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Tax Insights
from Tax Policy Services

Midterm elections shift control of next Congress and outlook for tax legislation

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In brief

What happened?

November 3 election results for the next Congress indicate that Democrats have won more than enough seats to control both the US House of Representatives and the US Senate, shifting the outlook for tax legislation during the second half of President Trump's final term. At this writing, at 10 AM ET, House Democrats are projected to hold at least a 228-seat majority, having achieved a net gain of at least 19 seats, well above the net gain of three seats needed to gain majority control. The size of Democrats' House majority could increase as many House races in several states have not yet been called. Senate Democrats are projected to hold at least a 54-seat majority, having gained seven seats, more than the net gain of four seats needed. Results in the Alaska and Mississippi Senate races have not yet been called, so the final composition of the Senate could change.

Why is it relevant?

Democratic control of Congress, with President Trump in the White House, will highlight differences between the two parties over tax policy and a range of other issues, including (but not limited to) tariffs, healthcare, foreign policy, and federal spending. Divided government means that significant changes to the permanent business and individual tax provisions enacted in the 2025 'One Big Beautiful Bill Act' (OBBBA) are unlikely, but bipartisan agreements will need to be reached on some issues, such as government funding and an increase or suspension of the statutory federal debt limit. President Trump and a Democratic Congress could seek to advance some populist measures that might have appeal for some members of both parties in advance of the 2028 elections.

The current Congress will need to address legislation to fund government operations by December 11, when a temporary fiscal year (FY) 2027 spending bill is set to expire. Some Republicans have called for action on a party-line reconciliation bill to address defense spending, the debt limit, and other White House priorities while they retain control of Congress, but it is uncertain whether Republicans can secure the near-unanimous votes that would be required in both the House and Senate.

Actions to consider

Stakeholders will want to engage with policymakers in both parties as legislative priorities and approaches to tax policy and other issues are being formulated, even if prospects for significant legislation may be limited. Legislative proposals being developed during the coming 120th Congress may shape future law changes after the 2028 elections, when control of both the White House and Congress will be contested again.

In detail

The 2026 midterm elections continue a pattern of midterm cycles since 2002 in which at least one chamber of Congress has changed party control. The outlook for significant legislation being enacted in 2027 appears limited given the ongoing disagreements on tax policy, tariffs, healthcare, immigration enforcement, federal spending, and a host of other issues. Some Democrats in the House and Senate may seek to advance proposals that could increase taxes on corporations and high-income individuals, but President Trump could veto proposals that he opposes without facing any real risk that his vetoes would be overruled by a 2/3 majority in each chamber.

***Observation**:* Given the size of the Democratic House majority, members from competitive and traditionally Republican districts could play a key role in how legislation is considered next year and which bills have enough support to pass the House. A similar dynamic could affect which issues Democrats seek to advance in the Senate, but Senate Democrats will face the additional challenge of securing support from Republican Senators to advance legislation with the 60 votes generally required, assuming the legislative 'filibuster' is retained. Democrats could use reconciliation procedures to pass legislation with only Democratic votes, but such measures could still be subject to veto by President Trump.

Democratic chairs of House and Senate committees are expected to increase oversight activities of the Trump administration, including guidance issued by the Treasury Department and the operations of the Internal Revenue Service. Democratic control of the Senate also will make it more difficult for President Trump to secure the confirmation of new nominees to judicial and executive branch positions.

President Trump and a Democratic-controlled Congress will need to reach agreements on certain 'must-pass' legislation, such as FY 2027 government funding and a debt limit increase. OBBBA increased the statutory debt limit by $5 trillion, from $36.1 trillion to $41.1 trillion. With federal budget deficits running close to $2 trillion annually in recent years, an additional increase is expected to be needed at some point in 2027, if the issue is not addressed by the current Congress.

President Trump can be expected to pursue many policy goals through executive actions. While a Democratic-controlled Congress can investigate such actions, it will have limited ability to overturn executive orders and tariff actions, including those that courts have, in some cases, questioned.

A return to divided government in the next Congress will deny the Trump administration the ability to use the party-line reconciliation procedures that were critical to the enactment of the 2025 OBBBA, which made permanent key provisions of the 2017 Tax Cuts and Jobs Act, made changes to clean energy tax

incentives, and implemented new tax relief provisions, while also enacting a broad range of other policy changes affecting healthcare, immigration enforcement, and other federal programs. A June 2026 ‘reconciliation 2.0’ measure was enacted that provided an additional $70 billion to fund Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP).

It remains to be seen whether Republican leaders can secure the votes to pass a ‘reconciliation 3.0’ measure during the remaining weeks of the current Congress. Before the elections, Republicans discussed a third reconciliation bill that could address White House requests for $350 billion in additional defense spending and a debt limit increase. Republicans would need near-unanimous agreement on an identical budget resolution to be approved by each chamber with reconciliation instructions to committees of jurisdiction, potentially including the House Ways and Means and Senate Finance Committees. Efforts to enact new spending could lead the tax committees to consider offsets that could affect some business and individual taxpayers.

Tax committee membership changes

The **House Ways and Means Committee** is expected to be chaired in the next Congress by current Ranking Member Richard Neal (D-MA), who previously chaired the committee in the 116th and 117th Congresses. Current Chairman Jason Smith (R-MO) is expected to serve as Ways and Means Ranking Republican Member.

During the 117th Congress, Rep. Neal successfully led the Ways and Means Committee to approve a broad range of tax relief and tax increase proposals known as the ’Build Back Better Act’ during President Joe Biden’s first two years in office. The committee’s tax increase measures affecting the corporate income tax rate, international tax rules, and issues such as the treatment of carried interest ultimately were never considered by the full House, nor were they included in what was eventually enacted as the 2022 Inflation Reduction Act. Despite that, these measures do provide an important marker for the potential approach to future tax issues by House and Senate Democrats.

The Ways and Means Committee currently has 26 Republicans and 19 Democrats, with five Republican members and four Democratic members leaving at the end of the 119th Congress. Assuming the current committee size and majority-minority ratio are retained (albeit, reversed), Democrats will have at least 11 open seats to fill on the House tax committee; the re-election race of Rep. Tom Souzzi (D-NY) has not yet been called. Republicans were expected to lose two of their more junior members if all of their candidates had been re-elected but instead will have at least one open seat to fill due to re-election losses by Reps. Mike Carey (R-OH), Brian Fitzpatrick (R-PA), and Max Miller (R-OH); the re-election race of Rep. Greg Murphy (R-NC) has not yet been called. Given the larger size of the Democratic House majority in the next Congress, which could grow once all undecided races are called, the ratio of majority to minority members could change, providing Democrats with additional seats to fill and reducing the number of Republican seats to fill.

Observation: The large number of new Democrats expected to be appointed to the Ways and Means Committee is significant, since many may not have worked on tax and trade legislation and the broad range of other issues under the committee’s jurisdiction, including Social Security, Medicare, and parts of Medicaid. Democrats on the current Ways and Means Committee also reflect a range of policy views, with roughly half being members of the moderate New Democrat Coalition and half being members of the Progressive Caucus.

The **Senate Finance Committee** in the next Congress is expected to be chaired by current Ranking Member Ron Wyden (D-OR), who previously chaired the committee, most recently in the 118th Congress. Current Chairman Mike Crapo (R-ID) is expected to serve as Ranking Republican Member.

Senator Wyden during the current Congress has introduced a series of tax proposals that illustrate some of his tax policy priorities. These proposals include measures that would treat carried interest as ordinary income, modify the tax treatment of derivatives, tighten certain grantor trust rules, and increase IRS enforcement funding. Senator Wyden most recently in October released a data center legislative discussion draft that would (1) eliminate bonus depreciation, Opportunity Zone, and REIT eligibility for large data centers, and (2) establish a federal gross receipts excise tax on large data centers (the excise tax rate is not specified pending a revenue estimate by the Joint Committee on Taxation).

The Finance Committee currently includes 14 Republicans and 13 Democrats, with four Republican members and one Democratic member leaving at the end of the 119th Congress due to retirements or primary losses. Two additional Finance Committee Republicans will depart at the end of this Congress due to Senator Marsha Blackburn (R-TN) winning the race for governor and Senator Roger Marshall (R-KS) losing his re-election bid. Based on currently projected size of a Democratic Senate majority in the next Congress, the Finance Committee ratio of members could be 14 Democrats and 12 Republicans. Assuming the size of the committee is unchanged and subject to negotiations among Senate leaders, this would mean that Democrats will have two seats to fill and Republicans will have four seats to fill on the committee.

Observation: While former Democratic Finance Committee member Sherrod Brown may seek to return to the committee following his victory in the Ohio Senate race, a key question for Republicans will be whether some of the more traditionally conservative departing members will be replaced by Republican Senators who are more aligned with President Trump's populist approach.

For additional information

Watch the Policy on Demand episode *Election Watch: What's next for tax policy?*

Tune in for more: As tax policy developments continue to unfold following the midterm elections, join us on November 18 for Tax *Readiness — Beyond the midterms* | *The next chapter in tax policy* for additional insights and considerations for 2027 and beyond. Register now | CPE-eligible for 1 Tax credit

Let’s talk

For a deeper discussion of how this issue might affect your business, please contact:

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