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Agenda

- Key oil and gas provisions TCJA
- Treasury/IRS guidance issued
- US revenue sources and comparative international rates
- Legislative outlook

2 EY

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US oil and gas taxation
Key items post-TCJA 2017

- Interest Limitation

Effective for tax years after 2017, IRC Section 163(j) limits the net interest expense deduction to 30% of the business's adjusted taxable income ("ATI"). Through 2021, ATI is generally computed without regard to depreciation, amortization or depletion, subject to certain limitations for costs required to be capitalized into inventory. Thereafter (beginning in 2022), ATI is decreased by those items, thus making the computation 30% of net interest expense exceeding EBIT. However, interest that is disallowed under this rule is carried forward indefinitely (subject to limitations).

3 EY

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US oil and gas taxation
Key items post-TCJA 2017

- Base erosion and anti-abuse tax ("BEAT")

BEAT is generally designed to curtail excessive base erosion payments (i.e., deductible payments to foreign affiliates). This could include related party payments of interests and certain other fees. Payments included in cost of good sold or otherwise treated as a reduction in gross receipts are generally not base erosion payments.

BEAT generally applies to corporations (with some exceptions) that are subject to US net income tax with average annual gross receipts of at least US$500 million and that have made related-party deductible payments totaling 3% (2% for certain taxpayers) or more of the corporation's total deductions for the year. The amount owed is the excess of 10% (5% for one tax year for base erosion payments paid or accrued in tax years beginning after 31 December 2017) of the corporation's modified taxable income over its regular tax liability for the year (net of an adjusted amount of tax credits allowed).

4 EY

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US oil and gas taxation
Key items post-TCJA 2017

- Global intangible low-taxed income ("GILTI")

GILTI is a new category of foreign income subject to US tax, which is applicable to US shareholders that own 10% or more of a controlled foreign corporation. The new rules essentially impose a minimum level of US tax on the foreign profits of US multinational companies.

GILTI is gross income in excess of extraordinary returns from tangible depreciable assets, excluding effectively connected income ("ECI"), subpart F income, high-taxed income, dividends from related parties, and foreign oil and gas extraction income. For tax years beginning after 31 December 2017, and before 1 January 2026, the highest effective tax rate on GILTI is 10.5%.

5 EY

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US oil and gas taxation
Key items post-TCJA 2017

- Foreign Derived Intangible Income ("FDII")

The FDII rules effectively incentivize the development of intangibles in the United States by providing a reduced rate of US tax on a domestic corporation's portion of its intangible income derived from serving foreign markets.

The new rule allows a domestic corporation to deduct 37.5% (21.875% for tax years after 2025) of FDII, subject to certain limitations. FDII generally equals the foreign-derived amount of a domestic corporation's deemed intangible income, which is driven, in part, by property and services sold to non-US persons. Deemed intangible income is generally defined as deduction-eligible income in excess of a deemed return from tangible depreciable assets held by the domestic corporation.

6 EY

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Treasury/IRS guidance

What has been released so far?
Section 965 transition tax – final
Section 199A deduction – final and a proposed rule for REITs/RICs
Reducing Section 956 inclusions for corporate US shareholders – final
SALT Credits and Charitable Contributions – final
Section 951A, Global Intangible Low-Taxed Income (GILTI) – final, plus proposed rule on high-tax exception to GILTI
Bonus depreciation – proposed
Section 163(j) interest deduction limitation – proposed
Foreign tax credit issues arising under the TCJA – proposed
Section 59A Base Erosion Anti-abuse Tax (BEAT) – proposed
Hybrid dividends and payments – proposed
Section 250 foreign derived intangible income, GILTI deductions – proposed
Opportunity Zones – 2 sets of proposed rules
Ownership attribution for purposes of determining whether a person is related to a controlled foreign corporation under section 954(d)(3) – proposed
Deny Section 245A dividends received deduction and Section 954(c)(6) exception to foreign personal holding company income – temporary
Determination of the Section 4968 excise tax applicable to certain private colleges and universities – proposed
Guidance on passive foreign investment companies – proposed
Targeted for release by December 2019 (in OIRA spring agenda)
Final rules on: hybrid dividends and payments; BEAT; foreign tax credits

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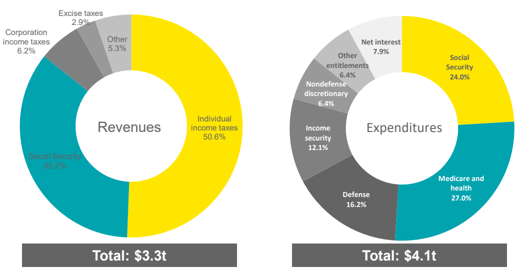
Sources and uses of federal revenues, FY2018



Note: "Other" revenue includes Federal Reserve earnings, fees from the FCC's Universal Service Fund, customs duties, estate and gift taxes and other miscellaneous receipts. "Other entitlements" includes commerce and housing credit, education, training, employment, social services, and veterans benefits and services. "Nondefense discretionary" includes international affairs, general science, space and technology, energy, natural resources and environment, agriculture, transportation, community and regional development, administration of justice, general government, and undistributed offsetting receipts.
Source: Monthly Treasury Statement (Sept. 2018), US Department of the Treasury.

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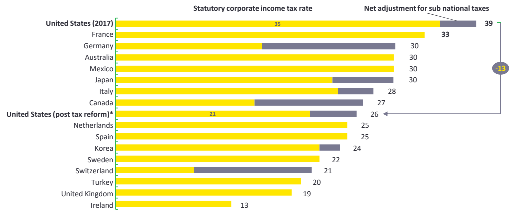
Corporate income tax rates of major OECD economies

Corporate income tax rates across OECD countries, 2017 (unless stated otherwise)



In 2017, the average combined corporate income tax rate was 24.2%

* Assumes state and local taxes contribute 5% to overall corporate income tax rate

Source: OECD, EY analysis.

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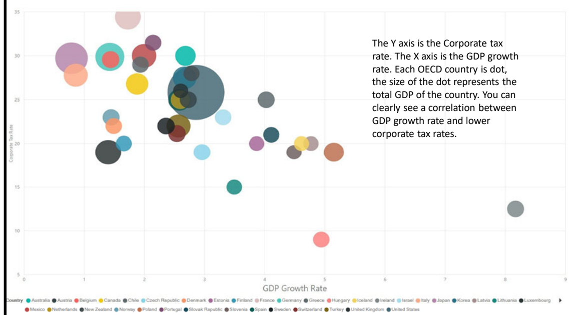
Corporate tax rate/GDP growth rate
OECD countries



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More gridlock, less consensus than usual

- Bipartisan 2018 tax bills that did not get enacted would seem like low hanging fruit, but they are not
  - Retirement savings legislation
    - Stuck in Senate over use of 529 plans for home schooling expenses
  - Tax extender legislation
    - Stuck in House over question of revenue offsets
  - Technical corrections legislation
  - IRS reform legislation
    - Finally enacted after progressive Democrats opposed Free File provision
- Stuck for now
  - Infrastructure legislation

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Washington agenda

Done	Passed by House	Awaiting action, tax	Awaiting action, non-tax	Beyond Congress
IRS reform –signed into law July 1	SECURE Retirement Bill –Senate snag over 529 expansion	Extenders – 2017-18-19 provisions; plus offsets?	Trade – USMCA awaiting vote in Congress	Digital tax – OECD work plan for digital+ agreement in 2020
2-year budget caps, debt limit deal - signed August 2	Cadillac tax repeal – passed House 419-6	Technical corrections	Health – Drug pricing, surprise medical bills	
4 tax protocols – Spain, Switzerland, Japan, Luxembourg		3 tax treaties – Chile, Hungary, Poland	Government funding – FY 2020 spending bills	

These items could move this year as part of a:
- continuing resolution (CR) or "minibus" appropriations bill
- standalone tax bill

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2019 legislative priorities

Democratic priorities

- Single-payer health system
- Affordable Care Act (ACA) stabilization
- Government funding, debt limit
- "Green New Deal"
- Fighting climate change
- Infrastructure
- Oversight of Trump administration
- Multi-employer, retirement proposals
- Lowering drug prices

Republican priorities

- TCJA technical corrections
- Judicial nominations
- Making TCJA provisions permanent
- Border wall
- USMCA, other trade items
- Entitlement reform

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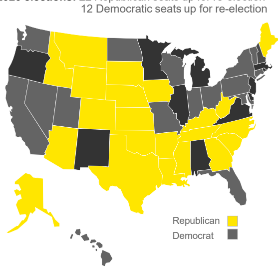
Senate

2019 ratio: 53 Republicans (1 seat pickup from prior Congress)
47 Democrats

2020 elections: 22 Republican seats up for re-election
12 Democratic seats up for re-election



18 Republicans in states Trump won comfortably	Alexander (R-TN), **RET** Moore Capito (R-WV) Cassidy (R-LA) Hyde-Smith (R-MS) Cornyn (R-TX) Cotton (R-AR) Daines (R-MT) Enzi (R-WY), **RET** Ernst (R-IA) Graham (R-SC) Inhofe (R-OK) McConnell (R-KY) Perdue (R-GA) Risch (R-ID) Roberts (R-KS), **RET** Rounds (R-SD) Sasse (R-NE) Sullivan (R-AK)
2 in states Trump won by <5 points	Tillis (R-NC) McSally (R-AZ)
2 running in states Clinton won	Gardner (R-CO) Collins (R-ME)
10 Democrats running in states Clinton won	Booker (D-NJ) Coons (D-DE) Durbin (D-IL) Markey (D-MA) Merkley (D-OR) Reed (D-RI) Shaheen (D-NH) Smith (D-MN) Udall (D-NM), **RET** Warner (D-VA)
2 running in states Trump won	Jones (D-AL) Peters (D-MI)

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House

2019 Congress: 235 Democrats
197 Republicans
1 Independent

Democrats
Republicans
Independent (Amash)
Vacancies (2 – NC-3rd, NC 9th Sept. 10 elections)

2020 election

- Democrats flipped **43** GOP seats in 2018 election
- **31** Democrats are in Trump 2016 districts
- **21** are freshmen
- Republicans need to flip **19** Democratic seats in 2020 to win back control

Freshmen in Trump districts (all flipped GOP seats in 2018)	
NY-22, Brindisi	VA-2, Luria
OK-5, Horn	GA-6, McBath
SC-1, Cunningham	IA-1, Finkenauer
ME-2, Golden	IA-3, Axne
NM-2, Torres Smalls	IL-14, Underwood
UT-4, McAdams	MI-11, Stevens
VA-7, Spanberger	MN-2, Craig
NJ-3, Kim	NJ-2, Van Drew
MI-8, Slotkin	NJ-11, Sherrill
NY-19, Delgado	PA-17, Lamb
NY-11, Rose	

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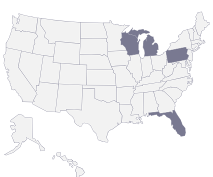
How Trump won in 2016, and the path to 2020

4 most important states in 2016

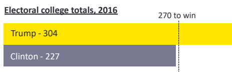


- Michigan
- Wisconsin
- Pennsylvania

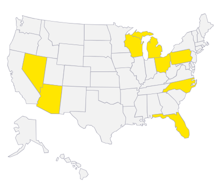
- 46 electoral votes = Clinton could've won with 273

- Florida – 29 electoral votes

Electoral college totals, 2016



Select potentially competitive states, 2020



- Michigan
- Wisconsin
- Pennsylvania

- Higher turnout expected in cities, 2020 over 2016

- Florida
- New Hampshire (narrow Trump loss in 2016)
- Nevada (narrow Trump loss in 2016)
- North Carolina (becoming more blue)
- Arizona (Sinema Senate win in 2018)

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Post-2020 election outlook for tax policy

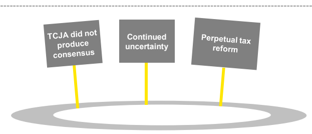
If Democrats win the presidency in 2020 and/or control of both the House and Senate, they will pursue tax increases for the wealthy and corporations to pay for other priorities like education, child care, and health care.

Wealth tax
- X% tax on net worth above $X
- Estate tax increase
- Capital gains increase

Transactions tax
- X% tax on stock and bond trades, derivatives transactions

Corporate tax
- Increase 21% rate to 25% or 28%
- Eliminate TCJA reduced rates on certain foreign-earned income

The 2017 tax law was not bipartisan and will be re-visited
- TCJA rate reductions for individuals, small businesses expire after 2025
- 100% expensing is phased down after 2022
- 30% business interest deduction cap calculated on EBITDA through 2021, EBIT after
- Democrats want to undo TCJA GILTI, FDII provisions seen as incentivizes to outsource jobs



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Tax legislative partisanship scale

IRS reform ✓	SECURE Act	Extenders	Infrastructure	Technical Corrections	TCJA, Wealth tax
▸ Taxpayers can appeal IRS actions ▸ Limits non-IRS access to returns ▸ Cybersecurity and identity protections ▸ IRS information technology modernization	▸ Facilitate multiple employer plans ▸ Fiduciary safe harbor for selecting annuity provider ▸ Required min. distribution age increased from 70 ½ to 72	▸ 2017-2018 expired, 2019 expiring provisions ▸ Some House Democrats want revenue offsets	▸ Both parties support significant investment: \$1t-\$2t ▸ No consensus on how to pay for it	▸ Ways & Means Chairman Neal wants to move package this year ▸ Democrats reluctant to help fix a law they did not author ▸ Leasehold depreciation fix for retailers among high-profile corrections	▸ Providing further middle income tax relief is possible ▸ GOP wants permanency for TCJA individual, small business provisions ▸ Democrats want to roll back TCJA provisions to pay for other priorities ▸ Progressives want wealth tax

Bipartisan → Partisan

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Questions?

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Appendix

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Senate Finance Committee

Republicans (15)	Democrats (13)
▸ Chuck Grassley (R-IA)	▸ Ron Wyden (D-OR)
▸ Mike Crapo (R-ID)	▸ Debbie Stabenow (D-MI)
▸ Pat Roberts (R-KS), retiring	▸ Maria Cantwell (D-WA)
▸ Mike Enzi (R-WY), retiring	▸ Robert Menendez (D-NJ)
▸ John Cornyn (R-TX)	▸ Thomas Carper (D-DE)
▸ John Thune (R-SD)	▸ Ben Cardin (D-MD)
▸ Richard Burr (R-NC)	▸ Sherrod Brown (D-OH)
▸ Johnny Isakson (R-GA)	▸ Michael Bennet (D-CO)
▸ Rob Portman (R-OH)	▸ Bob Casey (D-PA)
▸ Pat Toomey (R-PA)	▸ Mark Warner (D-VA)
▸ Tim Scott (R-SC)	▸ Sheldon Whitehouse (D-RI)
▸ Bill Cassidy (R-LA)	▸ *Maggie Hassan (D-NH)*
▸ *James Lankford (R-OK)*	▸ *Catherine Cortez Masto (D-NV)*
▸ *Steve Daines (R-MT)*	
▸ *Todd Young (R-IN)*	*Italics = new member*

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House Ways and Means Committee

Democrats (25)	Republicans (17)
▸ Richard Neal (D-MA), Chairman	▸ Kevin Brady (R-TX)
▸ John Lewis (D-GA)	▸ Devin Nunes (R-CA)
▸ Lloyd Doggett (D-TX)	▸ Vern Buchanan (R-FL)
▸ Mike Thompson (D-CA)	▸ Adrian Smith (R-NE)
▸ John Larson (D-CT)	▸ Kenny Marchant (R-TX)
▸ Earl Blumenauer (D-OR)	▸ Tom Reed (R-NY)
▸ Ron Kind (D-WI)	▸ Mike Kelly (R-PA)
▸ Bill Pascrell (D-NJ)	▸ George Holding (R-NC)
▸ Danny Davis (D-IL)	▸ Jason Smith (R-MO)
▸ Linda Sanchez (D-CA)	▸ Tom Rice (R-SC)
▸ Brian Higgins (D-NY)	▸ Jackie Walorski (R-IN)
▸ Terri Sewell (D-AL)	▸ David Schweikert (R-AZ)
▸ Suzan DelBene (D-WA)	▸ Darin LaHood (R-IL)
▸ Judy Chu (D-CA)	▸ Brad Wenstrup (R-OH)
▸ *Gwen Moore (D-WI)*	▸ *Drew Ferguson (R-GA)*
▸ *Dan Kildee (D-MI)*	▸ *Jodey Arrington (R-TX)*
▸ *Brendan Boyle (D-PA)*	▸ *Ron Estes (R-KS)*
▸ *Don Beyer (D-VA)*	
▸ *Dwight Evans (D-PA)*	
▸ *Tom Suozzi (D-NY)*	
▸ *Jimmy Panetta (D-CA)*	
▸ *Stephanie Murphy (D-FL)*	
▸ *Brad Schneider (D-IL)*	
▸ *Steven Horsford (D-NV)*	
▸ *Jimmy Gomez (D-CA)*	*Italics* = new member

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Tax extenders

Provisions that expired at the end of 2017	
Non-energy	**Energy**
Railroad track maintenance credit	Biodiesel and renewable diesel incentives
Gross income excludes discharge of prin. residence indebtedness	Credits for energy from certain renewable resources
Above-the-line deduction for qualified tuition/related expenses	Credit for new qualified fuel cell motor vehicles
Indian employment tax credit (not in House bill)	Credit for alternative fuel vehicle refueling property
7-year recovery period for motorsports complexes	Credit for 2-wheeled plug-in electric vehicles
Mine rescue team training credit	Second generation biofuel producer credit
Classification of race horses as 3-year property (not in House bill)	Production credit for Indian coal facilities
Election to expense mine safety equipment (not in House bill)	Credit for nonbusiness energy property
Accelerated depreciation for property on an Indian Reservation	Allowance for second generation biofuel plant property
Special expensing rules for certain TV, film, theater productions	Credit for energy-efficient new homes
Empowerment Zone tax incentives	Energy efficient commercial buildings deduction
American Samoa Economic Development	Rule for FERC, state electric restructuring for utilities
Mortgage insurance premiums = qualified residence interest	Excise tax credits relating to alternative fuels
Provisions that expired at the end of 2018	
Itemized deduction for unreimbursed medical expenses exceeding 7.5% of AGI (rather than 10%) extended for 2019	
Oil spill liability trust fund rate reinstated on first day of first calendar month after DOE	
Higher black lung liability trust fund excise tax rates on coal extended through 2019, effective first day of first month after DOE	
Provisions that expire at the end of 2019	
Work Opportunity Credit	New Markets Tax Credit
CFC look-through rule	beer, wine, spirits excise tax provisions
employer tax credit for paid family and medical leave	health coverage tax credit (HCTC)
beginning-of-construction date for wind facilities to claim electricity production or investment in lieu of the production credit	

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