.

A significant effort to refine Pillar One occurred with the OECD Secretariat releasing in October its own proposal – the ‘Unified Approach’ – which would create a new taxing right not based on physical presence. The proposal would create a three-tiered allocation system, based on:

- Amount A – directs a percentage, to be determined, of the residual of a multinational enterprise’s worldwide profits to market jurisdictions in which there is sufficient revenue generated;
- Amount B – a simplification of transfer pricing principles for determining a baseline return from distribution/marketing functions using a formula; and
- Amount C – the possibility of an enhanced return for local functions that exceeds the Amount B calculation, using traditional facts-and-circumstances.

The OECD Secretariat’s ‘Unified Approach’ was meant to combine elements from previous proposals in an effort to push discussions on a consensus solution in advance of a January 2020 IF meeting intended to endorse a high-level political agreement.

A separate OECD Secretariat consultation document on Pillar Two was released in November 2019 that only focused on the ‘income inclusion rule’ aspect of the proposal, with an emphasis on requesting feedback on whether financial accounts should be used as the starting point for calculating effective tax rates for a minimum tax, at what level blending should occur (e.g. per-entity, per-county, or global), and which (if any) carve-outs might be appropriate.

The OECD held public hearings in Paris on both Pillar One and Pillar Two close to the end of 2019, allowing companies, business groups, and other interested stakeholders to present views on the many aspects of the proposed approaches.

One major challenge in this endeavor is to synthesize a diversity of views among the more than 130 participating member governments in the Inclusive Framework. The timeline continues to be ambitious, with the goal of a high-level political agreement in early 2020 and a final approach arrived by and presented to the G20 at the end of 2020, followed by implementation (as shown below in Figure 8).

US role

The adoption of minimum tax rules as part of US tax reform legislation enacted in 2017 is widely viewed as influencing the current work on redesigning the international tax rules beyond just a focus on digital effects. In addition, the United States previously insisted that OECD base erosion and profit shifting (BEPS) efforts not result in 'ring fencing' of technology companies and that instead any new rules should be broadly applicable given the growing role of digitalization in business models.

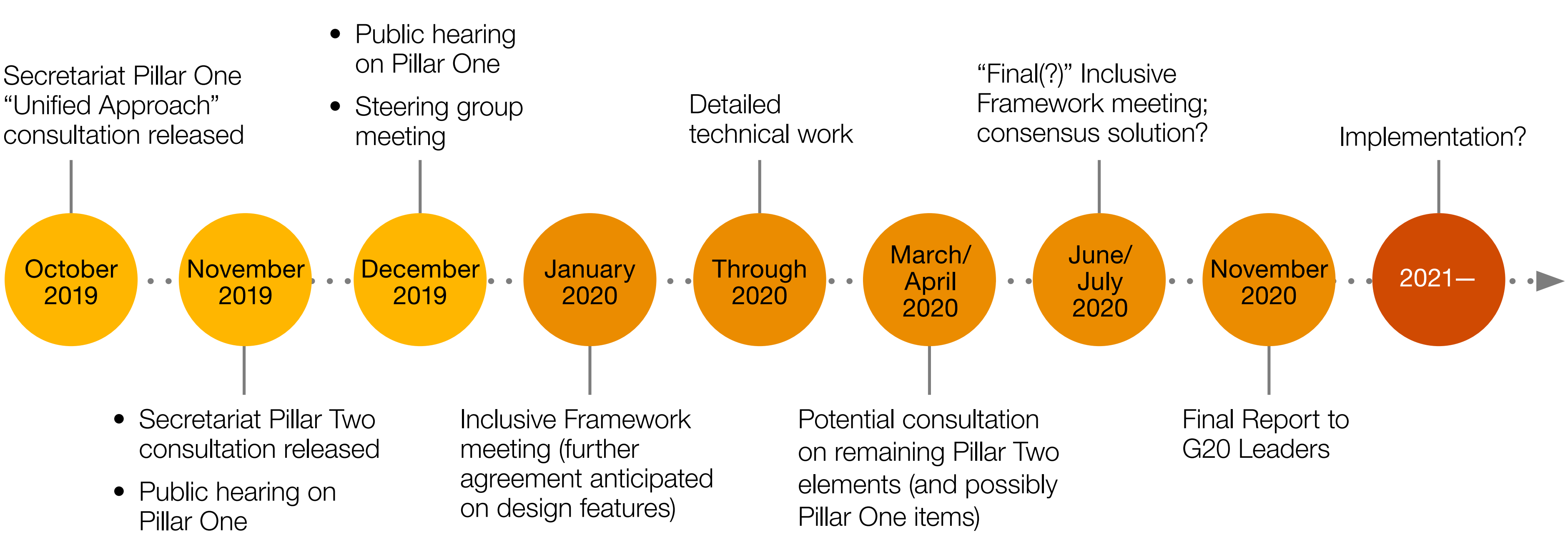
To date, the United States has expressed its intention to remain involved in the OECD process, even while raising concerns with some potential design choices of the solution framework. In December 2019, Treasury Secretary Steven Mnuchin sent a letter to the OECD Secretary General in which he noted that any new multilateral agreement would need broad support if it is to be implemented through amendments to tax treaties or through domestic legislation. Secretary Mnuchin stated the United States was unlikely to support a Pillar One proposal unless it operated as a safe harbor, given US concerns over potentially mandatory departures from the arm's-length principle and current permanent establishment rules. The OECD responded that the US proposal for a opt-in safe harbor approach had not been raised previously in any Inclusive Framework discussions, and urged Secretary Mnuchin to have talks with the OECD and French Finance Ministry at the earliest possible moment.

Observation: The speed with which the G20/OECD Inclusive Framework project has progressed is both positive and negative. On the positive side, the speed is intended to stave off unilateral actions like the DSTs, though it appears to have had limited impact on their proliferation. On the negative side, the magnitude and complexity of the changes under consideration far exceed the time allotted for development and agreement. The US opt-in approach lengthens the time needed to address such concerns.

Pending an agreeable resolution to US concerns, the future of Pillar One without US support is unclear. In the meantime, there could be increased risk of countries pursuing unilateral actions in the absence of a global consensus.

Other significant issues remain, and crucial details are lacking. The dispute resolution mechanisms needed to provide business certainty are yet to be developed and agreed upon. In addition, the consultation documents make no reference to governments' commitments to roll back unilateral measures as part of a final agreement.

Figure 8: Anticipated OECD Digital taxation project timeline



Unilateral measures

There is growing interest around the globe in unilateral measures to address a perceived political urgency in ensuring that multinational enterprises pay a ‘fair share’ of tax in the countries in which they generate revenue. Presently, many of these measures are structured as a gross receipts tax on revenues generated by specific activities. The failure of the European Union to implement a bloc-wide tax on digital companies spurred a number of new initiatives by EU member states unwilling to wait for the OECD/G20 to deliver a final report.

France became the first major country in 2019 to enact a DST, which was made retroactive to the beginning of the year. The 3% tax targets digital platforms (e.g., online marketplaces, dating services, and app stores) and advertising messages on digital platforms. Companies in scope are those with global revenues over €750 million annually and more than €25 million generated in France.

The French law has become the model for a number of other jurisdictions pursuing DST measures, including Canada, Turkey, and the Czech Republic.

Italy implemented a 3% DST beginning January 1, 2020. Austria enacted a more limited DST (at 5%) focused on online advertising, which went into effect at the beginning of 2020. Spain also has considered a 3% DST. The Czech Republic has been considering a 7% DST largely similar to the French version.

The United Kingdom’s proposed DST of 2% would affect a more limited range of activities – social media platforms, internet search engines, and online marketplaces – with explicit exclusion of many digital financial services, start-ups, and loss-making enterprises, and would apply only to those companies with more than £500 million global revenues and £50 million local revenues. As noted above, the UK DST had been put on hold pending the outcome of the December 2019 parliamentary election, but it currently appears likely to be implemented on April 1, 2020, as proposed.

Turkey’s legislature has passed a 7.5% DST that is broader than the French DST by affecting online platforms, online advertising, sales of digital content (including streaming and subscriptions), and intermediary services. Payments are due on a monthly basis.

The governments of several other countries, including Indonesia, Chile, Mexico, Kenya, and Malaysia, have expressed interest in developing tax measures for digital activities.

US response

The United States has acted in response to such unilateral measures. In July 2019, the US Trade Representative began an investigation into France’s DST, receiving public comments and holding a public hearing. The USTR in December issued a report that found that France’s DST is unreasonable and discriminatory and burdens or restricts

US commerce, and therefore is actionable under Section 301 of the 1974 Trade Act. Accordingly, the USTR on December 2 announced plans to impose retaliatory tariffs of up to 100% on $2.4 billion of French products. A hearing on the proposed tariffs was held on January 7, 2020, and action to implement the tariffs could be taken shortly.

EU elections

The European Union held parliamentary elections in May 2019, with a new Parliament seated for a five-year term in September. A new Commission also was elected, with ramifications for tax. Paolo Gentiloni of Italy became the Economy Commissioner (which includes a tax portfolio), and Margrethe Vestager of Denmark (the former Competition Commissioner) was elevated to an executive vice president role, overseeing digital affairs while also keeping control of the competition portfolio. On the subject of digital taxation, Gentiloni was instructed by the incoming Commission President to lead efforts at the OECD but also to be prepared to forge ahead with an EU solution should the OECD negotiations not conclude by the end of 2020; Vestager was given similar instructions to engage in the digital tax work. Other tax initiatives anticipated by the Commission include reviewing the energy tax directive, developing a carbon border tax proposal, continuing to push for a common consolidated corporate tax base, and taking action against harmful tax regimes around the globe.

Observation: The European Commission continues to discuss measures to make public country-by-country (CbC) reports. This issue is likely to generate more controversy in 2020.

Tax certainty

The OECD continues to push forward projects meant to increase tax certainty. The International Compliance Assurance Program (ICAP) is expanding with 18 countries now participating in the process of using CbC reports to assess risk. Based on the first pilot, ICAP has been restructured to encompass a more flexible process, have a targeted approach to documentation, and include an issue resolution option in the risk assessment stage.

The use of joint audits is growing with tax administrations seeking cooperation as a means to ensure compliance and minimize resources spent on disputes.

In 2019, the OECD released several more groups of peer reports on Mutual Agreement Procedures (MAP), noting trends in the number of active cases and the amount of time required for cases to be resolved.

The OECD's ongoing review of BEPS Action 13 CbC reporting will include a reassessment by the end of 2020 whether reports should be required to include additional or different data, in line with a key mandate in the final Action 13 BEPS report. The review is likely to include a reevaluation of the €750 million threshold, with a public consultation scheduled for early 2020.

Tax treaties

As noted above, Treasury Secretary Mnuchin has informed OECD officials that any new multilateral agreement that may arise from the OECD/G20 project would need broad support if it is to be implemented through amendments to tax treaties or through domestic legislation.

US tax treaties traditionally have been considered in the Senate under unanimous consent procedures, which permit ratification of the treaties without requiring Senate floor time for debate and formal vote, but that changed with Senator Rand Paul's (R-KY) election in 2010. Senator Paul placed a hold on the consideration of tax treaties due to privacy concerns related to treaty exchange of information provisions, which have been expanded in recent years as part of a global effort to prevent tax evasion. To advance past this delay, Senate leadership in July 2019 filed a cloture motion that resulted in the Senate's ratification of four long-pending protocols to US tax treaties with Spain, Switzerland, Japan, and Luxembourg.

Further Senate consideration of pending tax treaties with Chile, Hungary, and Poland has been delayed because of reservations requested by Treasury regarding the BEAT provision, which was enacted as part of the 2017 tax reform act after the tax treaties had been negotiated. Treasury officials have indicated that the Administration may withdraw and re-negotiate the treaties if the Senate does not agree to the reservations. Treasury officials are considering updates to the US model tax treaty to reflect BEAT and other changes enacted as part of the 2017 act.

Other international developments

- The EU Anti-Tax Avoidance Directives (ATAD 1 and 2) are part of the EU's response to BEPS. The directives are designed to address tax avoidance practices by setting minimum standards for EU Member States that require changes to corporate tax laws in certain areas and within specified timelines. Although most of the new rules went into effect as of January 1, 2019, a number of Member States still were finalizing domestic laws throughout 2019. There are significant potential effects on cross-border transactions involving EU entities; this area should continue to be monitored in 2020 as EU member states apply their rules in practice.

- As BEPS continues to be implemented around the globe, eight countries (Albania, Belize, Bosnia and Herzegovina, Jordan, Kenya, Morocco, Oman, and Papua New Guinea) signed up to a multilateral instruments agreement (MLI) in 2019, with 21 countries submitting instruments of ratification (Belgium, Canada, Curacao, Denmark, Finland, Georgia, Guernsey, Iceland, India, Ireland, Latvia, Liechtenstein, Luxembourg, Mauritius, Monaco, Netherlands, Norway, Russia, Switzerland, Ukraine, and UAE); all of the countries ratifying the MLI put the provisions into effect in 2019 (except for Mauritius, Iceland, Denmark, Latvia, and Liechtenstein).

- The OECD expanded its transfer pricing profile to cover 55 countries and announced that Brazil will align its transfer pricing rules with the OECD standard.

- EU Member States continued to implement Mandatory Disclosure Rules (MDR), applicable for the reporting of certain transactions involving 'aggressive tax planning,' as reporting begins July 1, 2020. Based on uncertainty in domestic legislative language and differences in rules among Member States, companies will need to monitor the practical application of this new regime.

State tax policy

In 2019, state tax policy focused on how states should react to the 2017 federal tax reform and to the US Supreme Court's 2018 decision in South Dakota v. *Wayfair*, Inc., overturning the ‘physical presence’ nexus standard. These two seminal developments will continue to influence state legislative and administrative actions in 2020.

States overall have seen significant corporate tax revenue increases as well as increased sales tax collections since the enactment of federal tax reform in December 2017 and the *Wayfair* decision six months later. While state revenue is influenced by a variety of factors, including economic conditions and legislated tax increases, expansion of the state corporate tax base due to conformity to various federal tax reform provisions and the expanded post-*Wayfair* reach of state sales and use taxes to new taxpayers have had a profound effect on state and local business taxation.

Observation: Many of the states’ reactions are too recent to assess their full impact, and states will continue to provide guidance and consider legislative adjustments as the post-federal tax reform and post-*Wayfair* landscape takes shape. Tax controversy also may continue to increase in the near future, as taxpayers react to state actions in this new environment.

Federal tax reform – From conformity to implementation

The two elements of federal tax reform with the greatest potential state tax impact on business taxpayers are the interest expense limitation and changes in the taxation of foreign income.

In 2019, a handful of states either decoupled from the interest expense limitation or partially decoupled, while other states have provided guidance on how the limitation applies in their specific state context (e.g., to separate and combined state returns). Taxpayer advocates have made policy arguments for continued state decoupling in 2020, especially in states that do not allow immediate expensing, although the revenue impact of such actions may be seen as a significant hurdle to overcome.

Regarding foreign income, states continue to grapple with how to treat the federal GILTI provision. At the close of 2019, a significant number of states had expressly decoupled from GILTI or had decided to treat GILTI as a fully or partially deductible dividend. However, for both those states that provide no deduction and those that allow a partial deduction, the issue of how to apportion this income to the states has generated significant controversy, with taxpayer advocates arguing for sales factor inclusion of all receipts giving rise to GILTI and most states allowing only the state taxable GILTI amount in the factor.

Observation: State taxpayer organizations continue to list decoupling from tax base expansion or conforming to tax base decreases (such as immediate expensing) on their legislative agendas for 2020. However, the emphasis of state activity may shift to issues with implementing these provisions, particularly navigating the differences between state filing regimes and income apportionment.

Post-*Wayfair* – Just getting started

The speed and breadth of state reactions post-*Wayfair* are unprecedented. Forty-two of the 45 states imposing state sales and use taxes have adopted a receipts ‘threshold’ nexus approach modeled after the South Dakota law at issue in the underlying case. In addition, 39 of these states have adopted ‘marketplace’ provisions requiring certain transaction facilitators to collect and remit the tax.

Although these new laws already have become effective, compliance appears to be lagging, in part due to the admitted complexity, ambiguity, and variations among the laws in the various states.

While South Dakota has adopted the Streamlined Sales and Use Tax Agreement, approximately half the states, including the highest-population states, have not. State and especially local tax administrative complexity is compounded by varying receipts thresholds – and in many cases varying transactional thresholds – for nexus. Further, marketplace provisions have raised many new questions regarding the responsible party for collecting and remitting taxes and the process for doing so.

In 2020, most of the remaining states that impose sales and use taxes but have not yet enacted nexus and marketplace 'thresholds' likely will pass such legislation. However, much of the state activity and attention will center on implementing these laws, which in turn will raise opportunities to address impediments to compliance. Already, multistate organizations such as the National Conference of State Legislatures (NCSL) and the Multistate Tax Commission (MTC) have engaged in extensive discussions with taxpayers on how to improve these laws. For example, the NCSL's Task Force on State and Local Taxation is advancing model legislation for state consideration.

Observation: There has been a continued movement of state income tax nexus toward an 'economic nexus' standard, which has accelerated in the wake of *Wayfair*. The MTC is taking steps to amend its interpretation of P.L. 86-272, which could lead states to take an aggressive position toward taxpayers seeking protection for their activities under federal law.

Looking ahead

Business interests have seen some success in advocating for more competitive state tax policies, including in the area of state credits and incentives. However, any economic downturn and commensurate state and local revenue stagnation or decline could have a nearly immediate impact on state tax policy. Already, some policymakers and advocates are calling for an expansion of state corporate taxes, such as taxation of GILTI or adoption of mandatory worldwide combined reporting. Likewise, there are calls for disclosure, scrutiny, and repeal of state tax credit and incentive benefits. Continued economic growth with commensurate state revenue gains will be a key to states continuing to pursue competitive tax policies rather than turning in new directions for revenue.

What This Means For Your Business

The prospects for significant tax legislation in the second session of the 116th Congress are expected to be limited. This is not surprising given partisan tensions that have been intensified by the House of Representatives' impeachment of President Trump and with both parties seeking to position themselves to compete in the November 3 elections for control of the White House and Congress. It remains to be seen whether Congressional action can be achieved on more select tax proposals, including technical corrections to the 2017 tax reform act.

Even absent new tax legislation, Treasury and the IRS will continue to issue extensive guidance on tax reform provisions as well as other more recently enacted legislation. Most importantly, critical decisions may be made this year regarding the G20/OECD effort to develop a long-term consensus solution to tax challenges arising from a digitalizing global economy.

While revenue-raising business tax reform provisions with delayed effective dates (in 2022 and thereafter) may not be addressed during the current Congress, stakeholders should communicate their impact on business operations and investment decisions to policymakers well in advance of such provisions taking effect.

The trade environment continues to change at an unpredictable and rapid pace, leaving many importers and manufacturers facing uncertainties. Although positive developments with USMCA and China trade have calmed some tensions, there remain many trade-related risk factors that could increase trade costs. Global businesses must continue to monitor the geopolitical landscape for potential uses of tariffs to meet diplomatic or other policy goals and examine whether there is flexibility for alternative sourcing or other supply chain mitigation strategies (for more on how policy decisions affect tax and trade functions, see Appendix G).

Businesses now face an uncertain and unfamiliar tax policy landscape at every level— international, federal, state, and local. These changes will have an impact on business expansion plans, historic operating structures, and financial reporting that warrants careful attention. Added to this are the sometimes confounding challenges posed by the uncertainty over the international trade world order. Charting a path forward in this changing environment will require close coordination between the C-suite and the tax and trade functions of businesses.

The tax and trade environment continues to change at an unpredictable and rapid pace.

Appendices

Appendix A: Tax Policymakers

Congressional leadership in the 116th Congress

House Leadership	
Speaker of the House	Nancy Pelosi (D-CA)
Majority Leader	Steny H. Hoyer (D-MD)
Majority Whip	James E. Clyburn (D-SC)
Assistant Democratic Leader	Ben Ray Luján (D-NM)
Democratic Caucus Chair	Hakeem Jeffries (D-NY)
Democratic Caucus Vice Chair	Katherine M. Clark (D-MA)
Democratic Congressional Campaign Committee Chair	Cheri Bustos (D-IL)
Minority Leader	Kevin McCarthy (R-CA)
Minority Whip	Steve Scalise (R-LA)
Republican Conference Chair	Liz Cheney (R-WY)
Republican Conference Vice Chair	Mark Walker (R-NC)
Republican Policy Committee Chair	Gary Palmer (R-AL)
National Republican Congressional Committee	Tom Emmer (R-MN)
Senate Leadership	
President of the Senate	Vice President Mike Pence (R)
President Pro Tempore	Charles Grassley (R-IA)
Majority Leader	Mitch McConnell (R-KY)
Majority Whip	John Thune (R-SD)
Republican Conference Chair	John Barrasso (R-WY)
Republican Conference Vice Chair	Joni Ernst (R-IA)
Republican Policy Committee Chair	Roy Blunt (R-MO)
Republican Senatorial Campaign Committee Chair	Todd Young (R-IN)
Minority Leader and Democratic Conference Chair	Chuck Schumer (D-NY)
Minority Whip	Dick Durbin (D-IL)
Assistant Minority Leader	Patty Murray (D-WA)
Democratic Policy and Communications Chair	Debbie Stabenow (D-MI)
Democratic Policy and Communications Vice-Chair	Joe Manchin, III (D-WV)
Democratic Conference Vice-Chairs	Elizabeth Warren (D-MA), Mark Warner (D-VA)
Democratic Conference Secretary	Tammy Baldwin (D-WI)
Democratic Senatorial Campaign Committee Chair	Catherine Cortez Masto (D-NV)
Democratic Steering Committee Chair	Amy Klobuchar (D-MN)
Democratic Outreach Committee Chair	Bernie Sanders (I-VT)

House and Senate tax-writing committees

House Ways and Means Committee

The Ways and Means Committee membership is composed of 25 Democrats and 17 Republicans.

House Ways and Means Committee Members, 116th Congress

Democrats	Republicans
Richard Neal (D-MA), Chairman	Kevin Brady (R-TX), Ranking Minority Member
John Lewis (D-GA)	Devin Nunes (R-CA)
Lloyd Doggett (D-TX)	Vern Buchanan (R-FL)
Mike Thompson (D-CA)	Adrian Smith (R-NE)
John Larson (D-CT)	Kenny Marchant (R-TX)*
Earl Blumenauer (D-OR)	Tom Reed (R-NY)
Ron Kind (D-WI)	Mike Kelly (R-PA)
Bill Pascrell Jr. (D-NJ)	George Holding (R-NC)*
Danny Davis (D-IL)	Jason Smith (R-MO)
Linda Sanchez (D-CA)	Tom Rice (R-SC)
Brian Higgins (D-NY)	David Schweikert (R-AZ)
Terri Sewell (D-AL)	Jackie Walorski (R-IN)
Suzan DelBene (D-WA)	Darin LaHood (R-IL)
Judy Chu (D-CA)	Rep. Brad Wenstrup (R-OH)
Gwen Moore (D-WI)	Jodey Arrington (R-TX)
Dan Kildee (D-MI)	Drew Ferguson (R-GA)
Brendan Boyle (D-PA)	Ron Estes (R-KS)
Don Beyer (D-VA)	
Dwight Evans (D-PA)	
Brad Schneider (D-IL)	
Tom Suozzi (D-NY)	
Jimmy Panetta (D-CA)	
Stephanie Murphy (D-FL)	
Jimmy Gomez (D-CA)	
Steven Horsford (D-NV)	

* Not running for re-election in 2020

Senate Finance Committee

The Finance Committee membership is composed of 15 Republicans and 13 Democrats.

Senate Finance Committee Members, 116th Congress

Republicans	Democrats
Charles Grassley (R-IA), Chairman	Ron Wyden (D-OR), Ranking Minority Member
Mike Crapo (R-ID)	Debbie Stabenow (D-MI)
Pat Roberts (R-KS)*	Maria Cantwell (D-WA)
Michael Enzi (R-WY)*	Robert Menendez (D-NJ)
John Cornyn (R-TX)	Thomas Carper (D-DE)
John Thune (R-SD)	Benjamin Cardin (D-MD)
Richard Burr (R-NC)	Sherrod Brown (D-OH)
Rob Portman (R-OH)	Michael Bennet (D-CO)
Patrick J. Toomey (R-PA)	Robert Casey, Jr. (D-PA)
Tim Scott (R-SC))	**Mark Warner (D-VA)**
Bill Cassidy (R-LA)	Sheldon Whitehouse (D-RI)
James Lankford (R-OK)	Maggie Hassan (D-NH)
Steve Daines (R-MT)	Catherine Cortez Masto (D-NV)
Todd Young (R-IN)	
Ben Sasse (R-NE)**	

Senators subject to re-election in 2020 in **bold**

* Not running for re-election

** Appointed to fill the open Finance Committee seat created by the resignation of Senator Johnny Isakson (R-GA).

Key Treasury and other Administration officials (current and designated)

Treasury Secretary	Steven Mnuchin
Director, National Economic Council	Larry Kudlow
Director, Office of Management and Budget	Mick Mulvaney*
Chair, Council of Economic Advisers	Tomas Philipson (Acting)
Treasury Assistant Secretary for Tax Policy	David Kautter
IRS Commissioner	Charles Rettig
IRS Chief Counsel	Michael Desmond

* Mr. Mulvaney is also serving as Acting White House Chief of Staff

Appendix B: Leading presidential candidates' tax proposals

As noted above, President Trump has proposed to make permanent key individual tax provisions of the 2017 tax reform act and is expected to propose additional tax cuts for individuals and business during his 2020 re-election campaign.

Below is a summary of key individual and business tax proposals that have been put forth by leading Democratic presidential candidates.

Leading Democratic Presidential Candidates*	Individuals	Businesses
Joe Biden	• Increase highest individual income rate to 39.6% for taxpayers earning more than $1 million annually • Cap itemized deductions at 28% • Repeal the $10,000 cap on the deduction for state and local taxes • Tax capital gains at the same rate as ordinary income for taxpayers with over $1 million in income • Enhance tax breaks for low- and middle-income workers who are saving for retirement • Eliminate the step-up in basis for inherited capital assets • Expand the childcare credit to $8,000 • Extend the earned income tax credit to workers age 65 and older without qualifying children • Establish a $5,000 tax credit for informal caregivers of people who have certain physical and cognitive needs • Restore the full electric vehicle tax credit, target it to middle-income consumers, and prioritize the purchase of American-made vehicles • Reinstate tax credits for residential energy efficiency • Expand tax deductions for energy technology upgrades, smart metering systems, and other emissions-reducing investments in commercial buildings	• Increase the corporate income tax rate to 28% • Impose a 15% minimum tax on large companies' book income, with credit for taxes paid to other countries; allow loss carryover from nonprofitable years • Double the minimum tax on profits earned by US subsidiaries of foreign firms from 10.5% to 21% • Establish tax credits for small businesses that offer retirement plans for their workers • Eliminate pharmaceutical companies' tax deduction for advertisement spending • Expand the new markets tax credit to permanently provide $5 billion in support each year • Expand tax deductions for energy technology upgrades, smart metering systems, and other emissions-reducing investments in commercial buildings • Reinstate the solar investment tax credit • Eliminate tax preferences for fossil fuels • Impose $200 billion of sanctions on countries that facilitate tax evasion and engage in harmful tax competition

(cont.)

Leading Democratic Presidential Candidates*	Individuals	Businesses
Pete Buttigieg	• Increase top income tax rate to 49.9% • Impose a wealth tax on the richest Americans • Expand the earned income tax credit (as proposed in Working Families Tax Relief Act) to - increase the maximum credit about 25% for workers who live with qualifying children - modify the minimum age for workers who do not live with qualifying children from 25 to 19 and increase the maximum age for those individuals from 64 to 67 - increase the credit's income cut-off • Increase and enhance the electric vehicle tax credit • Apply 'mark to market' taxation of unrealized capital gains at ordinary rates for upper-income individuals	• Increase corporate rate to 35% to pay for "Medicare for All Who Want It" • Impose a financial transactions tax • Apply the Social Security payroll tax to earnings above $250,000 • Enact a carbon tax with rebates for low- and middle-income households and a border-adjustment tax on imports that are not subject to a carbon tax where they are produced • Eliminate tax preferences for fossil fuels • Expand the 45Q tax credit for carbon capture, use, and storage • Extend and modernize investment and performance tax credits for solar, wind, geothermal, and other clean energy technologies; for long-duration battery storage; and for long-distance transmission using performance measures and phase-out levels • Establish tax incentives for domestic drug production and related technological investments

(cont.)

Leading Democratic Presidential Candidates*	Individuals	Businesses
Bernie Sanders	• Increase the top tax rate to 52% for income over $10 million • Increase tax rates on capital gains and dividends for the top 1% • Impose a wealth tax of (thresholds halved for unmarried filers): - 1% on net wealth above $32 million - 2% on net wealth above $50 million - 3% on net wealth above $250 million - 4% on net wealth above $500 million - 5% on net wealth above $1 billion - 6% on net wealth above $2.5 billion - 7% on net wealth above $5 billion - 8% on net wealth above $10 billion - 40% on all net wealth under $1 billion and 60% over $1 billion for any person who gives up US citizenship • Increase estate tax as follows: - estates valued from $3.5 million to $10 million would be taxed at 45% - estates valued from $10 million to $50 million at 50%- estates valued from $50 million to $1 billion at 55% - estates valued at more than $1 billion at 77% • Eliminate the payroll tax exemption for wages above $250,000	• Increase the top corporate income tax rate to 35% • Eliminate the 20% deduction on pass-through business income and require that large pass-through businesses pay corporate taxes • Lower the threshold for imposition of the base erosion and anti-abuse tax rate, raise the rate to 17.5%, and exclude deductible payments that give rise to includible US income • Apply the same tax rate on foreign and domestic income and apply a per-country limit on the foreign tax credit • Establish the Corporate Tax Dodging Prevention Act: a tax on money that American corporations currently hold offshore • Impose a financial transactions tax on stock, bond and derivative trades: - 0.5% for stock trades - 0.1% for bond trades - 0.005% for derivative trades • Apply the Social Security payroll tax to earnings above $250,000 • Eliminate tax preferences for fossil fuels and impose a tax on the fossil fuel industry for its contribution to pollution • Provide tax credits for employers who hire workers displaced by his Green New Deal plan

(cont.)

Leading Democratic Presidential Candidates*	Individuals	Businesses
Elizabeth Warren	• Establish an Ultra-Millionaire Tax: an annual 2% tax on every dollar of net worth above $50 million, an annual 4% 'billionaire surtax' (6% overall) on every dollar of net worth above $1 billion. A 40% tax on net wealth above $50 million would apply for any person who gives up US citizenship. Net worth includes all assets such as: - residences - businesses - trusts - retirement funds - personal property worth $50,000 or more assets held by minor children • Impose a 14.8% tax on the lesser of net investment income or total income above $250,000 for individuals and $400,000 for married couples • Allow same-sex couples to file amended returns to get refunds for tax years before they could file joint returns • Establish a $3,000 tax credit for working family caregivers • Expand the earned income tax credit and the child tax credit • Establish a refundable adoption tax credit • Cancel up to $50,000 in student loan debt for every person with household gross income of $100,000 or less, exempt canceled debt from treatment as taxable income • Expand tax credits for the purchase of zero-emission vehicles • Establish refundable tax credits for installing energy efficiency upgrades • Extend existing tax credits for wind and solar power • Provide a tax credit for donating land for the completion of America's national trail system • Apply 'mark to market' taxation of unrealized capital gains at ordinary rates for top 1% of asset holders, but exempt retirement accounts	• Increase the top corporate income tax rate to 35% • Establish a Real Corporate Profits Tax: a 7% tax on all corporate profits reported to investors above $100 million • Impose a 7.4% Social Security payroll tax on earnings above $250,000 (combined employee and employer tax of 14.8%) • Impose tax on all pass-through business owners under the Self-Employment Contributions Act • Apply the current 3.8% net investment income tax (NIIT) to income received by active shareholders in S corporations and limited partnerships • Prevent drug manufacturers from claiming tax deductions for consumer advertising expenses • Treat carried interest profits received by fund managers as ordinary income rather than capital gains • Impose a 100% tax on monitoring or transaction fees paid by target firms to private fund managers • Excessive lobbying tax: companies that spend between: - $500,000 and $1 million per year, calculated on a quarterly basis, will pay a 35% tax - For every dollar above $1 million, the rate will increase to 60% - For every dollar above $5 million, it will increase to 75% • Establish refundable tax credits for utilities to encourage their deployment of smart grid technology and advanced transmission methods • Eliminate tax preferences for fossil fuels • Replace the global minimum tax rate with a country-by-country minimum tax of 35% on the foreign earnings of US companies

The candidates noted in this appendix are those individuals who have public support higher than 5%, based on an average of national polls compiled by RealClearPolitics as of January 1, 2020.

Sources: https://elizabethwarren.com/, https://joebiden.com/, https://berniesanders.com/, https://peteforamerica.com/, https://2020-presidential-candidates-tax-policy.urban.org/

Appendix C: Senators up for election in 2020

Republicans	Democrats
Alexander, Lamar (R-TN)*	Booker, Cory (D-NJ)
Capito, Shelley Moore (R-WV)	Coons, Chris (D-DE)
Cassidy, Bill (R-LA)	Durbin, Richard J. (D-IL)
Collins, Susan (R-ME)	Jones, Doug (D-AL)
Cornyn, John (R-TX)	Markey, Edward J. (D-MA)
Cotton, Tom (R-AR)	Merkley, Jeff (D-OR)
Daines, Steve (R-MT)	Peters, Gary (D-MI)
Enzi, Michael B. (R-WY)*	Reed, Jack (D-RI)
Ernst, Joni (R-IA)	Shaheen, Jeanne (D-NH)
Gardner, Cory (R-CO)	Smith, Tina (D-MN))
Graham, Lindsey (R-SC)	Udall, Tom (D-NM)*
Hyde-Smith, Cindy (R-MS)	***Warner, Mark (D-VA)***
Inhofe, James M. (R-OK)	
Loeffler, Kelly (R-GA)**	
McConnell, Mitch (R-KY)	
McSally, Martha (R-AZ)**	
Perdue, David (R-GA)	
Risch, Jim (R-ID)	
Roberts, Pat (R-KS)*	
Rounds, Michael (R-SD)	
Sasse, Ben (R-NE)	
Sullivan, Dan (R-AK)	
Tillis, Thom (R-NC)	

* Not running for re-election

** Special election

Senate Finance Committee members shown in ***bold italics***

Appendix D: Expired or expiring tax provisions

Provisions expiring in 2020
Medical expense deduction: adjusted gross income (AGI) floor 7.5%
Black Lung Disability Trust Fund: increase in amount of excise tax on coal
Credit for health insurance costs of eligible individuals
New markets tax credit
Employer credit for paid family and medical leave
Work opportunity credit
Look-through treatment of payments between related controlled foreign corporations under the foreign personal holding company rules
Provisions modifying the rates of taxation of beer, wine and distilled spirits, and certain other rules
Credit for certain nonbusiness energy property
Credit for qualified fuel cell motor vehicles
Credit for alternative fuel vehicle refueling property
Credit for two-wheeled plug-in electric vehicles
Second generation biofuel producer credit
Beginning-of-construction date for non-wind renewable power facilities eligible to claim the electricity production credit or investment credit in lieu of the production credit
Credit for production of Indian coal
Indian employment credit
Credit for construction of new energy efficient homes
Mine rescue team training credit
Discharge of indebtedness on principal residence excluded from gross income of individuals
Premiums for mortgage insurance deductible as interest that is qualified residence interest
Three-year depreciation for race horses two years old or younger
Seven-year recovery period for motorsports entertainment complexes
Accelerated depreciation for business property on an Indian reservation
Special depreciation allowance for second generation biofuel plant property
Energy efficient commercial buildings deduction
Special expensing rules for certain film, television, and live theatrical productions
Deduction for qualified tuition and related expenses
Special rule for sales or dispositions to implement Federal Energy Regulatory Commission or State electric restructuring policy
Empowerment zone tax incentives: • Designation of an empowerment zone and of additional empowerment zones • Empowerment zone tax-exempt bonds • Empowerment zone employment credit • Increased expensing under Section 179 • Nonrecognition of gain on rollover of empowerment zone investments
Incentives for alternative fuel and alternative fuel mixtures: • Excise tax credits and outlay payments for alternative fuel • Excise tax credits for alternative fuel mixtures
American Samoa economic development credit
Oil Spill Liability Trust Fund financing rate
Benefits provided to volunteer firefighters and emergency medical responders

Provisions expiring in 2021
Computation of adjusted taxable income without regard to any deduction allowable for depreciation, amortization, or depletion for purposes of the limitation on business interest
Beginning-of-construction date for increased credit for business solar energy property
Credit for residential energy property
Beginning-of-construction date for fiber optic solar lighting system property, geothermal heat pump property, qualified fuel cell and stationary microturbine power plant property, combined heat and power property, and small wind property
Five-year cost recovery for certain energy property
Temporary increase in limit on cover-over of rum excise tax revenues (from \$10.50 to \$13.25 per proof gallon) to Puerto Rico and the Virgin Islands
Provisions expiring in 2022
Highway Trust Fund excise tax rates: • All but 4.3 cents-per-gallon of the taxes on highway gasoline, diesel fuel, kerosene, and alternative fuels • Reduced rate of tax on partially exempt methanol or ethanol fuel • Tax on retail sale of heavy highway vehicles • Tax on heavy truck tires
Leaking Underground Storage Tank Trust Fund financing rate
Railroad track maintenance credit
Incentives for biodiesel and renewable diesel: • Income tax credits for biodiesel fuel, biodiesel used to produce a qualified mixture, and small agri-biodiesel producers • Income tax credits for renewable diesel fuel and renewable diesel used to produce a qualified mixture • Excise tax credits and outlay payments for biodiesel fuel mixtures • Excise tax credits and outlay payments for renewable diesel fuel mixtures
Provisions expiring in 2023
Highway Trust Fund excise tax rates: • Annual use tax on heavy highway vehicles
Airport and Airway Trust Fund excise taxes: • All tax rates (except for the permanent 4.3-cents-per-gallon rate) on noncommercial aviation kerosene and noncommercial aviation gasoline • Domestic and international air passenger ticket taxes and ticket tax exemption for aircraft in fractional ownership aircraft programs • Air cargo tax • Surtax on fuel used in aircraft in a fractional ownership program
Beginning-of-construction date for certain qualified carbon dioxide sequestration facilities
Provisions expiring in 2025
Modification of individual income tax rates and special rules for unearned income of children
Child tax credit: Increased credit amount, increased refundable amount, reduced earned income threshold, modification of identification requirements
Increase in exemption amount and phaseout threshold of individual AMT
Increase in standard deduction of individuals
Suspension of miscellaneous itemized deduction
Suspension of limitation on itemized deductions
Tax exemption for student loan discharges on account of death or disability
Treatment of certain individuals performing services in the Sinai Peninsula of Egypt

Suspension of exclusion for reimbursement of bicycle commuting
Suspension of exclusion for moving expense reimbursement
Suspension of deduction for personal exemptions
Limitation on deduction for qualified residence interest, suspension of deduction for home equity interest
Limitation on deduction for State, local, etc., taxes
Personal casualty losses limited to Federally declared disaster areas
Modification of rules relating to computation of wagering losses
Increased percentage limitation on cash contributions to public charities
Qualified business income deduction
Suspension of deduction for moving expenses
Deductibility of employer de minimis meals and related eating facility, and meals for the convenience of the employer
Transfer of excess pension assets to retiree health and life insurance accounts
Limitation on excess business losses of noncorporate taxpayers
ABLE accounts: • Contributions eligible for saver's credit • Rollovers from qualified tuition programs permitted • Increased contributions limit
Increase in estate and gift tax exemption
Rate on modified taxable income and treatment of credits in the calculation of base erosion minimum tax amount
Deduction percentage for foreign-derived intangible income and global intangible low-taxed income
Provisions expiring in 2026
Additional first-year depreciation with respect to qualified property
Election of additional depreciation for certain plants bearing fruits and nuts
Election to invest capital gains in an opportunity zone
Provisions expiring in 2027
Expensing of certain costs of replanting citrus plants lost by reason of casualty
Provisions expiring in 2029
Specified health insurance policy fee
Self-insured health plan fee

Sources: JCT staff report on expiring federal tax provisions 2020-2029 (JCX-1-20)

Note: The JCT staff report does not include provisions that have a suspended or delayed effective date. For this reason, JCT staff note that the 2017 tax reform provision requiring capitalization and amortization of research expenditures in lieu of expensing beginning in 2022 is not listed as an expiring tax provision.

Appendix E: Carbon tax proposals

Climate change tax proposals in the United States

Democratic presidential candidates

In addition to legislative proposals that propose various forms of carbon taxes to address climate change (as discussed above), the major Democratic presidential candidates have proposed substantial climate change plans.

- Former Vice President Joe Biden's 'Clean Energy Revolution' plan would seek to ensure the United States achieves a 100% clean energy economy and reaches net-zero emissions no later than 2050; would invest $400 billion over 10 years in energy and climate research and innovation, as well as clean and resilient infrastructure and communities; and would recommit the United States to the Paris Agreement on climate change. Biden also supports pricing carbon through a carbon tax or a cap-and-trade program.
- Former South Bend Mayor Pete Buttigieg's climate plan would seek to ensure the United States achieves net-zero emissions no later than 2050; enact a price on carbon and send rebates to low- and middle-class American households; ban all new fossil fuel leases on public lands; increase federal spending for climate change-related research and development (e.g., carbon capture technology); and renew America's commitment under the Paris Climate Agreement.
- Senator Bernie Sanders' 'Green New Deal' would seek to reach 100% renewable energy for electricity and transportation by no later than 2030 and complete decarbonization of the economy by 2050; increase federal spending for climate change-related research and development (e.g., carbon capture technology), infrastructure, and mitigation programs (e.g., worker training); and rejoin and strengthen the Paris agreement commitments. Sanders' current plan does not call for pricing carbon (i.e., a carbon tax or cap-and-trade).
- Senator Elizabeth Warren's plan calls for all new buildings to be zero-emissions by 2028, all electricity to be carbon-neutral by 2030, and all new passenger cars, trucks, and buses to be zero emissions by 2030. Warren would ban all new fossil fuel leases on public lands; increase federal spending for climate change-related research and development (e.g., carbon capture technology), infrastructure, and mitigation programs (e.g., worker training); rejoin and strengthen the Paris agreement commitments; and impose additional environmental regulations. Warren also supports setting a price on carbon through a carbon tax or a cap-and-trade program.

International climate change tax proposals

European Commission

European Commission (EC) President Ursula von der Leyen has proposed a Border Carbon Adjustment (BCA) to replace free allocations under the Emissions Trading System (ETS) to 'leakage-prone' industries (i.e., electricity, gas generators, manufacturing). The ETS is the centerpiece of the European Union's (EU's) efforts to meet emission reduction obligations. The cap-and-trade system currently covers approximately 45% of EU greenhouse gas (GhG) emissions and requires power plants and industries to purchase permits to emit more than their allocated share of carbon. Key concerns around von der Leyen's plan include its administrability and compliance with World Trade Organization (WTO) requirements.

Approval of the EC President's plan for climate neutrality by 2050 must be unanimous. France and Germany have expressed support for von der Leyen's strategy to examine possible measures to prevent carbon leakage, including a carbon tax adjustment, but the Czech Republic, Hungary, and Poland are opposed to her plan. Another hurdle for the EC President is that EU environment ministers failed to agree to increase their 2030 emissions reduction goals from the current pledge of 40% to von der Leyen's desired 50% pledge.

UK carbon tax

The UK currently has a £18 Carbon Price Support tax paid by fossil fuel generators, which covers 23% of emissions, plus a Climate Change Act levy paid by energy suppliers. If the UK leaves the EU without a Brexit deal, it also will leave the EU's ETS. In the event of a no-deal Brexit, the UK is planning to replace the ETS with a carbon tax to help it comply with its GhG commitments under the Climate Change Act. The new tax would differ from the EU's cap-and-trade system by setting an amount rather than creating a market for buying and selling emission permits. It would be imposed at £16 ($19) per ton, compared to $33 per ton for ETS permits, and would apply to all UK stationary installations currently participating in the ETS.

Irish carbon tax

Ireland in 2010 introduced a carbon tax that applies to kerosene, marked gas oil, liquid petroleum gas, fuel oil, natural gas, and solid fuels. The current tax is €20 per ton of CO_2 emitted from solid fuels and €26 per ton of CO_2 emitted from auto fuels. Effective May 1, 2020, the tax will increase to €26 per ton of CO_2 emitted from solid fuels. Ireland recently set a target carbon tax rate of €80 per ton of CO_2 by 2030.

Appendix F: Select Congressional Budget Office revenue-raising options

Provision	Revenue estimate over 10 years ($ billions)
Individual	
Increase individual income tax rates on ordinary income by 1 percentage point	905.4
Increase individual income tax rates in the four highest brackets by 1 percentage point	222.9
Increase individual income tax rates in the two highest brackets by 1 percentage point	123.4
Increase rates on long-term capital gains and dividends by 2 percentage points	69.6
Align top two brackets on long-term capital gains and qualified dividends to match the third and sixth brackets applicable to ordinary income	75.9
Align top two brackets on long-term capital gains and qualified dividends to match the third and fifth brackets applicable to ordinary income	81.4
Eliminate head-of-household filing status	165.3
Limit head-of-household filing status to unmarried people with a qualifying child under 17	66.2
Limit deductibility to charitable contributions in excess of 2% of adjusted gross income	175.6
Limit deductibility of charitable donations to cash contributions	145.7
Eliminate itemized deductions	1,312.0
Change the tax treatment of capital gains from sales of inherited assets	104.9
Eliminate the tax exemption for new qualified private activity bonds	31.8
Expand the base of the net investment income tax to include the income of active participants in S corporations and limited partnerships	198.9
Tax carried interest as ordinary income	14.0
Include all disability payments in taxable income	92.7
Include disability payments in taxable income only for veterans with a disability rating of 20% or less	4.4
Include employer-paid premiums for income replacement insurance in employees' taxable income	341.9
Further limit annual contributions to retirement plans	103.3
Tax social security and railroad retirement benefits in the same way that distributions from defined benefit plans are taxed	410.5
Eliminate certain tax preferences for educational expenses (including the American Opportunity and Lifetime Learning tax credits and phase-out of the deductibility of student loan interest)	187.6
Lower the investment income limit for the earned income tax credit and extend that limit to the refundable portion of the child tax credit	8.2

Require earned income tax credit and child tax credit claimants to have a social security number that is valid for employment	23.6
Increase payroll tax rate for medicare hospital insurance by 1 percentage point	898.3
Increase payroll tax rate for medicare hospital insurance by 2 percentage points	1,786.5
Increase the payroll tax rate for social security by 1 percentage point	715.5
Increase the payroll tax rate for social security by 2 percentages point	1,422.1
Increase the maximum taxable earnings for the social security payroll tax by raising the taxable share to 90%	785.1*
Increase the maximum taxable earnings for the social security payroll tax by subjecting earnings greater than $250,000 to payroll tax	1,222.6
Expand social security coverage to include newly hired state and local government employees	80.0
Increase federal civilian employees' contributions to the federal employees retirement system	45.4
Business	
Increase the corporate income tax rate by 1 percentage point	96.3
Replace the excise tax on high-cost employer-sponsored health plans with a limit on the income and payroll tax exclusions for employment-based health insurance set at the 50th percentile of premiums	638.0*
Replace the excise tax on high-cost employer-sponsored health plans with a limit on the income and payroll tax exclusions for employment-based health insurance set at the 75th percentile of premiums	256.0*
Replace the excise tax on high-cost employer-sponsored health plans with a limit on only the income tax exclusion for employment-based health insurance set at the 50th percentile of premiums	438.0*
Tax all pass-through business owners under SECA and impose a material participation standard	163.1
Repeal the expensing of exploration and development costs	2.3
Disallow the use of the percentage depletion allowance	6.1
Repeal the LIFO and lower of cost or market inventory accounting methods	57.9
Require half of advertising expenses to be amortized over 5 years	62.5
Require half of advertising expenses to be amortized over 10 years	132.4
Repeal the low-income housing tax credit	49.4
Increase appropriations for IRS enforcement initiatives	35.3*
Financial Services	
Impose a fee on large financial institutions with assets of $50 billion or more	103.1
Impose a fee on large financial institutions with assets of $250 billion or more	90.0
Impose a tax on financial transactions	776.7
Tax gains from derivatives as ordinary income on a mark-to-market basis	18.7

Other	
Increase taxes that finance the federal share of the unemployment insurance system	18.1
Increase all taxes on alcoholic beverages to $16 per proof gallon	68.4
Increase all taxes on alcoholic beverages to $16 per proof gallon and index for inflation	82.5
Increase the excise tax on tobacco products by 50%	41.9*
Increase excise taxes on motor fuels and index for inflation (15-cent increase)	237.1
Increase excise taxes on motor fuels and index for inflation (35-cent increase)	514.9
Impose an excise tax on overland freight transport	358.3
Impose a 5% value-added tax to a broad base	2,970.0
Phase in a 5% value-added tax to apply to the same broad base	2,330.0
Impose a 5% value-added tax to a narrow base	1,920.0
Impose a tax on emissions of greenhouse gases	1,099.0

* Net estimated revenue effects after adjusting for associated federal outlays

Source: CBO, *Options for Reducing the Deficit: 2019 to 2028 (December 2018).*

Appendix G: Tax function operational issues related to tax laws and regulations

How policy changes affect tax operations

As tax policy changes are enacted and guidance is issued, increased complexity makes it important to understand the rules and how to apply them throughout the tax function lifecycle. 'Back of the envelope' calculations and traditional spreadsheets may not be sufficient to assess the interaction of various tax provisions. Quick access to accurate data is essential; therefore, a new approach to managing data with technology and enhanced processes is needed to enable tax to efficiently comply with tax requirements, model scenarios, and perform the analytics needed for business decision making.

New technology and process approaches for tax operations

Small automation

'Small automation' is the fast implementation of flexible and adaptable technologies that offer solutions not easily accomplished by large enterprise systems. Small automation empowers the tax professional to drive process enhancements and improve productivity with quick results often realized within days.

Traditional approaches may involve engaging Information Technology (IT) to re-configure core financial systems, affecting data outputs. Often, these projects need to align with enterprise-wide initiatives, may require a business case, and can be time-consuming. Using small automation, tax teams can begin by targeting individual processes and then strategically scaling and integrating these solutions over time.

Data automation solutions provide tax professionals with the flexibility to access source data easily for analysis and reporting without the need for multiple spreadsheets. Common uses include:

- Automation of the cleansing and format of source data for 'tax-ready' use
- Automation of controls, analytics, functionality, and processing power embedded within reports
- Complex data computations and models, such as the income tax provision, research and development (R&D), fixed assets, and tax account roll-forwards.

Reporting and analytics include visually displayed dashboards that consolidate and arrange data, metrics, and performance scorecards on a single interface. Common uses include:

- Display of current status of key performance indicators (KPIs) with easy identification of exceptions in results
- Analysis and display of large volumes of information with various data points and measures
- Dynamic, interactive display for sharing information with stakeholders and decision-makers, such as cash taxes paid, total revenue, deductions, and effective tax rate (ETR) by jurisdiction and legal entity.

Desktop robotics or 'bots' are computer-coded software that enable the automation of repetitive, rule-based processes, mimic interactions of users, and work across functions and applications. Common uses include:

- Pulling reports from various platforms
- Streamlining data entry into systems from multiple sources
- Data validation across multiple systems.

Emerging technologies: Artificial intelligence (AI) including machine learning (ML)

The use of AI for tax is increasing. AI is the ability of a machine to perceive its environment and perform tasks that normally require human intelligence. AI has the ability to sense, think, and act in ways that can out-perform human capability. Tax use cases include:

- Natural language processing:
  - Tax data extraction
  - Voice to text translation
- Scanned tax form data extraction
- Predictive models for planning and forecasting
- Determining the tax implications of transactions.

A look at technology needs for tax and trade

The need for modeling

As tariffs increase due to continuing trade controversy and businesses modify their supply chains to mitigate the impact of tax reform (GILTI, BEAT, and FDII), changes made to transfer pricing could create significant tariff exposure. A joint strategy for trade, transfer pricing, and international tax — that models the interplay of these areas — is needed to capture benefits and avoid unintended pitfalls.

The data challenge

Both trade and tax are data intensive functions. Tariffs and duties are transactional in nature; therefore, planning and compliance requires review or processing of high volumes of data. Furthermore, tax and trade may source financial data from disparate global systems, causing inconsistency and inaccurate modeling results.

Moving forward with technology for trade

Technology use in trade currently is focused mostly on Enterprise Resource Planning (ERP) systems that are designed as part of company-wide systems; in some cases, stand-alone software packages are integrated into existing enterprise systems. As complexity in trade increases, data automation and emerging technologies will be pursued to facilitate compliance, strategic analysis, and planning.

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Acknowledgments

This report represents the analysis and efforts of many individuals within PwC's Washington National Tax Services and other offices. This publication was produced under the direction of Larry Campbell. The text was prepared by a team of professionals, including Larry Campbell, Laurie Hoffman Colbert, Dick Ruge, Jeremiah Coder, Ferdinand Hogroian, Phillip Galbreath, Karl Russo, Yasmine Johnson, and Caitlin MacKay.

Special thanks to Pam Olson, Ken Kuykendall, Rohit Kumar, Dave Camp, Scott McCandless, Todd Metcalf, Janice Mays, Mark Prater, Drew Lyon, Jon Lieber, Pat Brown, Dave Lewis, Don Carlson, Andrew Prior, Kevin Levingston, Bill Wilkins, and Ed Geils. We also would like to thank Gretchen Moore, Cory Frazier, April Kobeda, Jeffrey Dreiblatt, Leyla Safar, Lisa Acevedo, Mandye Ring, Yvette Sutton, Vijyeta Patel, and Lauren Francesconi for their assistance.

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