

What to expect in Washington

Washington Council EY

November 2022

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US legislative agenda in review

11 March — President Biden signed American Rescue Plan Act

\$1.9t for:

- Direct payments
- State and local governments
- Unemployment benefits
- Health care, Medicaid, Children’s Health Insurance Program
- Affordable Care Act premium tax credits
- Continuation of Health Coverage School funding
- Federal Emergency Management Agency
- Farm assistance
- Small business assistance
- Child tax credit expansion (with monthly payments)
- Earned Income Tax Credit, dependent care credit expansions
- Multiemployer pensions

15 November — Biden signed Infrastructure Investment & Jobs Act

\$1.2t for:

- Roads and bridges
- Ports
- Rail
- Transit
- Airports
- Safety
- Power
- Water
- Broadband
- EVs, electric buses
- Climate resilience: flood, wildfire mitigation, drought resiliency

19 November — Build Back Better Act passed by House

\$1.7t for:

- Energy tax incentives
- Combating climate change
- Medicare hearing aid expansion
- Affordable Care Act subsidies
- Caregiving
- Paid leave
- Education — universal pre-K
- Extension of expanded low-income tax credits
- State and Local Tax cap relief

Tax provisions

Payments	\$1,400 for each eligible taxpayer and dependent
UI	Extension through 6 September
ERTC	Extension through the end of 2021
Executive compensation	Denied deduction for compensation >\$1 million for 8 highest paid employees, plus CEO and CFO after 2026
864(f)	Repeal of worldwide interest expense allocation election
Excess bus. loss	Disallowance extended through 2026
Reporting	Reduction in 6050W third-party network transactions reporting threshold from \$20,000 to \$600

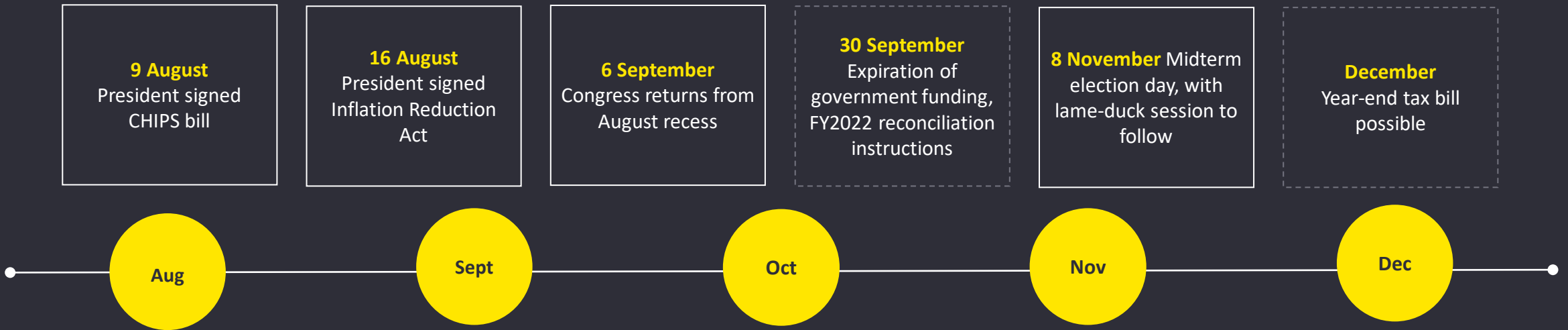
Tax provisions

Cryptocurrency	Application of information reporting requirements to digital assets; updated definition of broker to reflect how assets acquired, traded
Superfund	Reinstated chemical production and importation excise taxes effective 1 July 2022
ERTC	Termination after 30 September 2021

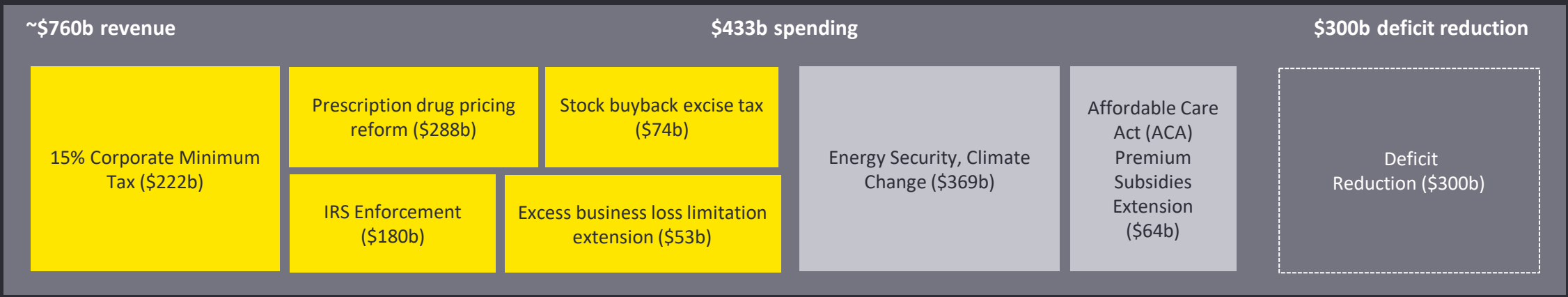
Tax provisions

Corporate	Corporate minimum tax, stock buyback tax
International	Global Intangible Low-taxed Income (GILTI) rate increase, interest limitation, BEAT changes
Individual	High-income surcharge, Net Investment Income Tax (NIIT or NII) expansion, permanently disallow excess business losses for noncorporate taxpayers
Retirement	Mega-Individual Retirement Account (IRA) provision, new minimum distribution requirements on high incomes, 162(m) changes but not acceleration of American Rescue Plan Act (ARPA) expansion to more employees

US legislative timeline



Inflation Reduction Act of 2022



General political impacts for potential 2022 outcomes

Scenario	President	House	Senate	Likelihood	Political impacts
1	D	R	D	High	House Republicans would be able to pass legislation that would stall in the Senate, Democrat president and Senate would have few issues confirming nominees
2	D	R	R	Medium	GOP best case: Likely struggle between executive rule-makers and Congress, few legislative reforms and issues confirming nominees
3	D	D	D	Low	Democrat best case: Increased regulation, likely via legislation; without a supermajority in the Senate (60 votes), legislation would be limited to “reconciliation”
4	D	D	R	Very Low	Little legislative reform; extended vacancies due to unconfirmed nominees; executive agencies likely outlet for reforms

Source: National Journal, 2022 Election Scenario Planner: Finance Industry Analyses of potential outcomes in the 2022 election on the finance industry, July 29, 2022

Congress and election forecasts



Senate

Current ratio



Toss-up or 'lean' seats



Up for re-election in 2022:

- 21 Republicans
- 14 Democrats

Retiring:

- Roy Blunt (R-MO)
- Richard Burr (R-NC)
- James Inhofe (R-OK)
- Pat Leahy (D-VT)
- Rob Portman (R-OH)
- Richard Shelby (R-AL)
- Pat Toomey (R-PA)

Toss-up D or Lean D:

- Toss up*
- Mark Kelly (D-AZ)
 - Raphael Warnock (D-GA)
 - Catherine Cortez Masto (D-NV)
- Lean D*
- Maggie Hassan (D-NH)
 - Michael Bennet (D-CO)

Toss-up R or Lean R:

- Lean D*
- Penn. open seat (Toomey)
- Toss up*
- Ron Johnson (R-WI)
- Lean R*
- Marco Rubio (R-FL)
 - North Carolina open seat (Burr)
 - Ohio open seat (Portman)



House

Current ratio



Toss-up seats



Lean to/likely other party



Republicans need a net gain of 6 seats for control (218)

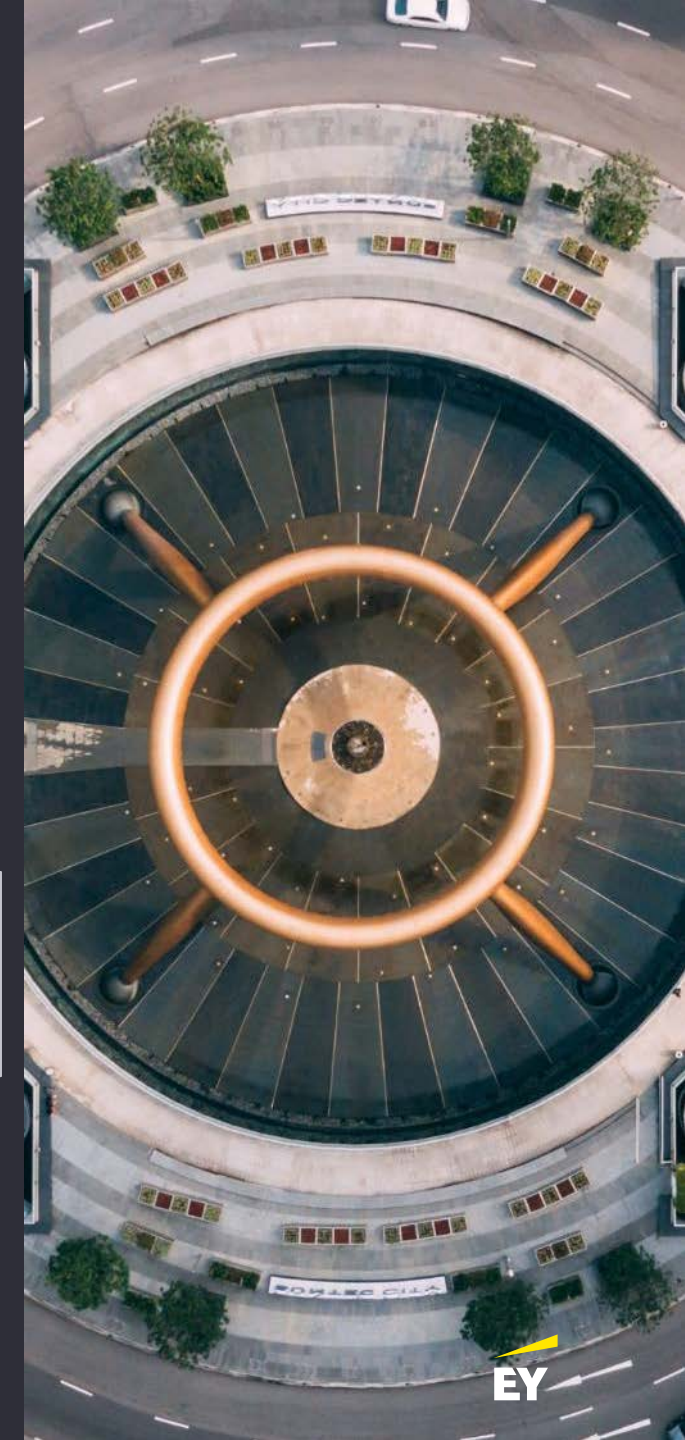
2 vacancies to be decided November 8:

- Rep. Jackie Walorski (R-IN)
- Rep. Don Young (R-AK)

Presidents' party typically loses seats in first midterm:

- Trump lost 40 House seats and gained 2 Senate seats in 2018.
- Obama lost 63 House seats and 6 Senate seats in 2010.
- Bush gained 8 House seats and 2 Senate seats in 2002.
- Clinton lost 54 House seats and 8 Senate seats in 1994.

Source: Cook Political Report



Inflation Reduction Act scorecard

In			Out
Health	Tax	Climate	Tax
<p>Medicare Rx negotiation</p> <ul style="list-style-type: none"> • Providing for lower prices for certain high-priced single source drugs • Excise tax penalties to compel manufacturers to lower prices 	<p>15% Corporate alternative minimum tax</p> <ul style="list-style-type: none"> • On adjusted financial statement income for corps. with profits >\$1b • MACRS depreciation for tangible assets, plus amortization for some wireless spectrum, reduces adjusted financial statement income for purposes of computing the tax 	<p>Clean energy incentives</p> <ul style="list-style-type: none"> • Electricity credits <ul style="list-style-type: none"> • Sec. 45 PTC through 2024, then emissions-based PTC • Sec. 48 ITC through 2024, then emissions-based ITC • Extension of 45Q carbon oxide sequestration credit • Sec. 45U nuclear PTC • Sec. 45V hydrogen credit • Fuels credits <ul style="list-style-type: none"> • Incentives for biodiesel, renewable diesel alternative fuels through 2024 then clean fuel production credit • Sec. 40B sustainable aviation fuel credit • Manufacturing <ul style="list-style-type: none"> • Revival of Section 48C qualified advanced energy property credit • Advanced Manufacturing Production Credit • Building/home credits <ul style="list-style-type: none"> • EV credits offered for new, used, and commercial vehicles with income and MSRP limitations 	<p>5-year carried interest holding period</p>
<p>ARPA ACA premium credits</p> <ul style="list-style-type: none"> • Extension of American Rescue Plan Act (ARPA) expansion of premium tax credits for health insurance affordability 	<p>2-year extension of excess business loss limitation</p>		<p>High-income surtax</p> <ul style="list-style-type: none"> • Surcharge of 5% on income over \$10m, plus an additional 3% over \$25m
	<p>Stock buyback excise tax</p>		<p>NIIT expansion</p> <ul style="list-style-type: none"> • Expand 3.8% tax to pass-through businesses for individuals earning \$400,000/ year; joint filers earning more than \$500,000; trusts, estates
	<p>Increased IRS funding</p>		<p>163(n) interest limitation</p> <ul style="list-style-type: none"> • For domestic corporations that are part of an international reporting group
			<p>GILTI changes</p> <ul style="list-style-type: none"> • 15% rate and country by country calculation to align with OECD-led global tax deal
			<p>BEAT changes</p> <ul style="list-style-type: none"> • Narrowing scope of Base Erosion and Anti-Abuse Tax (BEAT) to payments made to related parties w/low effective tax rates, expanding definition of a BEAT payment

Expiration/change dates of various cash tax transaction modeling provisions

Provision	2021	2022	2023	2024	2025	2026	2027
Interest deduction based on EBITDA		EBIT					
R&D expensing		Five-year amortization					
Some tax extenders							
100% expensing		Phased down in 20% increments					
GILTI deduction at 50%						37.5%	
FDII deduction at 37.5%						21.875%	
BEAT rate: 10%/11% for banks/dealers						12.5%/13.5%	
TCJA individual rate cuts and other provisions							
20% pass-through deduction							
Tax extenders: CFC look-through rule and Work Opportunity Tax Credit (WOTC)							
Expansion of the scope of IRC Section 162(m) deduction limits							
TCJA disallowance of excess business loss							

effect
 Not in effect

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