With a speaker in place, the House is back in business

After faltering at the start of the 118th Congress, the new Republican majority in the House of Representatives has now formally elected Rep. Kevin McCarthy of California as the chamber's speaker, clearing the way for action on a range of agenda items that had been on hold, such as adopting a set of operating rules for the chamber, and, on the tax policy front, selecting a new chairman of the Ways and Means Committee, announcing new GOP members for the taxwriting panel, and passing legislation that would claw back most of the additional mandatory funding allocated to the Internal Revenue Service under last year's Inflation Reduction Act.

A protracted race for speaker

McCarthy officially claimed the speaker's gavel in the early hours of January 7, following an election process that stretched out over four days and 15 ballots. Although he has led the House Republicans since 2019 and was chosen as speaker-designate by a majority of his conference during the lame duck legislative session in November, McCarthy proved unable to clinch the 218 votes necessary to be named speaker when the new Congress convened on January 3. The speaker is elected by a vote of the entire House, so a winning candidate must secure an absolute majority of all members present and voting. Republicans currently hold a majority of 222 House seats, compared to 212 for Democrats. (One seat is vacant following the death of Rep. Donald McEachin, D-Va., who was re-elected to a fourth term but died November 28.)

With all House members present and all the chamber's Democrats casting votes for *their* party leader, Rep. Hakeem Jeffries of New York, McCarthy could lose no more than four GOP votes to become speaker. But about 20 Republicans—primarily from the far-right House Freedom Caucus—consistently voted against him in 11 separate roll calls between January 3 and January 5, while demanding—and winning—significant concessions on issues such as House operating rules and committee assignments that are favorable to their faction. (For the most part, those 20 lawmakers signaled their opposition to McCarthy by casting votes for other Republican House members.)

As McCarthy continued his efforts to expand his support within the party, the number of GOP holdouts shrank to single digits by the twelfth round of voting, held the afternoon of January 6. McCarthy ultimately prevailed three rounds later when the remaining six holdouts agreed to vote "present"—a move that lowered the threshold McCarthy needed to secure a majority but did not require his opponents to affirmatively vote *for* him. (Votes recorded as "present" are not included in the total number of votes cast, thus reducing the number of votes McCarthy needed to claim victory.) The final tally was 216 votes for McCarthy and 212 for Hakeem Jeffries, in addition to the 6 "present" votes.

As the 118th Congress proceeds, now-Speaker McCarthy is joined in House leadership by Majority Leader Steve Scalise of Louisiana, Majority Whip Tom Emmer of Minnesota, and Republican Conference Chair Elise Stefanik of New York.

Across the aisle, Minority Leader Hakeem Jeffries holds the top spot among House Democrats, working with Minority Whip Katherine Clark of Massachusetts, Democratic Caucus Chair Pete Aguilar of California, and Assistant Democratic Leader Jim Clyburn of South Carolina.

New rules for the 118th Congress

After the election of a speaker and the swearing-in of House members, it is customary at the outset of a new Congress for the majority party in the House to debate and adopt a package of rules designed to, among other things, govern member conduct and the terms of legislative debate in that chamber during the two-year span of that Congress. As already noted, the contours of the rules package for the 118th Congress (legislative text and summary) were a major negotiating point for House conservatives in their talks with McCarthy ahead of his election to be speaker and an area where they were able to extract a number of concessions.
URL: https://rules.house.gov/sites/republicans.rules118.house.gov/files/BILLS-118hresPIH-118th-rules-of-the-house-of-reps-V3.pdf
URL: https://rules.house.gov/sites/republicans.rules118.house.gov/files/118-Rules-of-the-House-of-Representatives-SxS-V2.pdf

At a high level, the GOP rules package—which was publicly released on January 1, then modified, and ultimately adopted on January 9 by a vote of 220-213—represents a partial rewrite of the rules that had been in place during the last four years of House Democratic control. Although many of the provisions are consistently adopted by whichever party is in power, key changes can have a major impact on the functioning of the chamber. In assessing the provisions discussed here it is important to keep in the mind that House rules can be—and often are—waived by a simple majority as legislation moves through the chamber. In this way, House rules sometimes serve more as messaging tools at the beginning of a Congress than true restrictions on policy. Said another way, they are only as strong as members' commitment to them.

Key nontax rules changes: Some of the more prominent provisions in the newly adopted rules package are not related to tax or fiscal policy but were key sticking points for many conservative Republicans. These include:

- Allowing a "motion to vacate the Chair" (that is, forcing a vote to remove a sitting speaker) to be made by a single member of the House;
- Declining to renew the "proxy voting" rules that Democrats had in place for much of the COVID-19 pandemic and limiting virtual committee hearings and remote witness testimony;
- Reinstating the so-called "Holman rule," which allows members to offer amendments that would cut the salaries of specific federal workers, or the funding for particular programs, as part of annual appropriations measures;
- Creating special House panels regarding "Strategic Competition Between the United States and the Chinese Communist Party" and the perceived "Weaponization of the Federal Government"; and
- Requiring bills to be made publicly available for at least 72 hours prior to a final vote.

Tax- and budget-focused rules changes: Several other rule changes, described below, are likely to have a direct impact on tax and budget policy.

- **Eliminating 'PAYGO' rule, reinstating 'CUTGO':** The House GOP rules package strikes the previous Democratic budget restraint commonly referred to as "PAYGO" ("pay-as-you-go"), which established a point of order against legislation that has the net effect of increasing the deficit, whether through direct spending increases (that is, spending on entitlement programs, but excluding annual appropriations) or tax cuts. In its place, the House GOP brought back what they call "CUTGO" ("cut-as-you-go"), which is aimed at prohibiting legislation that includes a net increase in direct spending, but is silent on tax-cutting legislation.
- **Reinstating 'dynamic' scoring requirement, adding new inflation analyses:** The rules package also reinstates another prior Republican rule that requires the Congressional Budget Office (CBO) and Joint Committee on Taxation to incorporate the budgetary feedback effects that certain major legislation may have on macroeconomic variables such as economic growth. These "dynamic" estimates then become the official scores for purposes of determining compliance with other House budget rules and points of order. And in a nod to Republican complaints that some recent laws approved by Democratic congressional majorities may have contributed to consumer price increases, the GOP added a new rule that will require the CBO to analyze the potential inflationary impact of certain legislation.
- **Reinstating supermajority requirement to pass tax rate increases:** In another reversion back to rules packages in place when the GOP last controlled the House, Republicans also reinstated a rule that requires a three-fifths supermajority—rather than the simple majority normally required to advance bills in the chamber—to pass legislation that would increase tax rates. Similar to previous iterations of this rule, the stricture would apply only to certain "rate-increasing" tax legislation and not to proposals that raise revenue by broadening the tax base or closing perceived loopholes.
- **Eliminating the 'Gephardt rule':** The rules package also strikes Democrats' so-called "Gephardt" rule, which provided for the deemed House passage of a temporary increase in the debt limit upon House passage of a budget resolution.

Other operational changes: Finally, although they are technically not part of the GOP rules package, McCarthy also agreed—on a "handshake" basis—to a number of other conservative demands, including promises to:

- Place three members of the conservative House Freedom Caucus on the powerful House Rules Committee (the panel that, among other things, sets the parameters for amendments and debate when legislation goes to the House floor), allow more amendments on legislation to be offered on the floor, and ensure conservative representation on the chamber's marquee committees;
- Hold a vote on legislation establishing term limits for members of Congress;
- Approve a budget that caps FY 2024 appropriations at the levels enacted for FY 2022, essentially undoing the impact of spending increases in the FY 2023 omnibus spending bill enacted in December 2022;
- Pair any increase in or suspension of the federal debt limit with spending cuts; and
- Potentially, provide for some form of consideration of a so-called "Fair Tax" proposal that, in general, would replace the current income tax system with a national sales tax and substantially curtail the operations of the IRS.

At press time, it was still unclear exactly what had been promised regarding the Fair Tax and when any consideration of the proposal would commence. It is important to note, of course, that this policy would likely be ignored or rejected by Senate Democrats and could be vetoed by the Biden White House even if it got through the both chambers of Congress. (See additional discussion below on the likely dynamic between the House and Senate on tax policy legislation in the 118th Congress.)

Ways and Means under new management

McCarthy's installation as House speaker and the adoption of operating rules also cleared the way for Republican leaders to constitute standing committees in the chamber. To that end, the House Republican Steering Committee this week selected Rep. Jason Smith, R-Mo., to chair the Ways and Means Committee and recommended 10 Republicans to join as new members of the panel.

Smith takes three-way chairman's race: Smith prevailed in a three-way contest for Ways and Means chairman, running against two more senior members, Reps. Vern Buchanan of Florida and Adrian Smith of Nebraska. The six-term congressman, who is a member of the conservative House Freedom Caucus, has said the GOP is "the party of the working class" and that he represents the party's base. Smith is considered more of a populist than recent Republican leaders of the committee—such as former Reps. Kevin Brady of Texas, Paul Ryan of Wisconsin, and Dave Camp of Michigan—and has warned large businesses and multinationals that his priority is ensuring that the tax code and US trade policy address the needs of workers, farmers, manufacturers, and small businesses.

During his campaign for chairman, Smith frequently spoke of his background in southern Missouri, noting that he lived in a single-wide trailer much of his life, before "upgrading to a double-wide," and, after attending law school, managed the farm that has been in his family for four generations.

"I wanted to make sure everyone knew where I come from and the values that I believe in," Smith said in a January 12 interview with St. Louis Public Radio. "And you look at the 8th Congressional District of Missouri. It's the twenty-fourth poorest congressional district in the nation. But it's the sixth-most conservative in the nation. So by definition, we are working-class Americans."

The new chairman has been especially critical of US-based multinationals that he believes have been too engaged with China, noting in a January 9 statement following his selection as the top House taxwriter that "[w]e must . . . examine whether it is in the best interests of the American people to continue showering tax benefits on corporations that have shed their American identity in favor of a relationship with China."

Smith also has spoken out against what he calls "woke corporations" that, in his view, advance a liberal agenda and stray beyond their fiduciary duty to shareholders. In an interview last month with *Punchbowl News*, Smith emphasized that the policies of the Ways and Means Committee must reflect the fact that the center of gravity within the GOP has shifted to the working class.

"We're not the party that we were 10 years ago, and we have to make sure the policies of this committee and the chairman of this committee pushes those policies," he said. "That is making sure we're growing jobs; growing wages; having financial security; [and] providing for American workers, families, and farmers. That needs to be front and center when we're looking at the policies. . . . My colleagues and I have to make sure the policies we move forward are not the policies of woke corporations, but the policies of working-class Americans."

Smith has noted that under his leadership for the next two years—when legislative achievements may be in short supply due to the partisan divide between the House and Senate—Ways and Means will be active on the oversight front. He has specifically targeted the Internal Revenue Service for scrutiny, commenting that he plans to hold hearings to examine leaks of confidential taxpayer information and the agency's practices in auditing middle-income households and small businesses.

Alluding to President Biden's nomination late last year of Danny Werfel to lead the Service, Smith noted in his January 9 statement outlining his priorities as Ways and Means chairman that "[i]f confirmed, the new IRS commissioner should plan to spend a lot of time before our committee answering questions about the leaking of sensitive taxpayer information and an agency with a history of targeting conservative Americans. We will make it clear to every IRS employee that the Ways and Means Committee welcomes whistleblower efforts to uncover corrupt behavior at that agency." (Biden nominated Werfel to be IRS commissioner last November after former Commissioner Charles Rettig's five-year statutory term expired. He renominated Werfel at the start of the 118th Congress, but the Senate Finance Committee has not yet scheduled confirmation hearings.)

Smith has also said he plans for the committee to consider reforms to the welfare system and to "look at ways to encourage domestic energy production and achieve energy independence through the tax code instead of using it as a tool to punish energy producers as President Biden has suggested."

Smith succeeds Rep. Richard Neal of Massachusetts, who served as the chairman of the Ways and Means Committee in the last Congress when Democrats held the majority and will continue to lead House Democratic taxwriters this year. Within his party, Smith takes over for Rep. Kevin Brady, R-Texas, who was the top Ways and Means Republican for six years—serving both as chairman and ranking member—and retired after the 117th Congress when he was term-limited out of his leadership role.

New GOP taxwriters: The new members of Ways and Means in the 118th Congress recommended by the Steering Committee are (in order of seniority) Reps. Mike Carey of Ohio, Randy Feenstra of Iowa, Michelle Fischbach of Minnesota, Brian Fitzpatrick of Pennsylvania, Nicole Malliotakis of New York, Blake Moore of Utah, Michelle Steel of California, Greg Steube of Florida, Claudia Tenney of New York, and Beth Van Duyne of Texas.

Including Rep. Carol Miller of West Virginia, who remains on the panel from the last Congress, the panel will now have six Republican women, a significant increase from past years. There were four Republican women on the panel in the 115th Congress, just one in the 116th, and two for much of the 117th. (Rep. Jackie Walorski of

Indiana, one of the two GOP women on the committee in the 117th Congress, was killed in a car accident in August 2022.)

The House Republican Conference is expected to confirm the Steering Committee's recommendations for new members the week of January 23. (The conference confirmed the Steering Committee's recommendation of Jason Smith to chair the taxwriting panel earlier this week.)

It is notable how much of the GOP membership on the committee has turned over in recent years. All but six of the Republicans who were on Ways and Means in 2017 when the GOP's signature Tax Cuts and Jobs Act (TCJA, P.L. 115-97) was signed into law have since left the House. With a significant cliff approaching at the end of 2025 for many of the individual tax cuts and other provisions in the TCJA, the law's future is certain to be a key issue for taxwriters over the next two years.

The addition of the 10 new GOP members brings the party's headcount on the Ways and Means Committee to 25 in the 118th Congress, up from 18 in the 117th. Those new members will fill Republican slots that were added to the panel to reflect the party's shift to majority status in the House and fill vacancies created by the retirements of Kevin Brady (who, as noted, didn't seek re-election in 2022) and Rep. Tom Rice of South Carolina (who lost his primary re-election bid) plus the death of Jackie Walorski last August.

The panel's Democrats, who held 25 seats in the 117th Congress, are expected to lose several seats on their roster now that they are the minority party in the House. Two Democrats, Reps. Ron Kind of Wisconsin and Stephanie Murphy of Florida, retired at the end of the last Congress and their seats likely will not be filled. Democratic taxwriter Brendan Boyle of Pennsylvania is taking a temporary leave from the panel while he assumes the role of ranking member on the House Budget Committee. Depending on exactly how many seats are allocated to Democrats in the new Congress, some of the most junior Democratic taxwriters, such as Reps. Jimmy Gomez of California, Steven Horsford of Nevada, and Stacey Plaskett of the US Virgin Islands, could lose their positions on the committee. A final decision on which members will not be returning to the panel had not been announced at press time.

Awaiting subcommittee leadership decisions: There also will be a reshuffling among GOP taxwriters to chair the various Ways and Means subcommittees, but those decisions have not yet been announced. The top spot on the Oversight subcommittee is open following the departure of Rep. Tom Rice, and Walorski's place atop the Worker and Family Support subcommittee was not filled after her death. Vern Buchanan is the most senior member, followed by Reps. Adrian Smith, Mike Kelly of Pennsylvania, David Schweikert of Arizona, Darin LaHood of Illinois, and Brad Wenstrup of Ohio. In the last Congress, Kelly chaired the Select Revenue Measures subcommittee (which may be renamed the Tax Policy subcommittee, as it was last time Republicans held the majority), but he told Bloomberg Tax this week that he is considering a move to Oversight, given the importance that panel will have in the coming two years.

"People are just so disappointed with a government that has become too overbearing," Kelly said.

First bill up: IRS funding rollback

In one of his first acts as speaker, McCarthy used his newfound control of the House's legislative agenda to send a message regarding his party's stance on tax policy. When he rolled out the House GOP's Commitment to America platform ahead of the midterm congressional elections last September, then-Minority Leader McCarthy promised that that the first bill to receive a vote in a Republican-controlled House in the 118th Congress would call for slashing the nearly $80 billion in new mandatory funding (over 10 years) that was allocated to the IRS under the Inflation Reduction Act (P.L. 117-169), the budget reconciliation package that cleared both chambers with only Democratic support and was signed into law last August.
URL: https://www.republicanleader.gov/commitment

As the Inflation Reduction Act moved through Congress, the White House and congressional Democrats argued that beefing up the IRS's enforcement funding would enable the agency to invest in customer service and technology upgrades and deploy highly specialized audit teams focused on top-tier corporations, large partnerships, and ultrawealthy individuals to help reduce the "tax gap"—that is, the difference between the dollar amount of taxes legally owed to the federal government and the amount actually paid and collected on a timely basis. (An estimate from the IRS released last October 28, which covers tax years 2014 through 2016, puts the gross annual tax gap at $496 billion and the net annual tax gap, which reflects late payments and collections through enforcement activities, at $428 billion.)
URL: https://www.irs.gov/pub/irs-pdf/p1415.pdf

Congressional Republicans, meanwhile, countered that a budget bump for enforcement efforts would embolden the IRS to increase audit activity directed toward small businesses and middle-class taxpayers.

Family and Small Business Taxpayer Protection Act: Following through on his earlier pledge, Speaker McCarthy on January 9 brought to the floor the Family and Small Business Taxpayer Protection Act (H.R. 23), which would rescind some $71 billion of that new IRS funding—specifically, the portions allocated for enforcement activities and operations support—while preserving the remaining $9 billion that is set aside for taxpayer services and business systems modernization. The measure passed by a vote of 221-210, with just a single Republican breaking ranks to join Democrats in the "no" column. (Two Democrats and one Republican did not cast votes.)
URL: https://docs.house.gov/billsthisweek/20230102/BILLS-118HRPIH-IRS-repeal.pdf

House Ways and Means Committee Republican Adrian Smith, who introduced the legislation, stated in a floor speech January 9 that "[t]he last thing [taxpayers] need is more IRS agents knocking on doors to conduct audits, yet this IRS funding is part of the broad Biden administration strategy to tax [and] audit exponentially more Americans." H.R. 23 "leaves in place funding for customer service and IT improvements because IRS is in desperate need of reform, but it protects middle-class families from audits they cannot afford," he said.

In his own floor speech ahead of the House vote, Rep. Richard Neal, the top Democrat on Ways and Means, argued that the Republican proposal would perpetuate "a two-tier tax system" in which "wage workers follow the rules while wealthy billionaires and corporations skirt their responsibilities."

For its part, the nonpartisan Congressional Budget Office indicated in an estimate released January 9 that the House proposal, if enacted into law, would result in a net increase in the federal deficit of roughly $114.4 billion between 2023 and 2032, through the combined effect of a $71 billion reduction in net outlays and a $186 billion reduction in revenue (from foregone tax collections).
URL: https://www.cbo.gov/system/files/2023-01/hr23_IRS.pdf

A cold shoulder from Senate Democrats, White House: The Family and Small Business Taxpayer Protection Act is not expected to be taken up in the Democratic-controlled Senate. Finance Committee Chairman Ron Wyden, D-Ore., echoing the Ways and Means Committee's Richard Neal, said in a statement released January 9 that the bill comes out of "the same old Republican playbook we've seen many times before—goodies for the top paid for by everybody else. Senate Democrats will not entertain it."

The Biden administration likewise rejected the bill, commenting in a January 9 statement of administration policy that "[i]f the president were presented with H.R. 23—or any other bill that enables the wealthiest Americans and largest corporations to cheat on their taxes, while honest and hard-working Americans are left to pay the tab—he would veto it."
URL: https://www.whitehouse.gov/wp-content/uploads/2023/01/HR-23-S.A.P..pdf

Tax policy outlook: Lather, rinse, repeat

The scenario of a high-profile tax bill passing in the Republican House only to be ignored in the Democratic Senate—or a Democratic tax package clearing the Senate only to fizzle in the House—may be repeated multiple times in the 118th Congress, given that the two parties have staked out tax policy agendas that fundamentally are at odds with each other.

House Republicans focused on preserving TCJA tax cuts: Speaker McCarthy's Commitment to America platform suggests that the GOP intends to double down on the Tax Cuts and Jobs Act—the massive tax legislation that a Republican-controlled House and Senate moved through Congress under budget reconciliation procedures without any support from Democrats—and seek permanent extensions of the tax relief provisions for individuals that are scheduled to expire at the end of 2025, as well as enhancements to some of that measure's business-focused tax breaks, such as bonus depreciation.

In conjunction with the release of McCarthy's blueprint, senior GOP taxwriter Vern Buchanan unveiled legislation last September that would permanently extend the TCJA's tax breaks for individuals, such as the reduced income tax rates, the increased exemption for estate and gift taxes, the increased standard deduction, and the increased child tax credit. Buchanan's proposal also would make permanent the TCJA's $10,000 cap of the deduction for state and local income and property taxes, which, like the tax cuts for individuals, is set to expire at the end of 2025. (That bill was not taken up in the House last year and expired at the end of the 117th Congress, so Buchanan will need to reintroduce it if he wants lawmakers to consider it this year.)
URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/TNV/220923_1_suppA.pdf

Newly minted Ways and Means Committee Chairman Jason Smith, meanwhile, said in a January 12 appearance on Fox Business that he wants Ways and Means to hold "field hearings" across the US to discuss "what worked in [the TCJA] tax provisions, what did not work, and what could be improved to help grow paychecks, increase jobs, and create more . . . financial security."

Senate Democrats focused on corporate, high-wealth revenue increases: In the Senate, the agenda for the Democratic majority likely will align with the policies laid out, albeit at a very high level, in the economic blueprint that President Biden released last September. Among its tax proposals, the blueprint calls for revisiting many of the revenue-raising provisions targeting businesses and upper-income individuals that were left out of the recently enacted Inflation Reduction Act, such as a 15 percent minimum tax rate on certain large US-based multinational corporations to bring the US into alignment with the Pillar Two global minimum tax agreement being advanced by the OECD, a "billionaire minimum tax," and stricter rules governing the tax treatment of carried interest income. Biden's agenda also calls for rescinding certain tax cuts for those taxpayers enacted in the Tax Cuts and Jobs Act—for example, by making unspecified changes to the corporate tax rules to "correct . . . the failures" of the TCJA and returning individual income tax rates for taxpayers with income over $400,000 to pre-2017 levels. Revenue generated by these and other proposed tax increases would be used to offset the cost of certain other Democratic priorities, such as permanently extending enhancements to the earned income tax credit and the child tax credit that were enacted in the American Rescue Plan on a temporary basis and expired at the end of 2021.
URL: https://www.whitehouse.gov/wp-content/uploads/2022/09/Biden-Economic-Blueprint-Report-720PM-MASTER-DOC.pdf

It's worth noting, though, that while Democrats expanded their Senate majority in November's midterm elections and now control 51 seats (including 3 Independents who generally align with the party), they still lack the three-fifths supermajority—typically 60 votes—that's needed to avert a near-certain GOP filibuster of legislation to raise taxes. And with no Republicans likely to break ranks to support the Democratic tax agenda, the prospects that proposals like those outlined in the administration's blueprint would even reach the floor for a vote appear remote.

Opportunities for consensus?: It remains possible, however, that lawmakers might be able to reach consensus on a handful of relatively narrow tax provisions that attracted bipartisan support in the previous Congress but were left out of the year-end omnibus spending package enacted late last month. Proposals falling into this category could include legislation that would repeal or defer certain revenue-raising provisions in the TCJA, such as mandatory research expense amortization, stricter limits on the deduction for net business interest expense, and the new phase-down in the bonus depreciation percentage. Other non-TCJA policies that have been percolating in Congress—such as relief from last-in-first-out (LIFO) inventory recapture for automobile dealers—could also fall into this bucket. (One LIFO relief bill, the Supply Chain Disruptions Relief Act, sponsored by Finance Committee member Sherrod Brown, D-Ohio, cleared the Senate by unanimous consent on December 22, but a House companion measure sponsored by Ways and Means Committee member Dan Kildee, D-Mich., was never taken up in that chamber. Both proposals expired at the end of the 117th Congress.)
URL: https://www.congress.gov/117/bills/s4105/BILLS-117s4105es.pdf

Action on provisions such as these likely would depend in large part upon the broader political dynamics surrounding other legislation moving through Congress, such as measures to increase the federal debt ceiling

or fund the federal government, that could serve as vehicles for certain of these policies. (Treasury Secretary Janet Yellen pointed to the need for debt limit legislation in a January 13 letter to House and Senate leaders in which she cautioned that US debt is projected to reach its statutory limit as of January 19, 2023—a development that will require the department "to start taking certain extraordinary measures to prevent the United States from defaulting on its obligations." Congress, she said, needs to "act in a timely manner to increase or suspend the debt limit.")
URL: https://home.treasury.gov/system/files/136/Debt-Limit-Letter-to-Congress-McCarthy-20230113.pdf

Despite the broad bipartisan support that several of these items enjoyed last year, however, supporters were stymied by an unresolved dispute between Democrats, who wanted to pair those business-friendly provisions with an extension of the now-expired enhancements to the child tax credit enacted in 2021, and Republicans, who bristled at the potentially larger cost of the child tax credit changes. That dynamic has carried over into 2023, although there is some hope among Democrats that the more populist bent of new Ways and Means Committee Chairman Smith may make him more amenable to revisiting the child tax credit. Smith indicated last month, for example, that Republicans may be open to legislation expanding the credit if it includes a work requirement. (For prior coverage, see *Tax News & Views*, Vol. 23, No. 41, Dec. 9, 2022.)
URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/TNV/221209_1.html

It also is possible that other narrow tax issues that are not currently on the radar of either party could emerge in the 118th Congress and generate enough bipartisan support to clear both chambers and become law, although right now these fall into the realm of "unknown unknowns." But again, at this time it is difficult to state with certainty the relative prospects for these items as the new Congress gets down to work.

Regulatory action remains possible: The fact that Congress is narrowly divided and unlikely to produce major tax legislation does not mean that federal action on tax policy will descend into a state of dormancy for the next two years, however. We can expect that the Treasury Department (and other federal agencies) will be active in writing regulations that will have a major impact on businesses and individuals. Just last month, for example, the Treasury Department announced that it would delay enforcement of a stricter reporting threshold for third-party payment processors that was enacted in the American Rescue Plan Act of 2021 and scheduled to take effect for tax year 2022 transactions. (Lawmakers had hoped to approve relief of some kind during the post-election lame duck session but were unsuccessful in getting such a provision included in last month's omnibus spending bill.)
URL: https://www.irs.gov/pub/irs-drop/n-2023-10.pdf

Indeed, this sort of regulatory intervention has been the norm for recent presidencies: when the Congress is unable to produce legislation, policymaking by regulation becomes a major focus. Although Treasury can't administratively raise tax rates, decisions around how to implement previously enacted laws, especially the Inflation Reduction Act, will have major implications for affected taxpayers.

— Alex Brosseau, Michael DeHoff, and Storme Sixeas
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