

TAX TAKE: Top 10 Questions Now That the Committee on Ways and Means Has Passed the Reconciliation Bill Tax Title: Part One

Tax Alert
09.20.2021

Last week, the House Committee on Ways and Means passed the tax title of the Build Back Better Act ([legislative text](#); [section-by-section summary](#); [JCT revenue estimate](#); [JCT explanation](#)). The title includes a significant package of business and individual provisions including corporate, individual, and capital gain rate increases, modifications to outbound and inbound international tax provisions, and a variety of provisions impacting high-income individuals, pass-through businesses, and estates and trusts. Committee passage represents an important step in the reconciliation process, which leads us to ask:

- 1. What's Next and When?** Speaker Pelosi could decide to bring the reconciliation bill to the House floor in the short term but moderate members of her party may be reluctant to vote on such a large package (with its associated tax increases) without assurance that the bill will pass the Senate. In all likelihood, the bill will be held so that the House, Senate, and the Administration can negotiate a package that can secure the support of both the progressive and moderate wings of the Democratic party to ensure passage in both chambers. The length of those negotiations is uncertain, as the parties will first need to decide on the overall size of the bill and the amount that will be financed by deficit spending (which will ease some of the pressure on the amount of revenue that must be raised via tax increases) before making policy determinations with respect to specific spending and tax proposals.
- 2. What Mechanisms Could Force Action Sooner?** Congress faces a myriad of deadlines, including the pending September 27 deadline to vote on the [bipartisan infrastructure bill](#), the need to address the [debt limit](#), and the need to fund the federal government after September 30. Each of these bills could serve as legislative vehicles for the reconciliation bill. In all likelihood, however, consideration of the reconciliation bill could go late into this year with perhaps the "real" deadline being December 31, as Democrats will be reluctant to enact such a large spending and tax increase measure in 2022, with the mid-term elections looming.
- 3. Will It Get Any Worse From a Tax Increase Perspective?** The House package likely represents the "high water mark" in terms of the spending level (approximately \$3.5 trillion) and the associated tax increases. As moderate Democrats (such as [Senator Joe Manchin](#) (D-WV) and [Senator Kyrsten Sinema](#) (D-AZ)) pursue a reduction in the overall size of the package, there should be a corresponding reduction in the tax increases necessary to fund the reduced spending target. Which proposed tax increases are reduced remains an open question, although a reduction in the proposed increase in the corporate tax rate from 26.5 percent (as passed by the Committee) to 25 percent ([as proposed by Senator Manchin](#)) would seem to be a priority. With reduced revenue pressure, Congress may also consider delaying the effective dates of certain provisions to allow proper implementation by taxpayers and the IRS, as well as to allow for developments at the OECD that would impact a number of the proposed international tax changes.
- 4. Are There Any New Tax Increases on the Table?** Although a reduction in the overall size of the package will reduce the need for tax increases, there is the potential that new tax increases will replace tax increases that were included in the Committee-passed package. The Administration is advocating for the inclusion of a financial account reporting provision from the [Greenbook](#). And, as discussed in last week's [Tax Take](#), Senate Finance Committee Chairman Ron Wyden (D-OR) has proposed a series of revenue raising proposals (including proposals addressing [carried interest](#), [derivatives](#), [international tax](#), a general [mark-to-market regime proposal](#), a [stock buyback excise tax](#), and significant modifications to the [partnership tax rules](#)) that could be considered.

5. **Where's the SALT?** Democratic policymakers remain committed to providing relief from the current cap on the [state and local tax deduction](#) (SALT), although the form of that relief (such as lifting the cap or a short-term repeal of the cap) is still uncertain. Presumably, some form of SALT cap relief will be added to the package before it is considered on the House floor. Depending on the scope of the proposed relief, a new revenue source (likely targeted at high-income individuals) may be needed to fund any SALT cap relief.

Stay tuned for Part Two of our "Top 10" Questions next week. **#TaxTake**

Upcoming Speaking Engagements and Events

On September 21, Marc will speak at the [2021 ICI Tax Accounting Conference](#) on a panel titled, "Biden Administration's Legislative and Regulatory Agenda."

On September 23, Loren and fellow Member [Kevin Kenworthy](#) will provide a Litigation Update at [API's 86th Annual Federal Tax Forum](#).

Marc will discuss the upcoming tax legislative agenda at the [Savannah Estate Planning Council's 2021 Fall Meeting](#) on October 21.

Marc will speak at the [56th Annual Southern Federal Virtual Tax Institute](#) on a panel titled, "The 2021 Legislative Landscape: Evaluating Actual and Potential Changes," on October 25.

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