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In Focus

Investment Insights into Current Events

Seeking Clarity on Tax Reform

The Wait Continues…

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This past April, the Biden administration announced the $1.8 trillion American Families Plan, which would expand access to education, affordable childcare and various tax credits. The plan (as proposed) would largely be funded by additional taxes on high earners. Since that time, taxpayers have been left wondering whether tax reform could become a reality, and if so, to what extent. While negotiations are still ongoing (hence '*the wait continues…*'), the article below summarizes recent political developments and the outlook for upcoming tax legislation.

Q: Have there been any recent developments on tax legislation?

A: On August 10, 2021, the Senate passed the Infrastructure Investment and Jobs Act, with rare bipartisan support (69-30). The $1.2 trillion package represents roughly half of the $2.3 trillion initially targeted by President Biden earlier this spring, though it marks significant funding for the next five years, with more than $550 billion of new spending.

Shortly after passing the infrastructure package, the Senate passed a $3.5 trillion budget resolution that would clear the way for the Senate to use the reconciliation process to pass broader tax and spending legislation with 50 Senate votes, rather than the typically required 60 votes.

Q: Why is this significant?

A: The Biden administration hoped to pass an infrastructure package earlier this spring, though such legislation was delayed over political wrangling on what exactly constituted infrastructure and the total price tag.

Perhaps just as significant, the budget resolution brings Congress a step closer to moving ahead with a reconciliation bill that could adopt many of the tax proposals outlined in this past April's American Jobs Plan and American Families Plan.

Q: Are the Biden administration's tax proposals now closer to becoming a reality? What challenges lie ahead?

A: Procedurally, this brings potential tax reform a step closer, although negotiations are far from over.

House Speaker Nancy Pelosi has been adamant that the House would not take a vote on the infrastructure package unless the Senate also passed the larger reconciliation bill. Further complicating this political calculation, a group of nine moderate House Democrats sent a letter to Speaker Pelosi on August 12 stating, "We will not consider voting for a budget resolution until the bipartisan Infrastructure Investment and Jobs Act passes the House and is signed into law." This is a notable development given a narrow Democratic majority in the House, for which Speaker Pelosi cannot afford to lose more than three votes from her caucus.

The Senate remains evenly divided (50-50) between Republicans and Democrats, with Vice President Kamala Harris acting as the decisive tie-breaking vote. Moderate Democrats such as Joe Manchin of West Virginia and Kyrsten Sinema of Arizona pushed back at the estimated $3.5 trillion price tag and will thus wield considerable power in future negotiations. Shortly after the recent votes, Senator Manchin noted, "I have serious concerns about the grave consequences facing West Virginians and every American family if Congress decides to spend another $3.5 trillion."

A policy expert recently remarked that the views of the Democratic party are not monolithic. The reality is Speaker Pelosi and Senate Majority Leader Chuck Schumer must strike a balance between progressive Democrats who view Congressional majorities, however slim, as an opportunity to pursue broader objectives and moderate Democrats who are wrestling with the cost of current proposals.

Q: Will the tax proposals in the upcoming reconciliation bill differ from those outlined earlier this year in the American Jobs Plan and American Families Plan?

A: It is simply too early to say, as a future reconciliation bill could choose to include, amend or entirely reject past proposals.

Currently, the consensus view is that tax proposals outlined this past spring (captured below) are likely to be revised, if included, in future tax legislation:

Topic	Previously Announced Tax Proposal	Current Outlook
Corporate Tax Rate	Raise from 21% to 28%	If raised, perhaps 25%
Long-Term Capital Gains Taxes	Raise from 20% to 39.6%; proposed to implement on a retroactive basis	More likely any increase would settle between 25-28%; retroactive implementation unlikely
State & Local Tax (SALT) Deduction (currently capped at $10,000)	Not addressed	Likely a priority for Democrats from high tax states; unclear as to an increase in the cap or full repeal
Step-Up in Cost Basis at Death	Largely repeal the provision, with a $1 million exemption ($2 million for couples), plus continued use of the home sale gain exclusion	Unclear, though strong bipartisan support for providing an exemption to family-owned businesses and farms; repeal of this provision would mark a sharp departure from tax code dating back to 1921
Estate & Lifetime Gift Tax Exemption	Not specifically addressed	Given the potential scale of tax legislation ($3.5 trillion) and currently favorable exemption amounts, likely to be incorporated into negotiations
Like-Kind Exchanges	End tax-free like-kind exchanges for real estate gains greater than $500,000 ($1 million for married taxpayers)	Lawmakers have expressed support for the current tax treatment afforded to like-kind exchanges

Q: Congress is currently in recess; how does that impact the timeline for legislation?

A: The House was scheduled to be on recess until September 20, 2021, although Speaker Pelosi and Majority Leader Steny Hoyer announced the chamber will be back in session the week of August 23, 2021, to consider the Senate-approved budget resolution.

The Senate is scheduled to be on recess until September 13, 2021, although Senate committees will likely use the next several weeks to advance efforts for reconciliation legislation.

Legislation appears gridlocked for the time being, so long as Speaker Pelosi holds to demands for the Senate to pass a reconciliation bill prior to the House considering the infrastructure and reconciliation packages.

Q: Will taxpayers have time to prepare ahead of tax changes becoming effective?

A: The Biden administration and Congressional Democrats have a goal of passing tax legislation prior to year-end. Naturally, taxpayers would prefer negotiations to conclude well in advance of year-end to allow additional time for planning. Given the uncertain path for tax negotiations, taxpayers who might be impacted by current proposals should begin conversations with trusted advisors (accountants, estate planning attorneys, investment advisors) to assess potential planning opportunities.

Q: What are the 'next steps' for tax legislation?

A: To pave the way for the Senate to use the reconciliation process to advance legislation with 50 votes, both the House and Senate will need to adopt a joint budget resolution with identical budget reconciliation instructions. Subsequently, the House Ways and Means Committee and Senate Finance Committee can begin drafting the reconciliation bill.

This continues to be a fluid situation that could take quite a few twists and turns over the coming weeks and months and one that bears monitoring closely to evaluate potential tax planning opportunities. We will continue to keep you informed as legislation evolves.

For more information, please contact any of the professionals at Fiducient Advisors.

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Nick provides investment consulting services to nonprofit organizations, corporate executives, family trusts and other high net worth investors. He services clients by providing advice and expertise on asset allocation, portfolio design, investment policy statements, manager search process and overall investment management. Nick heads the firm's Financial Planning Committee. Prior to joining the firm in 2007, Nick was a Senior Financial Planner with The Ayco Company where he provided comprehensive advice to affluent clientele. Nick earned a BA in Finance and Economics from the University of Illinois at Urbana-Champaign. He obtained the designation of Certified Financial Planner (CFP®) from the College of Financial Planning and is a CFA® charterholder and member of the CFA Society of Chicago. Nick enjoys long distance running (having completed four marathons and multiple half-marathons) and spending time with his family.