# Post-Election Tax Landscape—Don't Relax!

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ABSTRACT

The last eight major tax reform laws happened in year one of a president's term when there was a unified government. This year, 2025, could be a year when we see the next one. That said, there is embedded risk on relying on future tax law changes. So, until a law is enacted, advisors should continue to urge clients to plan for sunset.

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During his first term, President Trump oversaw enactment of the 2017 Tax Act, sometimes called the Tax Cut and Jobs Act. It reduced income, estate, and corporate taxes for many. Some of the changes were permanent, but most were temporary and are set to expire (sunset) on December 31, 2025.

While campaigning for his second term, President Trump made multiple tax-related representations. Now that a unified government has been elected, it is important to explore how his tax platform might affect clients. Of course, nothing promised while campaigning is law until it becomes law, and until it becomes law, clients should continue to prepare for sunset.

## 2017 Tax Act: Redux

No President can simply extend an expiring tax law; indeed, it requires an act of Congress, the same as any other law. But extending the expiring tax provisions was an important part of Trump's campaign platform, so it is likely that he will look to proceed.

**When might he advance a new tax bill?** He campaigned on doing so within his first 100 days, but a few hurdles might slow down progress. One is that a potential small coalition of GOP senators might not be on board. As there will be 53 Republican Senators, a group of four would be enough to thwart a bill. Another is the deficit, as several Congressional GOP leaders have discussed a philosophical limit on

adding to the deficit. Referring to that limit as "The Number," these leaders view it as promoting fiscal reasonability; however, just what "The Number" is has not yet been declared.

**How?** The House limits the amount of time a bill can be debated, but the Senate does not. Thus, a senator can speak—well, debate—for as long as they are physically able to do so, and thereby defer a vote on the bill. This is known as a filibuster. A filibuster only can be shut down by invoking cloture. Since 1980, Senate rules have required 60 votes to invoke cloture. Republicans would fall short if votes were cast along party lines.

But there is a way to circumvent the filibuster. It is to pass a law by a process known as budget reconciliation. This is when the House and the Senate each establish a spending plan for the next fiscal year, then separately draft legislation supporting it. The two bills are merged or "reconciled." The reconciled bill is then sent back to each chamber for an "up/down" vote. No amendments can be made and only a simple majority of votes is needed for passage.

This process is neither inappropriate nor unique. In the 44 years since the 60-vote rule was put in place, 27 tax laws have been passed by Congress via budget reconciliation, and while four of those were vetoed, 23 became law.

**Is there a limit for deficit spending in budget reconciliation?** Laws passed by budget reconciliation either must have revenue raisers that offset tax cuts and spending, or the tax cuts and spending that generate a deficit can only extend during the budget window, which typically is 10 years. In addition to statutory PAYGO rules ("pay as you go"), each chamber of Congress has their own. One consistency is that revenue only includes that related to specific legislation being considered, so revenue raised, for example, by executive order (e.g., Presidential executive order imposing a tariff on China) is ignored to determine if there is deficit spending under a budget reconciliation bill. Thus, when the tax cuts are greater than the revenue generated, they become temporary, just as with the 2017 Tax Act (also passed by reconciliation). So, options include a full extension, a limited extension (say, of 4 or 5 years), an extension of only some of the provisions, or adding significant revenue raisers (taxes).

## Potential Tax Changes

Here are the top three categories impacting clients, with their estimated costs of being extended over the next 10 years:

1. Individual income taxes: The expanded brackets and elimination of the top tax rate of 39.6 percent would remain, at an estimated 10-year cost of $2.2 trillion.

2. The expanded alternative minimum tax (AMT) exemption and increased phase-out level would continue, at an estimated 10-year cost of $1.5 trillion. Interestingly, the changes reduced the number of individuals paying AMT from over 5 million in 2016 to less than 200,000 in 2023.

3. The enhanced estate/gift and generation skipping transfer tax exemptions ($10 million annually indexed for inflation, or $13,990,000 in 2025) would continue, at an estimated 10-year cost of $183 billion.

In fact, of the expiring provisions, the only aspect President Trump proposed not extending is the $10,000 cap on the state and local tax deduction, commonly referred to as the SALT cap. He indicated a desire to revert to an unlimited deduction, as existed before 2017.

There have been headlines of other Trump tax "wish list" items. These include no tax on Social Security benefits, overtime pay, and tip income. Also, he suggested a reduced 15 percent capital-gains rate for sales of stocks of U.S. companies as well as a deduction for interest on auto loans for electric vehicles. These may or may not be included in the effort to extend the 2017 Tax Act, but even if not, it does not foreclose one or more from being proposed later.

## Conclusion

The last eight major tax reform laws happened in year one of a president's term when there was a unified government. This year, 2025, could be a year when we

see the next one. That said, there is embedded risk on relying on future tax law changes as they (a) may not happen in time, (b) may not have the provision you seek because it was bargained away, or (c) may not happen at all. So, until a law is enacted, advisors should continue to urge clients to plan for sunset. ■

*The author takes sole responsibility for the views expressed herein and these views do not necessarily reflect the views of the author's employer or any other organization, group, or individual.*

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