



SOUTHERN FEDERAL
TAX INSTITUTE

**TAX POLICY AND LEGISLATIVE UPDATE:
THE VIEW FROM WASHINGTON**

By

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Washington, DC

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SESSION B



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Tom West joined Capitol Tax Partners after an accomplished career as a senior Treasury official and in the private sector. His government service has provided him extensive experience in the tax legislative and regulatory process, and he is widely recognized as a top expert on tax policy matters.

Before joining the firm, Tom served in senior tax policy roles in the last three Administrations. Tom first served at the Treasury Department for four years in the Obama and Trump Administrations where he was Tax Legislative Counsel in the Office of Tax Policy. In 2017, his service included nine months as Acting Assistant Secretary for Tax Policy during the change of Administration where he helped advise then-Secretary Steven Mnuchin on the development of the Administration's policies underlying the Tax Cuts and Jobs Act (TCJA). After several years in the private sector, in 2021, Tom returned to the Treasury Department as Deputy Assistant Secretary for Tax Policy, where he advised Secretary Janet Yellen and the White House on legislative and regulatory tax matters.

Tom's leadership, judgment, common sense and expertise were instrumental in the passage and implementation of numerous landmark pieces of tax legislation, including the Affordable Care Act, the TCJA, the American Rescue Plan Act, the Infrastructure Investment and Jobs Act, and the Inflation Reduction Act.

For his many years of service at Treasury, Tom was awarded the prestigious Treasury Medal. The citation with his Medal notes that he "consistently demonstrated the highest standards of integrity and leadership in providing expert advice in public service to three Treasury Secretaries..." and that his "sound judgment, pragmatism, humor, and excellent rapport with his devoted staff and colleagues across the administration were hallmarks of his expert management of all aspects of Treasury's wide-ranging domestic tax portfolio."

During his time in the private sector, Tom was a principal in a Big 4 accounting firm and a shareholder in a large multinational law firm. For more than 15 years in private practice, he advised clients on tax policy, regulatory matters, global tax planning, and compliance.

Tom earned his Juris Doctor degree from Temple University Beasley School of Law and an LLM degree in Taxation from Georgetown University Law Center. He lives on Capitol Hill with his wife and son.

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Learning Objective: Provide an overview of key federal legislative and regulatory tax issues for the balance of 2025 and 2026. We will review the passage of the One Big Beautiful Bill (OBBA) and the regulatory guidance priorities for Treasury/IRS as a result of its passage. We will also focus on the possibility of a second tax bill, what the potential driving forces could be, and what other items might be included. Finally, we will discuss the ongoing negotiations regarding Pillar Two.

1. Recap of OBBA

- a. Extension (and some modification) of expiring individual tax items from TCJA (rate reductions, enhanced CTC, standard deduction, estate and gift, 199A, etc.).
- b. Campaign priorities: no tax on tips; no tax on overtime; Trump Accounts; car loan interest; expensing for manufacturing facilities.
- c. Business extenders: Permanent extensions of full expensing; R&E expensing; 163(j) EBITDA limitation.
- d. International: slight increases in GILTI, FDII and BEAT rates; permanent extension of CFC look-thru; other reforms.
- e. Maintain corporate rate at 21 percent and no significant corporate offsets other than 1% floor on charitable deductions.
 - i. No corporate SALT changes or stock buyback excise taxes.
- f. Elimination and modification of various clean energy credits from IRA.
- g. Traditional extenders: CFC look-thru; NMTC; LIHTC; Rum cover-over.

2. Treasury Regulation Agenda

- a. Looking to get something out in 2025 on provisions which have retroactive or current effective dates.
- b. No tax on tips (transition rules and preliminary guidance); no tax on overtime; car loan interest (already put out some guidance and will have more transition rules).
- c. R&D expensing (how to make method change).
- d. Bonus depreciation transition guidance; factories preliminary guidance.

- e. Opportunity Zones --define rural and a process for identifying eligible census tracts.
- f. Energy: 45U Nuclear; 45Z clean fuel production regs (working with DOE and USDA); FEOC guidance.
- g. Notice 2025-42: response to wind and solar executive order regarding beginning of construction.
- h. Trump accounts (enormous amount of legwork before they are eligible for contributions next July 4, 2026).
- i. Not planning on updating withholding tables or putting out updated W2s or 1099s for 2025.
- j. Deregulatory agenda: Executive order (10 eliminated for every one added).
 - i. CAMT Guidance
 - (a) Three Notices issued.
 - (b) Significant paring back from 2024 Proposed Regulations.
 - ii. DCL/DPL Notice
 - iii. Others: FTCs, 367, BEAT?
- k. New priority guidance plan: more focused than in previous years.
- l. Limited resources: Brain drain
 - i. While several political appointees have joined OTP, there is still a significant shortage of resources.
 - ii. IRS has lost numerous experienced staff, funding challenges.
 - iii. Will cause challenges/concerns over filing season.

3. Legislative Outlook – Prevailing Margins

- a. In the House, Republicans hold a 219-212 margin, with 2018 needed for control.
 - i. 4 vacant House seats due to deaths and retirements (3 Ds, 1 R).
- b. In the Senate Republicans hold a 53-47 margin.
 - i. Certain matters can pass by majority, for example nominations.
 - ii. Certain matters require 60 votes, for example continuing resolutions on government funding.
 - iii. Bills can pass with majority vote via special reconciliation procedures, but limits on usage and content of legislation.

4. Legislative Outline – 2025 Landscape

- a. Government funding recap and consequences
- b. Spirit of cooperation is not high
 - i. OBBBA
 - ii. Rescissions package/pocket rescissions
 - iii. “Can’t be the only ones playing by the rules”
 - iv. Nominations fights/potential changes to rules
 - v. Redistricting
 - vi. Epstein files
- c. Factions and priorities
 - i. House Freedom Caucus
 - ii. Democratic priorities

5. Legislative Outlook – Prospect of Second Tax Bill

- a. Speaker Johnson: Seeking a second tax and spending reconciliation (“not as big, but hopefully as beautiful”).
 - i. Stated purpose: Rewrite provisions that failed the Byrd rule or otherwise fell out of OBBBA.
 - ii. Senate is less enthusiastic.
 - iii. Narrow margins + nothing existential = skepticism.
 - iv. Will President Trump weigh in?
- b. Chairman Smith: Floated possibility of bipartisan tax bill.
 - i. Will Democrats want to cooperate?
- c. Potential drivers/inclusions:
 - i. Expiration of ACA premium tax credits.
 - ii. Capital gains relief – sales of residences (President Trump); indexing for inflation (Sen. Daines).
 - iii. Tariff rebate checks (Sen. Hawley).

- iv. CTC expansion a la Smith-Wyden bill.
- v. Fixing OBBBA issues: limitation on gambling losses; CAMT/R&D; charitable contribution floors.
- vi. Traditional extenders: WOTC; section 181 expensing; NASCAR.
- vii. Taiwan quasi-treaty legislation.
- viii. Digital asset tax issues.
- d. Need and appetite for spending/tax offsets?

6. OECD Pillar Two -- Timeline

- a. Tax July: U.S. presentation to other countries showing the U.S. system is robust compared to Pillar 2 and that the reporting requirements imposed on U.S. companies are sufficient such that U.S. companies should be excused from filing the GloBE Information Return as well.
- b. August: Working Party 11 will receive documents to review and provide feedback on to move toward a political agreement.
- c. September: Working Party 11 and the Steering Group will both meet to discuss what the safe harbors will look like, including the criteria to qualify.
- d. October: Work will begin toward administrative guidance implementing the political agreement, with the goal of having agreed-to administrative guidance by the end of December at the latest.
- e. Notably, this timeline presumes that other events, such as trade negotiations and other possible irritants, do not derail the negotiations.

7. OECD Pillar Two – Proposed Fix

Three items represent the current focus of negotiations:

- a. **Exempting eligible side-by-side regimes** from pillar two IIRs and UTPRs if three criteria are met: (i) taxing of in-scope MNE groups at or above an agreed rate on a “comprehensive measure of income”; (ii) taxing UPEs of in scope MNE groups at or above an agreed rate on the UPE’s share of a CFC’s income, whether distributed or not; and (iii) provides relief for tax payments made under QDMTTs.
- b. **Securing the permanent simplified ETR safe harbor** (previously known as the CbCR safe harbor) in administrative guidance, and
- c. Better aligning the treatment of refundable vs. “substance based” nonrefundable credits (e.g., US research credit).
 - i. Only expenditure-based incentives would qualify.

- ii. Need to determine whether the incentive must be substance-based or based on the total substance in the jurisdiction, based on payroll and tangible assets.

The latter two workstreams to secure a permanent simplified ETR safe harbor and to address the treatment of refundable vs. nonrefundable credits would be mostly relevant to foreign-headquartered companies with U.S. income.

- d. Trade and Tariffs
- e. Tariffs may be the new long-term reality
- f. Legal status
- g. Interactions with the tax system
 - i. Impacts on international negotiations
 - ii. Tax planning impacts

8. Mid-Term Election Early Preview

- a. Redistricting
- b. Retirements
- c. Recession?