WASHINGTON UPDATE
POST-2026 MIDTERM ELECTIONS

FINANCIAL PLANNING ASSOCIATION OF NORTHEAST OHIO

NOVEMBER 17, 2026

MATTHEW F. KADISH

PARTNER, FRANTZ WARD LLP

PRESIDENT, SMALL BUSINESS COUNCIL OF AMERICA (SBCA)

SBCA Small Business Council of America

FRANTZ WARD CELEBRATING 20 YEARS

SETTING THE TABLE

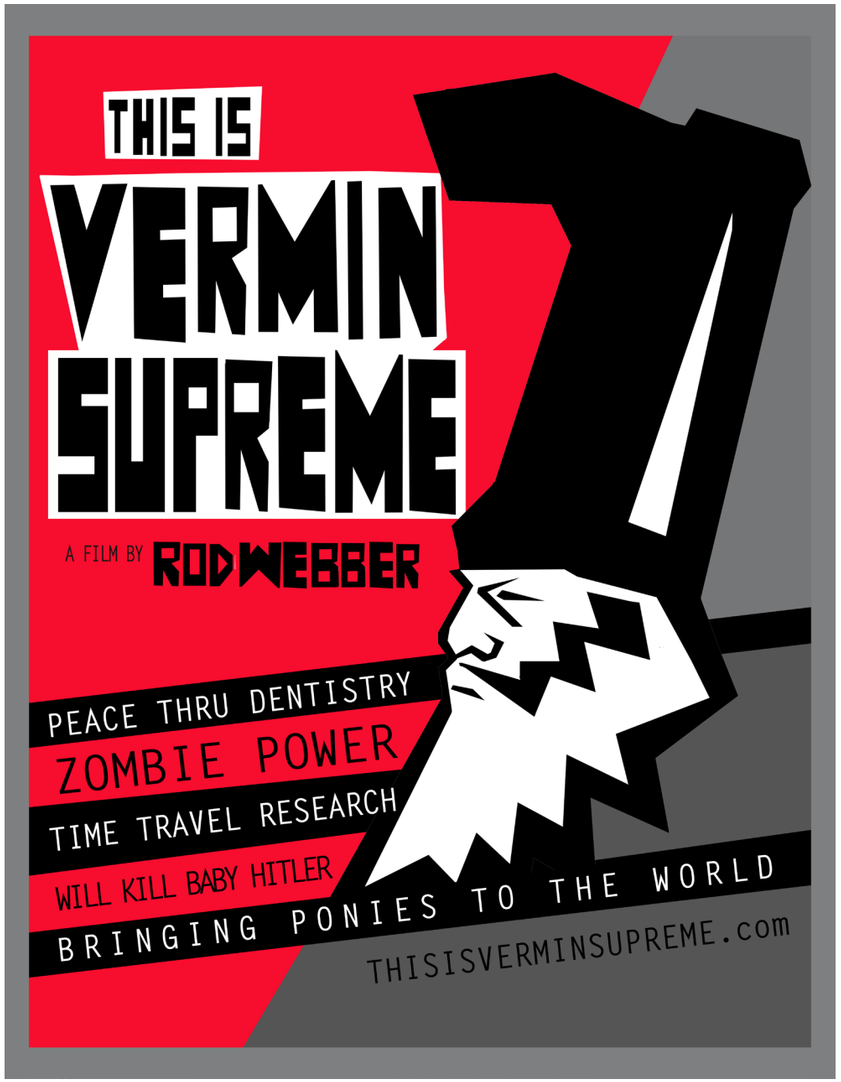
SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

THE USUAL

INITIAL DISCLAIMERS

- The presentation is intended to be bi/non-partisan.
- The views expressed here are mine alone and not those of Frantz Ward, the SBCA,
  or of any political party or candidate.
- I'm not selling candidates or sides; they're all awful
- If I don't offend you, I tried; stop up after and I'll try harder.



A FEW MORE

- Standard disclaimers
  - Bi/non-partisan analysis: not selling candidates or sides; they're all awful
  - **The "nice way" vs the "interesting way"**
    - "If you don't have something nice to say about someone, come sit next to me" (Alice Roosevelt Longworth)
- Booting up with my Operating System"
  Political logic vs. Intellectual logic
  - US Constitution – representative democracy
  - Symbiosis and interchangeability between the "leaders" and the "led"
  - Pollsters role in defining issues / positions; unreliability
- Role of Money vs. Role of Power – examples:
  - NYC vs DC // Bloomberg
  - Whose money? Trump, Real Estate Moguls, Debt and "OPM"
- Message matters (quantity, quality and timing)
- Who are we – and is it changing?
  - Extrinsic vs. intrinsic values
  - Winning, hating, collaborating
  - Sports analogy
- Irony (or "boring stuff you hate will come back to bite you")
  - High School Civic Class (Colonel Bauer's last laugh)



FEDERALIST PAPERS – POWER TO THE PEOPLE?

- Unresolved issues from formation of our country have remained that way
  - Populism vs. "Strong Executive"
  - Power vs. Policy
- "Federalist Papers": 85 articles and essays written (under pseudonym Publius) by Alexander Hamilton, James Madison, and John Jay in advance of the ratification of the U.S. Constitution.

> "It has been frequently remarked, that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not, of establishing good government from reflection and choice, or whether they are forever destined to depend, for their political constitutions, on accident and force" [from Federalist No. 1]

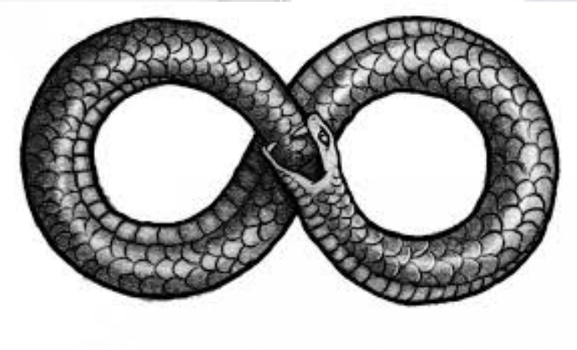
ROADMAP(S)

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

ROADMAP 1
THE HERE & NOW + WHAT'S NEXT

- Overarching issues
  - Political
    - Society drives politics, which drives society, which drives…
    - Key prediction model: "political" vs. "intellectual" logic
    - Key social issues and why they matter
  - Legal / Civics
    - Bureaucracy
    - Presumption of Correctness
    - Change vs. Disruption
    - Project 2025 and the (very very) Strong Executive
- 2026 Midterm Elections
  - House
  - Senate
  - Ramifications
    - 2026-2028 (legislation, administration, judicial)
    - 2028 elections
- Executive Branch -- Deeper Dive
- Timeline
- Appendix – summaries of recent tax legislation



Ouroboros

ROADMAP 2
EXECUTIVE BRANCH
DEEPER DIVE

- Change vs. Disruption
- Bureaucrat
- Project 2025 Scorecard
- Political Appointments
- Executive Orders
- DOGE and Deconstruction
- Deregulation
- Rescissions
- Tax Administration
- Tariffs
- Immigration
- Law Enforcement



WHERE ARE WE NOW – AND WHY?
KEY LEGAL (CIVICS) ISSUES

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

BUREAUCRAT



- Public perception
  - Definition: “an official in a government department, in particular one perceived as being concerned with procedural correctness at the expense of people's needs.”

    "the unemployed will be dealt with not by **faceless bureaucrats** but by individuals“ Source: Oxford Languages
- Etymology: from French *bureau* (desk), so *bureaucracy* = "government by people at desks"
  - Bad-mouthed because they have to stick closely to rules
  - History: Romans had enormous and complex bureaucracy; with lower levels reporting to bureaucrats above them, and so on up to the emperor himself. Source: Miriam Webster
- Advantages
  - Expertise, continuity, deliberation
  - Avoid arbitrariness and favoritism inherent in the political process. *See, e.g.*, Bernstein and Rodriguez, “The Accountable Bureaucrat,” 132 Yale L.J. No. 6 (April 2023)

“PRESUMPTION OF REGULARITY”

- “When the President exercises an authority confided to him by law, the presumption is that it is exercised in pursuance of law. Every public officer is presumed to act in obedience to his duty, [until] the contrary is shown; and, a fortiori, this presumption ought to be favourably applied to the chief magistrate of the Union.” Martin v. Mott, 25 U.S. 19, 32-33 (1827).

- "Blind deference to the government? That is no longer a thing. Trust that had been earned over generations has been lost in weeks. Numerous career prosecutors have had to resign instead of taking actions that they believe violated their oath of office, or worse, were fired for upholding that oath." Washington v. Trump, Civil Action No. 25-0127 (JCC), Verbatim Report of Proceedings (W.D. Wash. Jan. 24, 2025) [Dkt. No. 53] at 13:13-15.

- See numerous other cases cited in Fed. Educ. Ass’n v. Trump, 2025 US Dist LEXIS (D.DC Aug. 14, 2025)



CHANGE VS. DISRUPTION



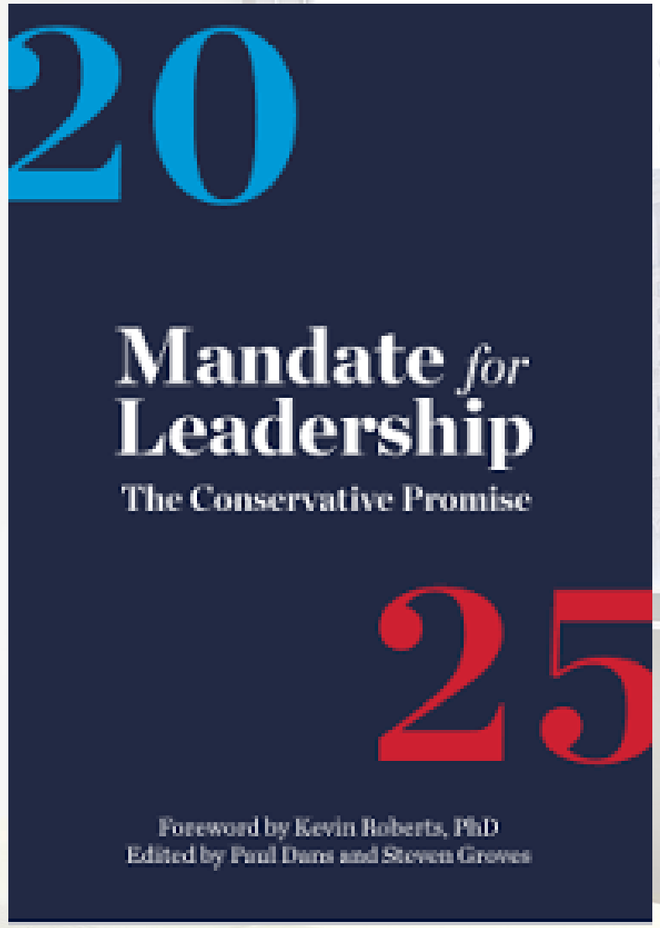
- "Change" vs. "disruption"
  - Change: any alteration (broader term; can be gradual and/or planned)
  - Disruption:
    - Change that is sudden, profound and often unexpected, fundamentally altering practices
    - A break or interruption in the normal course or continuation of some activity, process, etc. Miriam-Webster
  - Disrupt:
    - To cause disorder or turmoil in
    - To destroy, usually temporarily, the normal continuance or unity of; interrupt
    - To break apart. Dictionary.com
- Positive disruption
  - "Disruption can be a positive – sometimes vital – catalyst for change. It can challenge old assumptions, ignite conversations, activate authorities and expose new possibilities." Melinda Gates, Positively Disrupting the Global Community, TEDxChange talk 2013.



PROJECT 2025

- "Mandate for Leadership, the Conservative Promise – Project 2025, Presidential Transition Project"
- Project led by Heritage Foundation with > 50 conservative organizations
  - 920 pages
  - 30 chapters, each by a different author
  - Chapter 22 (Department of Treasury) = most of tax changes
- For the "next conservative president" to put into effect (or if not sufficiently empowered, to recommend to Congress)
- During campaign – concern about political fallout – see "After Project 2025, Knives Are Out" (Politico Magazine 9/13/24).

<< MORE ON THIS LATER >>



ELECTIONS
-- SETTING THE STAGE --

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

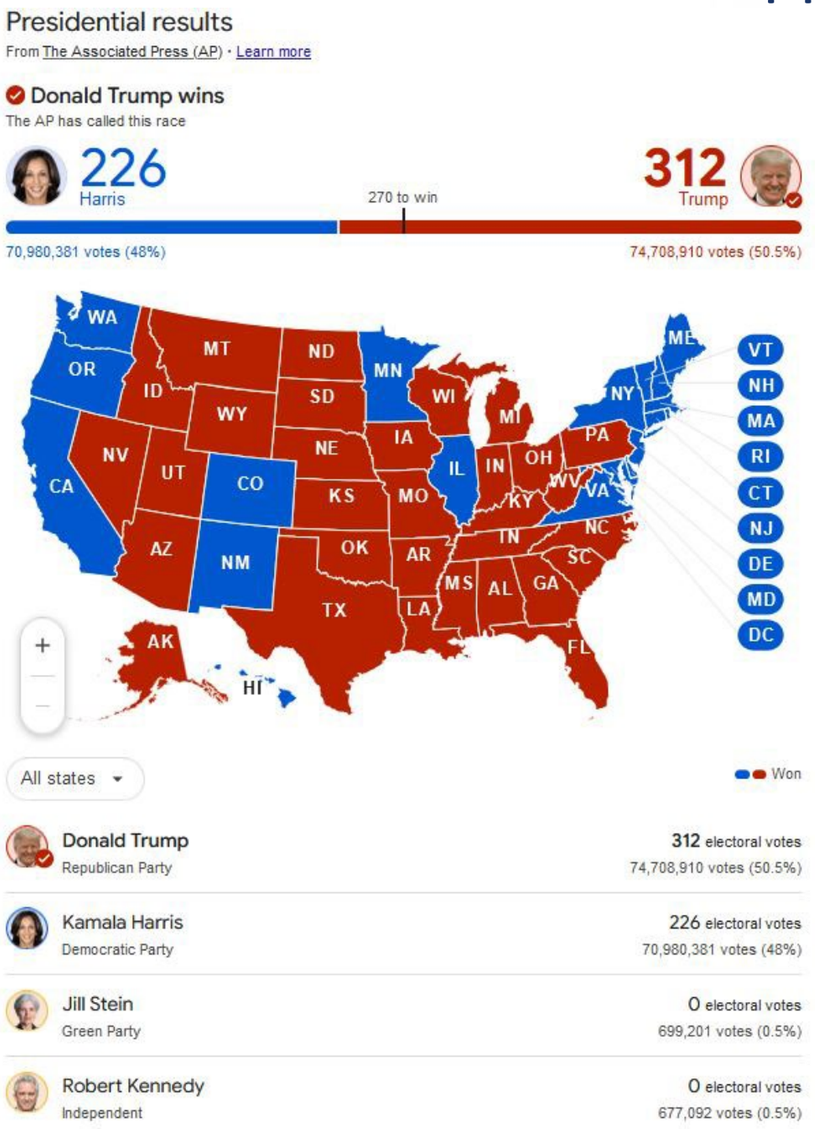
2024 ELECTION

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

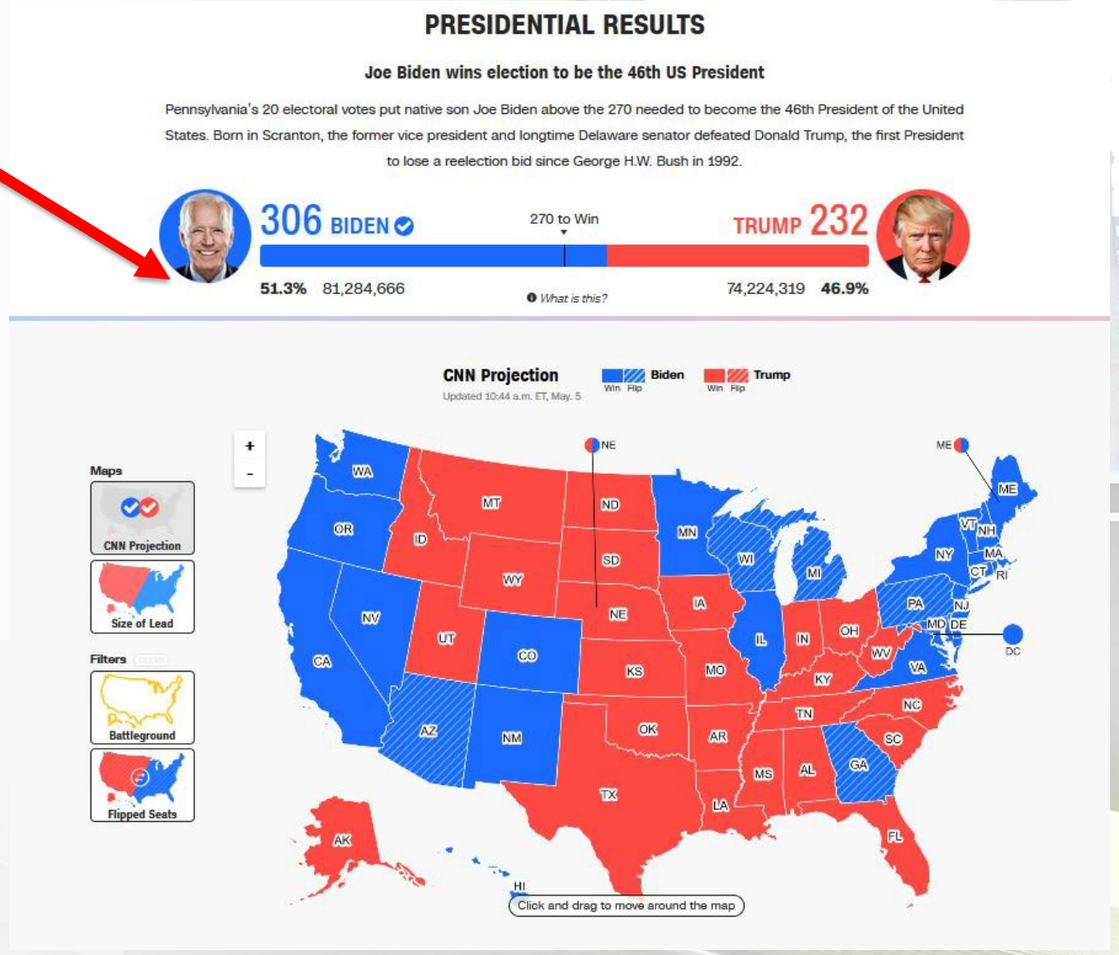
PRESIDENTIAL ELECTION

["MANDATE"?]



2024

2020



HOUSE

- **218 VOTES NEEDED FOR A MAJORITY** (if all seats are filled)
  - 2022-2024: Rs controlled by 8 votes (220-212) [3 vacancies]
    - All seats were up for election; Ds needed five more to claim the majority
  - 2025-2026:
    - Rs maintained control by 4 votes
      - 218-214 (as of 10/17/26) – includes 1 independent
        - 2 vacancies
          - » Tony Gonzalez (R-TX) – resigned April 14, 2026
          - » Sheila Cherfilus-McCornick (D-FL) – resigned April 21, 2026
  - Leadership (current)
    - Speaker – Mike Johnson (R-La)
    - Minority Leader – Hakeem Jeffries (D-NY)
- Same party controlling both House and Senate greatly increases odds of a budget passing
  - Allows reconciliation tax package (only 50 votes needed in Senate)
  - Reconciliation results in more partisan legislation (e.g., ≥TCJA 2017)
  - Potential budget passage (and partisan tax legislation) for next year…?



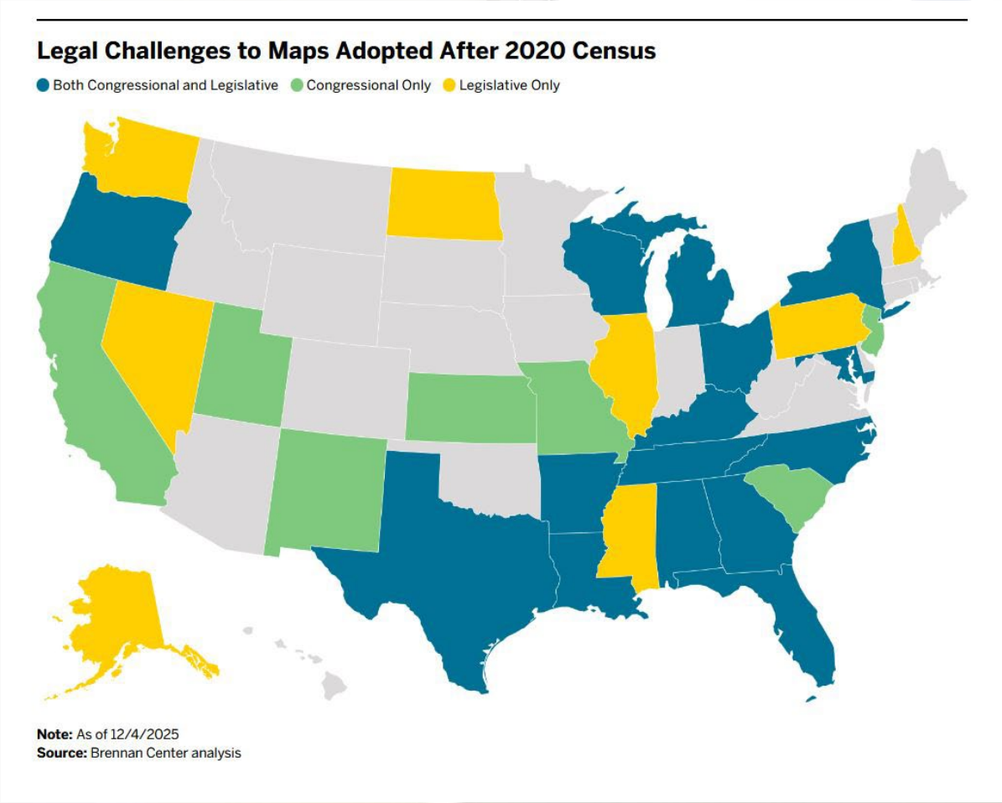
SENATE



- 2022-2024 -- Ds had slim majority (51-49)
- 2024-2026 – **Rs take Senate – 53-47**
  - Ds total includes 2 Independents who caucus with Ds (Bernie Sanders (I-VT) and Angus King (I-ME)
- Leadership
  - Senate Majority Leader – John Thune (R-SD)
  - Senate Minority Leader – Chuck Schumer (D-NY)
- Key takeaways
  - Rs lacked 60 votes (provide filibuster holds)
  - However extra 3-vote “cushion” avoided Manchin/Sinema problem
- As of October 2026
  - 35 seats up; 22 held by Rs; Ds can take control with net gain of 4 seats

REDISTRICTING (GERRYMANDERING)

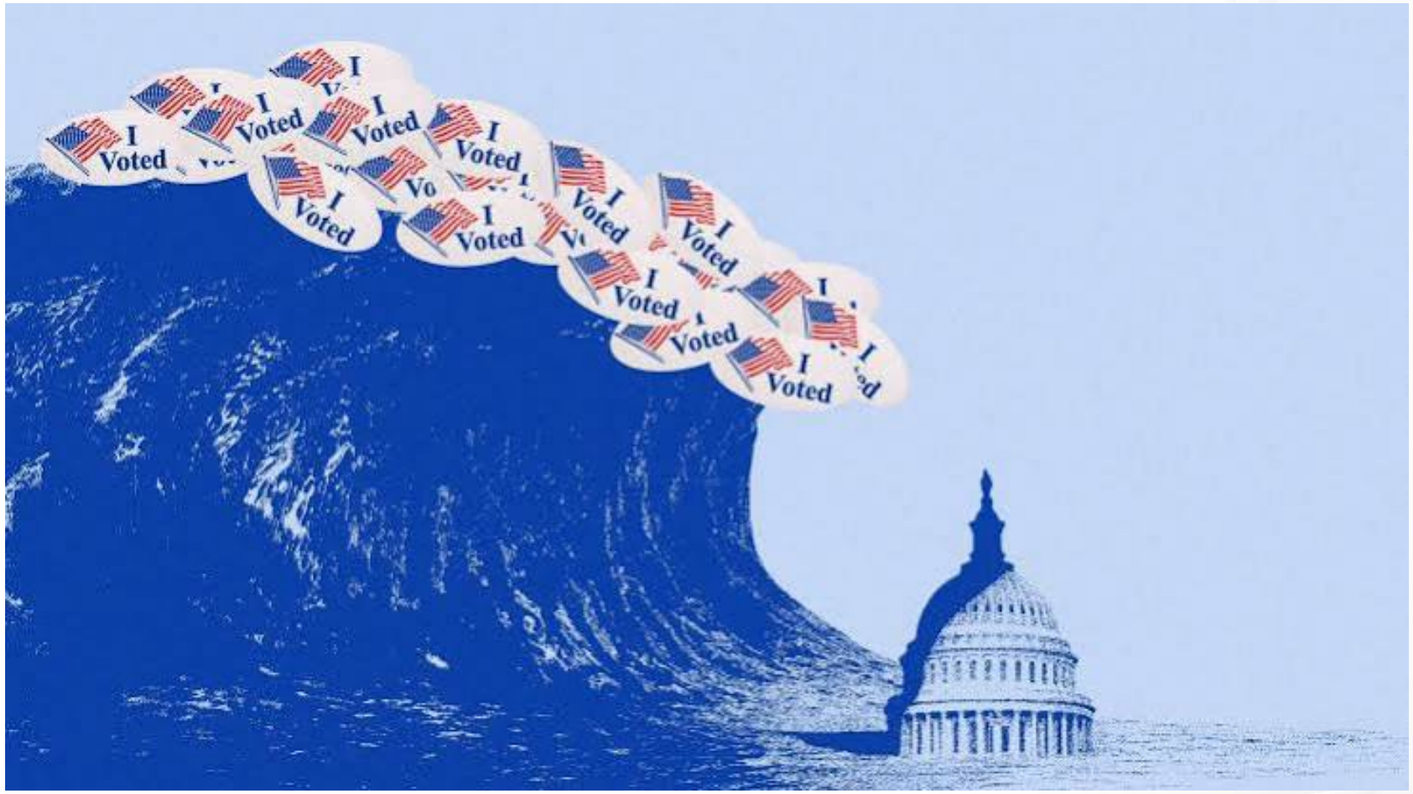
- Rucho v. Common Cause, 588 U.S. 684 (2019)
  - Holding: Federal judges have no power to stop politicians from drawing electoral districts to preserve or expand their party's power)
  - Result: cases mostly now focus on state constitutional claims; cases pending in approximately 30 states
- Key states for midterm elections. Net effect?
  - Predicted - 8 more for GOP per 2026 Redistricting Tracker
    - Texas - (redistricting passed – upheld 4/27/26)
    - California – essentially netted out Texas. Redistricting passed – Prop. 50; upheld in Tangipa v. Newsom, 816 F.Supp.3d 1081 (C.D.Cal. 1/14/26), injunction denied 2026 US LEXIS 711 (2/4/26).
    - Florida – redistricting passed 5/4/26 (+4 GOP predicted); lawsuit pending
    - Ohio – Bipartisan commission map through 2031 (GOP +2 predicted)
    - Virginia – Ds redistricting struck down 5/8/26
    - Louisiana – Louisiana v. Callais struck down map with second majority Black district (GOP +1 predicted)
    - Missouri redistricting passed 5/12/26 (GOP +1 predicted)
  - Actual –
    - Short term – GOP +2 seats = "moron-mandering" (Politico, Nov. 5, 2026)?
    - Long term effects are more nuanced – see "How redistricting shaped the 2026 midterm elections," (AP, October 20, 2026)



2026
MID-TERM ELECTION

SBCA
Small Business Council of America

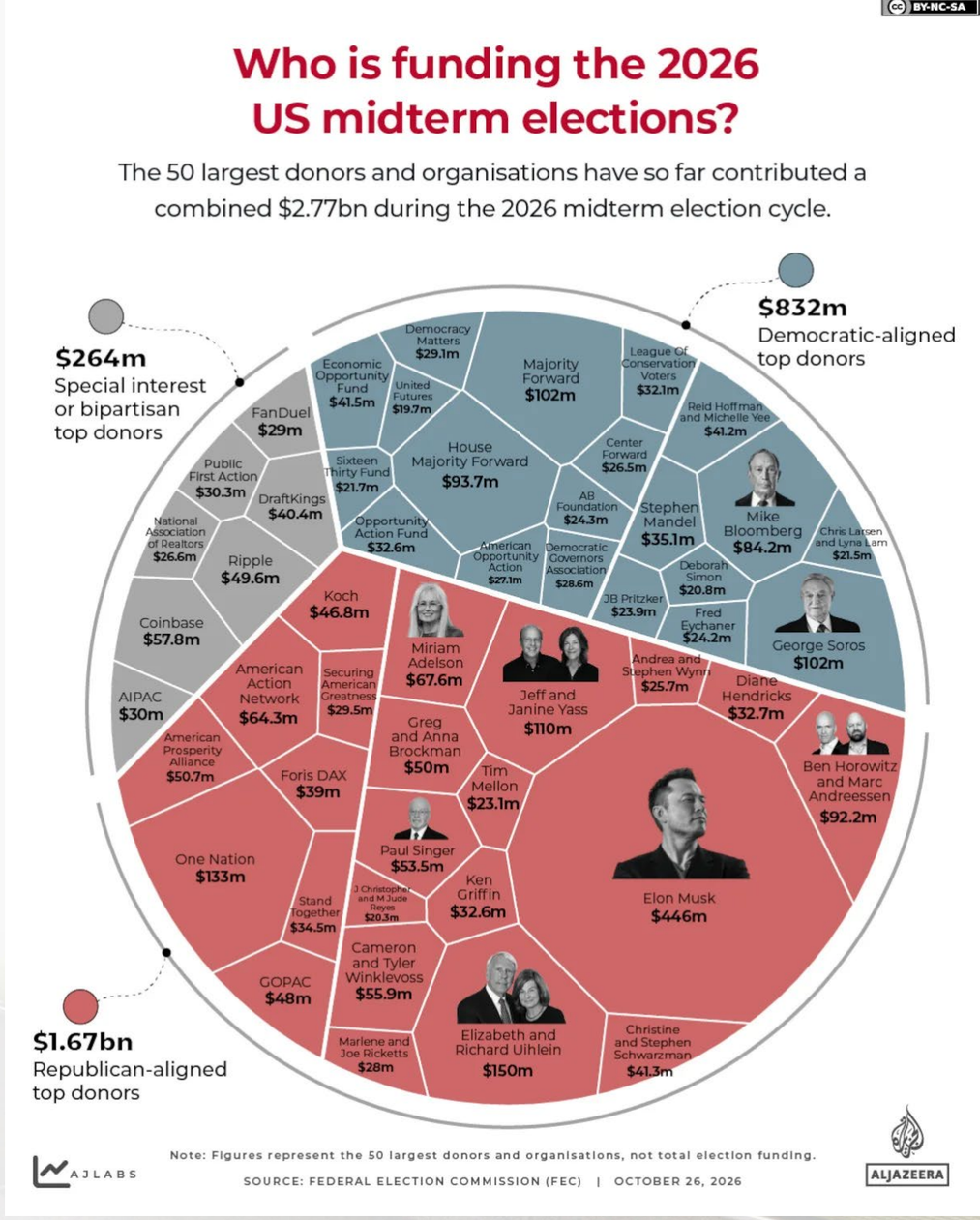
FRANTZ WARD
CELEBRATING 20 YEARS


I Voted



MONEY

- Ad spending
  - Total: $10 Billion
    - Rs: $5.2 billion
    - Ds: $4.8 billion
    - Research indicates $2 million TV ad advantage can net a Senate candidate 10,000 votes
  - Megadonors
    - Elon Musk ≈ $450 million (8.6%)
    - George Soros + Michael Bloomberg (combined) ≈ $186.2 million
  - Most expensive
    - Texas Senate race ≈$573 million
    - Ohio Senate race > $500 million
- And after?
  - Federal candidates cannot keep unspent funds for personal use
  - Permissible:
    - Settling campaign debts (including “loaned by candidate”)
    - Funding party committees
    - Saving for future runs



HOUSE

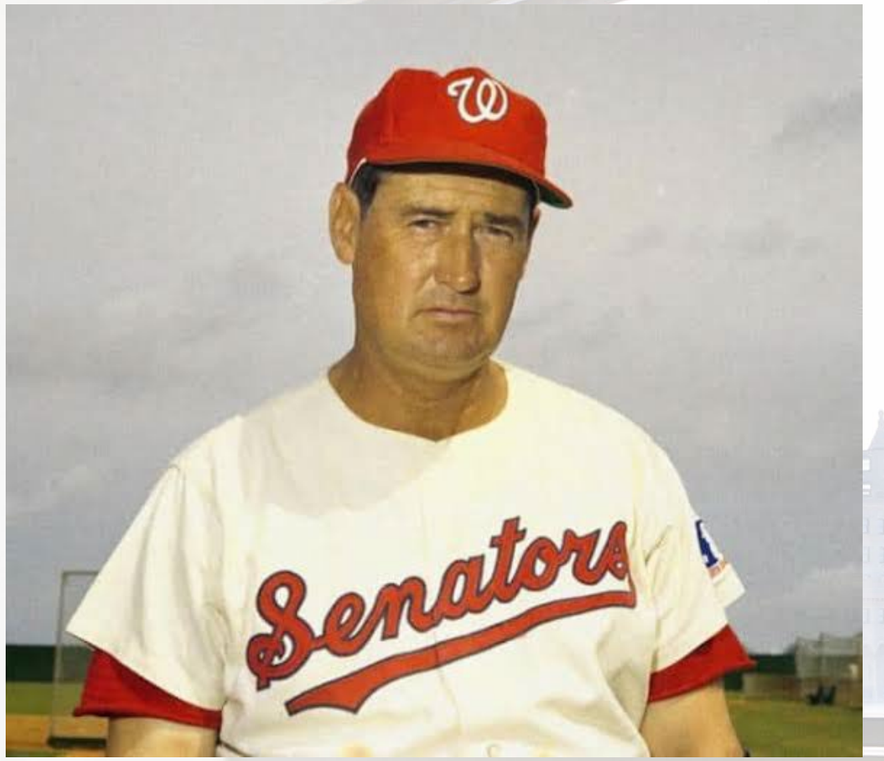
- **218 VOTES NEEDED FOR A MAJORITY** (if all seats are filled). As of 11/15/26:
  - **Ds – 256 (@ 60%) // Rs – 169 (@ 40%) // Still pending – 12**
  - Speaker of the House
    - Process: caucuses/conferences, then floor vote – January 3, 2027
    - Majority of votes cast required.
    - History – 129 Speaker elections since 1789; 16 required multiple ballots – 13 pre-Civil War; twice in 2023 (because of Rs' narrow super majority)
    - Showdown looming?
      - Hakeem Jeffries (D-NY) (current Minority Leader) vs.
      - Chris Van Hollen (D-MD)
    - Interesting read – see The Left's Election Denial, The Atlantic (Nov. 11, 2026)
  - Ways and Means Committee
    - Chair: Richard Neal (D-Mass) (expected)
    - Members (45 total – 26 majority; 19 minority)
      - Turnover – 19-21 new members (@45% of committee will be new)
        - Ds: 7 retired or lost; 12 left + 14 new HWM Ds to fill seats.
        - Rs: 14 retired or lost (2 possible more pending final election results). If 16, 10 left + 7 new as minority
  - **Veto overrides?** Requires 2/3 supermajority in both chambers.
    - House = 290 votes needed = means @ **34 Rs needed** if all Ds vote to override
    - Not easy – example: recent attempt to impeach Defense Sec. Pete Hegseth (failed because 11 Ds were no-shows)



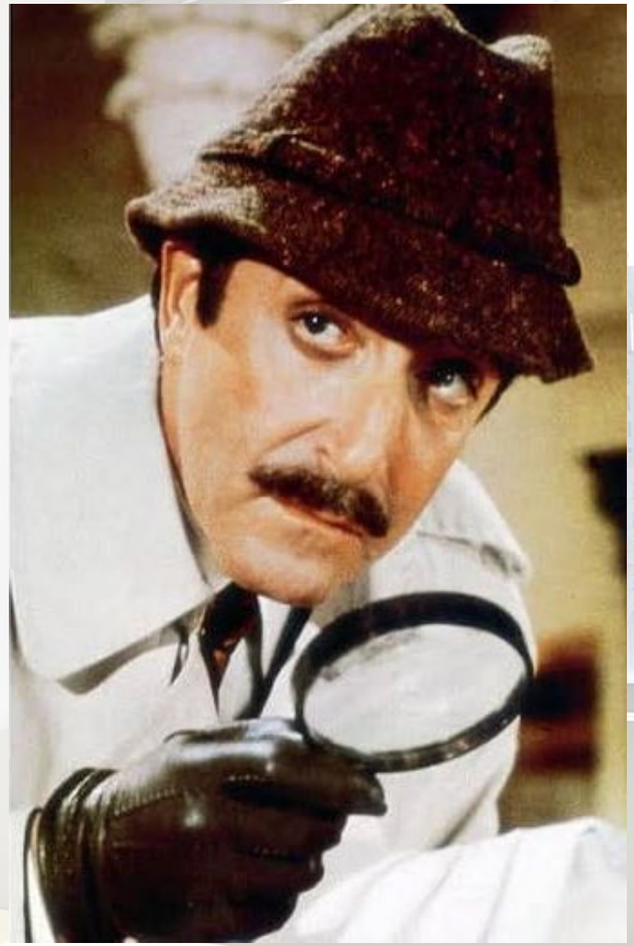
SENATE

- 2024-2026
  - Rs held majority (53-47)
  - Ds total of 47 includes 2 Independents who caucus with Ds (Bernie Sanders (I-VT) and Angus King (I-ME))
- 2026-2028 As of Nov. 14, 2026
  - Ds = 55
  - Rs = 44
  - Alaska not yet called. Mary Peltola (D) projected winner – 50.1% of votes, 401 of 403 precincts reporting

    Dan S. Sullivan (R) – 46.1%; Daniel J. Sullivan, Jr. (I) – 1.7%; DOJ pre-emptive suit over "voter confusion"
- Leadership (expected)
  - Senate Majority Leader:
    - Chuck Schumer (D-NY) (current Minority Leader)
    - Challenger – Chris Van Hollen (D-MD) (Kalshi odds favor >85% as of 11/13)
  - Senate Finance Committee
    - Chair: Ron Wyden (D-OR) retakes gavel
    - Members (27 total – 14 majority; 13 minority)
      - Total new member expected = 8 (@30%)
        - Ds – 11 returning; 4 new appointments
        - Rs - 9 returning; 4 new appointments
- Veto overrides?
  - Requires 2/3 supermajority in both chambers.
  - Senate: 67 votes needed – means **11-12 Rs needed** if Ds vote to override (depending on outcome of Alaska)



RANDOM TOO-SOON MUSINGS



- **Referendum**: capitalist democracy vs. representative democracy
  - Elon Musk's track record and ROI
    - 2024 cycle – over $291 million to R candidates
    - 2026 cycle - $445-474 million, including $224 million backing Ken Paxton for Senate and Greg Abbott for Governor (both lost)
  - Andy Borowitz – "Elon Musk Bitterly Puts Ken Paxton on eBay"
- Texts and ads over? Campaigning and messaging begin.
- **Investigations**
  - House Oversight Committee Chair = Robert Garcia –Epstein Files leader, says expect subpoenas on Day 1
  - Possible targets include Trump's family and finances, Hegseth and Pentagon; defense contractors, Immigration and ICE raids, technology (including crypto) and AI; pharmaceutical companies – secret deals with 26 drugmakers; and executive branch corruption/self-dealing – Reps. Jamie Raskin (D-Md) and Robert Garcia (D-Calif.) – e.g., Freedom 250; FIFA
- Possible Impeachment(s)
  - Trump – Polymarket (83%); Kalshi (50-60%)
  - Defense Secretary Pete Hegseth
    - Nancy Lacore – former Navy Admiral fired by Hegseth; elected to House (SC)
    - Trump reportedly considering preemptively firing Hegseth
- **How will Trump respond?**
  - "Nice" Trump – I look forward to working with the Ds
  - "Strong" Leader - can (does) act without regard to Congress (e.g., Iran, ICE); likely delays and refusals; unafraid of (relishes) court battles
  - Vacation abroad?
    - Law professor (U.Mass. Amherst) theory modeled after Flavio Bolsonaro (Oct. 25)
    - Moving to Israel to become prime minister (where he allegedly has 99% approval rating vs. 32% in U.S.)
- Confirmation power -- Supreme Court; other Federal judgeships; Cabinet appointments
  - Confirmations – only President can appoint, but Ds can block; forces more moderate
  - Stacking Supreme Court? Won't happen 2026-2028. Requires legislation to pass = President can veto (see prior slides re veto override requirements).

TAX LEGISLATIVE FORECAST:

REST OF 2026 - 2028

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

ROADMAP

- Background factors
  - Debt Limit and Deficit
  - Appropriations
  - Extenders
- Political -- fallout from midterm elections
- Forecast

SBCA Small Business Council of America

FRANTZ WARD CELEBRATING 20 YEARS

LESS POLITICAL FACTORS

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

DEBT LIMIT
AND
DEFICIT

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

10-YEAR ECONOMIC OUTLOOK (2025-2035)**



- Debt held by the public will rise:
  - from about 100% of Gross Domestic Product (GDP) ($30 trillion) today
  - to **120 percent of GDP** ($53 trillion) by 2035
- Deficits will total $22.7 trillion (6.1% of GDP) over a decade and will rise annually:
  - from **$1.7 trillion** (5.6% of GDP) in 2025
  - to **$2.6 trillion** (5.9% of GDP) in 2035
- Net interest payments on national debt will total **$14.0 trillion** (3.8% of GDP), rising:
  - from nearly $1 trillion (3.2% of GDP) in 2025
  - to $1.8 trillion (4.1% of GDP) in 2035
- Spending will total **$88 trillion** (23.6% of GDP) over a decade,
- While revenue will total more than **$65 trillion** (17.5% of GDP)
- Effect of Tariffs:
  - CBO estimates tariffs will generate $4 trillion of deficit reduction – cf. projected debt ($53 trillion) and deficit ($22.7 trillion)
  - If Supreme Court upholds US Trade Court's ruling that many of new tariffs are illegal and temporary provisions of OBBRA are made permanent, debt rises to 134% of GDP, 10-year deficit to > $28 trillion; and interest payments to $2.2 trillion (>5% GDP)

** Source: Committee for a Responsible Federal Budget – August 2025 Budget Baseline

DEBT LIMIT



- Each day, the U.S. spends more than it takes in (by a LOT), so the debt level continues to increase
  - Current law caps the federal debt.
  - When U.S. hits that limit, U.S. can't legally borrow more without further legislation
  - Congress then has two choices:
    - Raise the debt ceiling; or
    - Stop spending > revenue (a.k.a. "balance the budget")
- Current debt limit = $41.1 trillion (crossed $40 trillion in August 2026)
  - Compare: limit during 2010 "fiscal cliff" was "only" $14.3 trillion
  - Blame game?
    - George W. Bush + Trump 1.0 – debt grew by $12.7 trillion
    - Obama + Biden – debt grew by $13 trillion
    - Tax and spending in OBBRA raised federal debt by approx. $3.4 trillion, with net increase of about $1.6 trillion
- Current status: OBBRA raised the debt limit by $5 trillion (to $41.1 trillion- from $36.1 trillion)
    - "X Date" (hitting debt limit) – by mid-summer 2027
    - Treasury Dept then takes "extraordinary measures" to buy +/- 6-9 months more before obligations can't be met
    - Effect: **should delay next debt-ceiling showdown by 1-2 years**
- For more background, see
  - "What is the federal debt ceiling?" Brookings (July 7, 2025)
  - "What is the debt ceiling, and what happens if the U.S. hits it?" NY Times (Jan. 18, 2023)
  - Sullivan, "The Great Debt Ceiling Showdown of 2023," Tax Notes Federal (Jan. 23, 2023)

APPROPRIATIONS

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

APPROPRIATIONS



- Annual spending legislation (normally a series of 12 separate bills)
  - One key bill: annual government funding
    - Do not specify **how** Government will pay
    - Just how much and extent of net revenue costs
  - Addresses discretionary portion of federal spending (defense, food safety, government funding)
  - Does not address not mandatory spending, which is automatic via formulas (Medicare, Social Security)

- Rescission -- does President need to actually spend what Congress says to spend?
  - See next slides

RESCISSION:

~~APPROPRIATION~~

= EXPROPRIATION(?)

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

RESCISSION

~~APPROPRIATIONS~~ EXPROPRIATION(?)



- Congressional Budget and Impoundment Act of 1974
  - President cannot rescind previously appropriated funds (i.e., from Appropriations bills) without Congressional agreement
  - Rescissions Act of 2025 (July 24, 2025)
    - Congress rescinded @ $9 billion of previously appropriated funds for State Dept, foreign aid, PBS, others
    - First time rescission under ICA 1974 has been fully implemented; creates bad blood with Ds
    - For more, see Rescissions Act of 2025 (in Appendix - 2025 Legislation)
- "Pocket Rescissions" – a step farther
  - Via a "special message" under Impoundment Control Act (2 USC §681 et seq) Trump attempted unilateral "pocket rescission" of @ $4 billion of foreign aid which Congress required be spent by 10/1/25 under FY 2025 Appropriations Act
  - AIDS Vaccine Advocacy Coalition v. U.S., Cases No. 1:25–cv–400 and 1:25–cv–402 (D.DC 9/3/25)
    - District Court held President cannot rescind appropriated funds without approval from Congress; issued preliminary injunction requiring the funding proceed as Congress appropriated it
    - DC Circuit Court of Appeals – affirmed
    - Reversed: Dept. of State v. AIDS Vaccine Advocacy Coalition,; 609 U.S. ___ (9/25/2025) (via Court's "shadow docket" with 3 dissents)
      - Holding: failed standards for emergency relief standard for preliminary injunction relief; not decided on merits
      - Dissent: despite that, delay on merits means $4 billion of foreign aid will never reach its recipients, since funding was required by October 1, 2025
- Effects on upcoming Appropriations?
  - Ds have previously threatened to oppose Appropriations (triggering Government shutdown) unless Rs back off of unilateral rescissions of funding
  - See also "Congress seethes over Trump's $5 billion claw back that risks a government shutdown"

EXTENDERS

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

TJCA 2017

STATUS OF KEY PROVISIONS

Provision	Original Expiration	Current Status
Individual tax brackets (10%, 12%, 22%, 24%, 32%, 35%, 37%)	End of 2025	Made permanent
Increased standard deduction	End of 2025	Made permanent, indexed
Eliminated personal exemptions	End of 2025	Permanent repeal
Child Tax Credit	End of 2025	Extended, enhanced (currently $2,200 per child)
§199A Qual. Business Deduction	End of 2025	Made permanent
AMT relief	End of 2025	Made permanent with revised thresholds
Estate/gift tax exemption increased	End of 2025	Extended/increased (now $15m per person, indexed)
Mortgage interest deduction limits	End of 2025	Made permanent
Corp. tax rate reduced 35% to 21%	Already permanent in TJCA	No change

STILL SCHEDULED TO EXPIRE

Provision	Current Expiration
SALT -- enhanced state and local tax cap	Temp. increases to ≈$40k (indexed) Reverts to $10k in 2030
SALT – income-based phaseouts	End of 2029
Deduction for tip income	End of 2028
Deduction for overtime income	End of 2028
Seniors – deduction for taxpayers age 65+	End of 2028
Deduction for qualifying auto loan interest	End of 2028

TAX

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

TAX REGULATIONS (AND DEREGULATION)

FORECAST: 2026-2027



- [Treasury/IRS 2026-2027 Priority Guidance Plan] – selected items
  - Business – domestic content tech-neutral bonus credits under §§45Y and 48E
  - Trusts/estates – deductions under Code §§67 and 68
  - International – mark to market foreign currency gain/loss under §988; foreign currency contracts under §1256
  - Exempt orgs – Donor advised fund guidance; reporting of fiscal sponsorship arrangements
    - See also [Fiscal Sponsorship Transparency Act] (S.5083))
  - Retirement savings – most of SECURE Act 2.0 priorities (in prior plan) are now gone
- OBBBA – Prop. Regs. [expected before end of 2026]:
  - Business Interest Limitations - §163(j)
  - Qualified Production Property - §168(n)
  - Domestic research deduction and accounting method changes – §174A(a) and §460

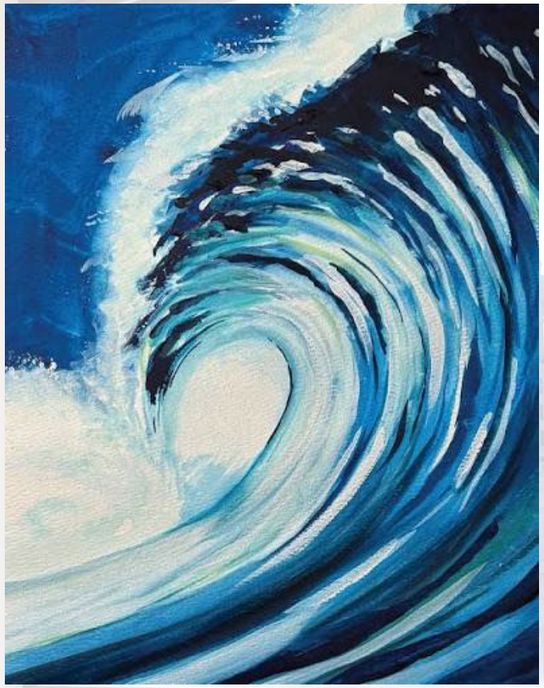
- Deregulation:
  - Executive Orders 14192 and 19219 – 10 old regulations must be identified for removal when a new proposed regulation is issued
    - 2025-2026 – series of IRS [Notices obsoleting 163 guidance items]
  - [Withdrawal of per se Spin-off Device Test from prior §355 Prop. Regs.] (Oct. 21, 2026)
  - 2026-2027 Priority Guidance Plan- selected items shown for deregulation:
    - R&D credit
    - Shareholders of small companies domesticating foreign operations (§367(b))
    - Related party funding as debt vs. equity (Reg. §1.385-3)

EXTENDERS

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

SCENARIO #1 – BLUE WAVE
DEMOCRATS WIN BOTH HOUSE AND SENATE



- **Dreamland**: Messaging Bills (Democrats' tax "wish list")
  - Increase tax rates
    - Corporate tax rate (21% up to ≈28%)
    - Individuals - restore top rate to 39.6% on income above $400-$500,000
    - Expand Medicare / NIIT taxes on high earners
    - Long-term capital gains – tax at ordinary income rates for taxpayers earning >$1m
  - Family tax credits – expand child tax credit, earned income tax credit; other housing-related provisions
  - Estate/gift tax (repeal basis step-up at death, lower exemption / raise rates, restrict advanced planning techniques (GRATs, FLPs))
  - Clean energy credits – defend, expand, restore
  - Ultra-Millionaire Tax Act – S. 4246 (Warren, D-Mass) and H.R. 8085 (Jayapal D-Wash and Boyle, D-Pa.)
    - For budgetary effects see Penn Wharton model
  - Data Centers
    - Excise tax on gross receipts; ineligible for bonus depreciation, opportunity zone funds, R&D credits; rents not qualifying income for REITs.
- **Reality Check**
  - With control of both House and Senate, Ds can pass a budget and then tax legislation
  - But compare with 2017 (Rs had House, Senate and White House). Rs still hold White House through 2028, and therefore the veto
  - Tax legislation (if any) therefore will require compromise / trade-offs
  - Result = Dreamland must wait until 2029 (at earliest). Until then, smaller, more targeted tax legislation
- **Other key consequences**:
  - Senate: confirmation hearings (Supreme Court vacancies, cabinet and high level appointments)
  - House: investigative hearings (impeachment pros/cons)

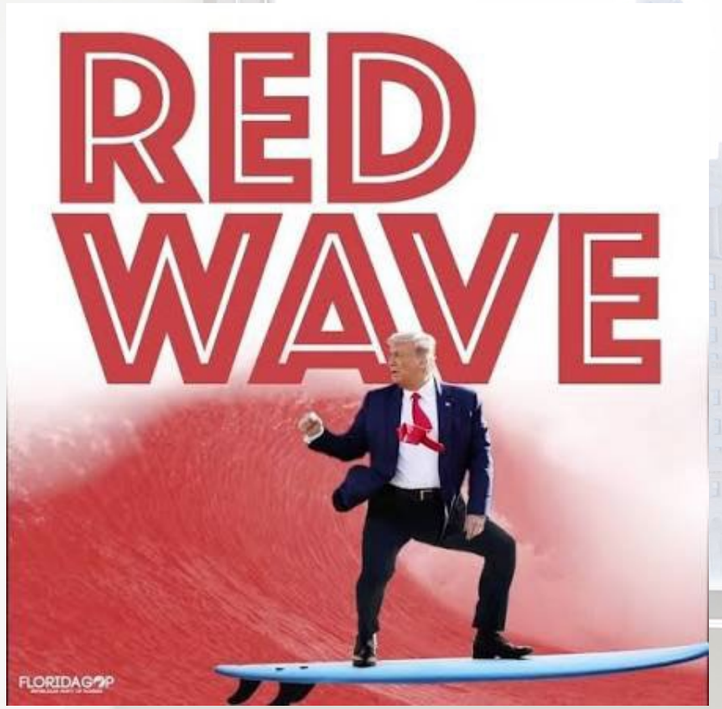
SCENARIO #2 – PURPLE SPLIT
ON PARTY WINS HOUSE; OTHER WINS SENATE



- President's veto power overshadows any potential legislation
- Which split? House control vs. Senate control
  - House
    - Centralized Leadership
      - House is much larger (435 members), so operates under strict rules managed by Speaker of the House and the House Rules Committee.
      - Effect = Speaker generally controls all in the House
        - » Recent narrow majorities have muted this somewhat
        - » Result = somewhat more minority safeguards
    - "Normally" initiates tax legislation (Origination Clause -- Constitution Art. I Sec. 7, Clause 1)
    - Impeachment – sole power to investigate, draft, and vote on articles of impeachment (Senate can act only if/after)
  - Senate
    - "Advice and Consent" power – sole authority to confirm or reject presidential nominations (Supreme Court, federal judges, cabinet secretaries and other high appointees)
    - Treaty ratification power (2/3 vote required)
    - Impeachment trials – House can *impeach* (by majority vote), but only Senate can try/convict/remove (via 2/3 majority)
    - Ability to block most legislation via Filibuster (60 vote supermajority)
- Purple Split vs. Blue Wave or Red Save – Prospects for 2026-2028 Tax Legislation
  - Blue Wave: would give Ds easier traction to propose legislation (for bargaining power)
  - Red Save: Rs could continue as in 2024-2026 (Trump likely dominating)
  - Purple Split: slows Rs "rubber stamping"

SCENARIO #3 – RED SAVE

REPUBLICANS WIN BOTH HOUSE AND SENATE



- Would claim “mandate” (see 2024 election analysis) then likely continue 2026-2028 agenda
- Could once again pass budget and then tax legislation via Reconciliation (= only 50 votes needed in Senate)
- Likely actions:
  - Make 2025 tax cuts permanent
    - “No tax on tips” / “no tax on overtime” and seniors (65+) deductions
    - Extend / revise SALT cap (keep higher cap, modify income phaseouts, replace with new system)
  - Permanently restore immediate expensing of R&D costs
  - Expand bonus depreciation
  - Additional capital investment incentives
  - Additional relief for pass-through businesses
  - International
    - Target overseas digital service taxes
    - Safe harbor to exempt U.S. companies from 15% global minimum tax (“Pillar Two”)
- Possible but less likely:
  - Capital gains (rate reduction; indexing for inflation)
  - Expand gain exclusion for home sales
  - Further estate/gift loosening (higher exemption, lower rates)
  - Further reduce corporate tax rate (below 21%)
  - Tarriff-related tax offsets or manufacturing incentives
  - Broader international tax reforms

FORECAST

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

TAX LEGISLATIVE FORECAST

LAME DUCK (DECEMBER 2026)



- Prospects
  - Much more likely with Blue Tsunami
  - Rs have incentive to enact unfinished priorities while they still control Congress
- Other competing (non-tax) priorities on lame duck calendar
  - Government funding
  - FY 2027 appropriations process
  - NDAA (defense authorization)
  - Farm bill
  - Healthcare extenders
  - Transportation and other expiring provisions
- Package (if any) likely will be narrow/targeted
  - IRS administration and taxpayer-service reforms
  - Technical corrections to 2025 Act
  - Digital asset / cryptocurrency tax rules
  - Selected business tax provisions with bipartisan support
- Alternative – could be folded into larger omnibus legislation (which could allow somewhat expanded tax provisions)

TAX LEGISLATIVE FORECAST

2027-2028



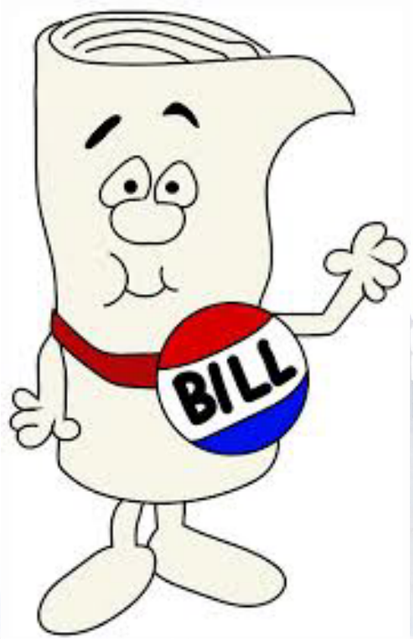
- Overall – major (or significant 2027-2028 tax legislation? Maybe? But only if "nice" Trump embraces dealmaking and compromises
- If Rs sweep – possible "Tax 2.0" Bill
  - Permanent extension of all temporary 2025 tax cuts.
  - Corporate rate cut from 21% maybe to 18-20% // 15% for manufacturers.
  - Enhanced business expensing and R&D incentives.
  - Permanent high estate tax exemption.
  - Extension of favorable SALT cap modifications.
  - Rollback of remaining clean-energy tax subsidies.
  - Offset through spending reductions rather than tax increases.
  - International
    - Limit scope of base erosion and anti-abuse tax (BEAT)
    - Modify other measures on foreign income (see H.R. 10431)
- If Ds sweep – Messaging, Indirect Campaigning, and More Messaging
  - Campaign issues for 2028 Define contrasts with Administration; negotiating positions
  - Passage of legislation – make Trump veto it
  - Instead of legislating: Corruption hunting – investigations, hearings, possible impeachment(s)
    - Gallup poll : record 89% of Americans believe Government corruption is widespread. Rs, Ds and Is all agree (ranging between 83-91%). Significant increase from 73% in Gallup's polling from 2024.
    - Expect major Administration pushback (delays in responding to requests; refusal leading to subpoenas then protracted court battles) = circus.
- If Split
  - Messaging, Messaging (see above) – investigations and hearings, but no legislation to force veto
  - Tax– smaller bipartisan legislation is possible
    - Expand Child Tax Credit in exchange for business tax provisions
    - Corporate anti-abuse measure
    - Limited tax-increases on very high-income taxpayers (likely only as a trade-off)
    - Deficit reduction packages (dubious under current Administration)
    - International – provide Taiwanese businesses in U.S. with tax-treaty-like benefits

OTHER MISC. POSSIBLE TAX CHANGES

- Tax Administration Bill
  - Taxpayer Assistance and Service (TAS) Act, S. 5441 – passed Senate by unanimous consent (Sept. 30, 2026)
  - Returns to House, which passed prior version, H.R. 5349) in December 2025.
  - Feasible Lame Duck passage
- Technical Corrections
  - Scorekeepers/taxwriters identified about 80 errors in TCJA; expected +/- same for OBBBA
  - Unclear when ("this is going to take a while").
- Gambling Tax Deduction Cap
  - OBBBA lowered cap to 90%; effective 2026 (returns filed in 2027); added by Senate
  - JCT revenue estimate $1.1 billion over 10 years
  - Bills to restore full deduction HR 6985 ("FULL HOUSE Act") – added to Crypto Tax bill (see below)
    - Nevada sponsors; bipartisan cosponsors
- Capital Gains Tax on Home Sales
  - More Homes on the Market Act (HR 1340) (Rep. Panetta, D.Calif; bipartisan support)
    - Would raise §121 exclusion from $250k/$500k (level since 1997) to $500k/$1m
  - Trump favors eliminating tax altogether
    - No Tax on Home Sales Act (HR 4327) (Rep. Marjorie Greene, R.Ga.)
- Retirement Plan Tax Incentives
  - Allow nonprofits retirement plan start-up tax credits (currently only available to for profits)
    HR 4548, S. 2365 (both bipartisan)
  - SECURE 3.0?
- Crypto Taxes
  - Digital Asset Tax Certainty Act (H.R. 10357) -- passed House Ways and Means 38-5 (September 16, 2026).
- Expat Tax Changes
  - Trump campaign pledge to end "double taxation" of US citizens living abroad
  - Residence-Based Taxation for Americans Abroad Act (HR 10468) (Rep. LaHood, R.-Ill.)
    - Would allow expats to elect to be taxed as nonresident aliens (US source income only)



POTENTIAL VEHICLES FOR TAX LEGISLATION – 2026-2027



- **Appropriations** (Spending) Bill(s)
  - Current deadline = December 11, 2026 (extended by Continuing Appropriations and Extensions Act of 2027, P.L. 119-103 (Sept. 2, 2026))
    - **Prediction** – extended via one or more Continuing Resolutions (CRs)
    - If Ds take House and/or Senate, better chances of Appropriations during Lame Duck Session (Rs may want to resolve before losing control)
    - Otherwise will likely continue into 2027
      - If all in one bill = "Omnibus" // if several (but not all) = "Mini-Bus"
    - Appropriation often contains tax provisions (not just spending), but then various procedural rules apply for revenue offsets

- **Reconciliation** (for FY 2027 – begin 10/1/26)
  - Best chance for a bigger tax bill (because Senate can pass with only 50 votes (with R as President).
  - Reconciliation - only if/after budget passes
    - Budget possible (likely?) with Ds sweep (President cannot veto budget)
    - Would allow tax legislation to pass if Ds reach deal with Trump (Senate Rs could not block)
- **Regular Tax Bills** (non-Reconciliation)
  - Likely small and focused, bipartisan support and/or trade-offs
  - Or piggybacked onto other bills

EXECUTIVE BRANCH
(DEEP DIVE)

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

NEW ADMINISTRATION

TRUMP 2.0

- Words of the Day
  - Change vs. Disruption
  - Bureaucrat
- Project 2025
  - Appointments
  - Scorecard
- Executive Orders
- Structural changes
  - DOGE and Government Deconstruction
  - Deregulation
  - Rescission
- Specific areas
  - Tax Administration (IRS / DOJ)
  - Tariffs
  - Immigration
  - Law Enforcement



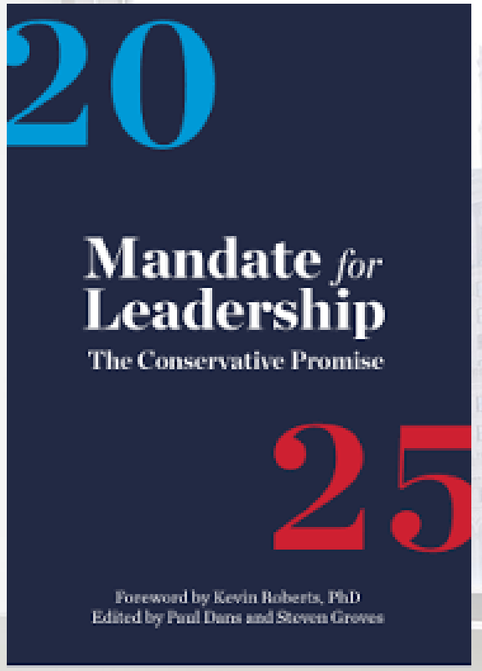
-- PROJECT 2025 --

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

PROJECT 2025

- "Mandate for Leadership, the Conservative Promise – Project 2025, Presidential Transition Project"
- Project led by Heritage Foundation with > 50 conservative organizations
  - 920 pages
  - 30 chapters, each by a different author
  - Chapter 22 (Department of Treasury) = most of tax changes
- For the "next conservative president" to put into effect (or if not sufficiently empowered, to recommend to Congress)
- During campaign – concern about political fallout – see "After Project 2025, Knives Are Out" (Politico Magazine 9/13/24).



TAX PROPOSALS - PROJECT 2025



- Divided into two phases: Intermediate Reform and Fundamental Reform
  - "Intermediate Reform"
    - Payroll tax stays at combined 15.3% // Individual income tax – 15% up to payroll tax cap of $168,600 (inflation adjusted) and 30% for income above that; capital gains at 15%; repeal NIIT.
    - Repeal "most deductions, credits and exclusions" – specifically including state/local taxes and educational expenses
    - No mention of preserving §199A (small business/passthrough) deduction (set to expire 12/31/2025)
    - Estate/gift tax – maximum rate = 20%; make TCJA 2017 unified credit exemption amount (currently $13.61 million) permanent
    - Corporate tax rate – reduce from 21% to 18%
    - Allow 100% of capital expenditures in first year
    - Repeal much of IRA 2022, corporate AMT, tax on stock buybacks, and tax breaks for clean energy
    - Various changes to international tax provisions
  - "Fundamental Reform"
    - Urges consideration – methods left open (national sales tax, business transfer / subtraction-method VAT, flat tax, and cash flow tax mentioned)
    - Vague on whether new tax system would replace or supplement current system
  - IRS Administration
    - Repeal increased funding - keep level from pre- Inflation Reduction Act (inflation adjusted)
    - Improve technology / IT
    - Replace many/most top positions in IRS with Presidential appointees
    - Reduce information reporting; increase interest on overpayments and refund SOL; expand Tax Court jurisdiction; relief from the "most punitive penalties"

Project 2025 Tracker

A comprehensive, community-driven initiative to track the implementation of Project 2025's policy proposals

What is Project 2025?

Overall Progress

47%

Total Objectives

317

The total number of objectives being tracked.

Agencies Involved

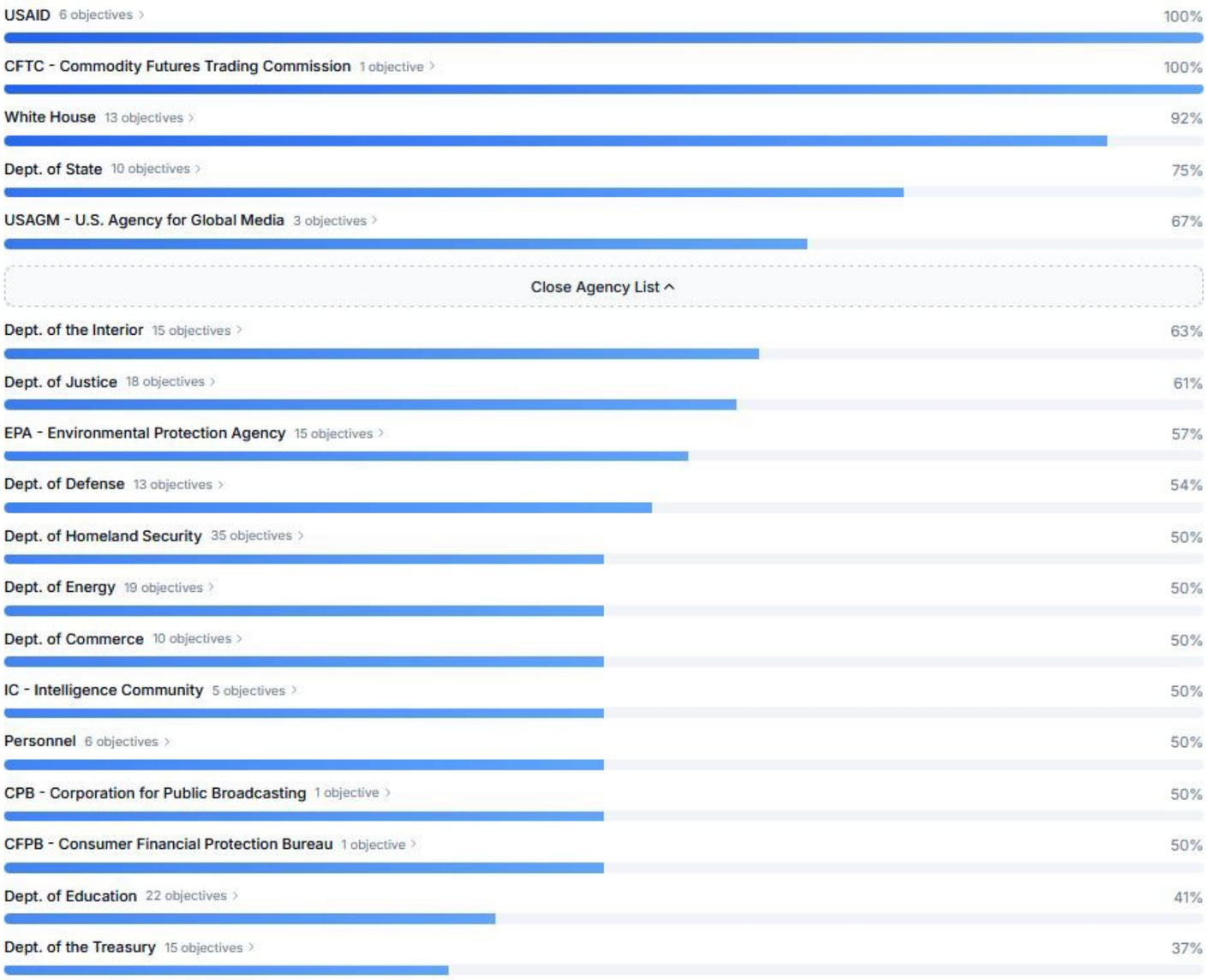
34

Number of agencies with objectives.

Time Until End of Term

1238	02	17	29
Days	Hours	Minutes	Seconds

Progress by Agency



Source: [Project 2025 Tracker](#) (8/31/2025)

Subject Distribution

The most common subject areas across all objectives. Tag sizes represent frequency, while colors indicate completion rate (red = 100%, green = 0%)



Source: [Project 2025 Tracker](#) (8/31/2025)

POLITICAL APPOINTMENTS

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

NEW ADMINISTRATION
POLITICAL APPOINTMENTS



- Seeking more Presidential appointees throughout government
  - See Project 2025, below (stated goal = “more accountability to President”)
- Controversial appointees
  - Reason for the pattern?
  - Early fears about Senate “advice and consent” / recess appointments
  - See later slide re- specific appointees
- Forced early departures of normally longer-term agency heads
  - Example: FBI (Wray)
  - Federal Reserve Bank – attempted removal of Lisa Cook as Fed Governor
    - Term runs 2023-2038
    - Cannot be removed “without cause.”
      - Cook v. Trump, 609 U.S. ___ (6/29/26) (Govt. denied preliminary injunction; pending trial on merits).
      - Humphrey’s Executor v. U.S., 295 U.S. 602 (1935) (commissioner of FTC)
    - Trump alleges cause = mortgage fraud (ironic mirror of his NY case)
    - DOJ is investigating Cook; also Trump adversaries Sen. Adam Schiff (D.Calif.) and Letitia James (NY Attorney General)

INTERESTING APPOINTMENTS (SENATE CONFIRMATION REQUIRED)

Post	Person	Comments
Treasury	Scott Bessent	Generally supported by Wall Street
IRS Commissioner	~~Billy Long~~	Former Rep; auctioneer; 1st politician Commish in 80 years; removed 2 months after Senate confirmation (quickest since 1862); named Ambassador to Iceland
FBI	Kash Patel	Vowed to use position to exact revenge on Trump's adversaries
Attorney General	~~Pam Bondi~~	Ex-Florida AG; Trump loyalist; chosen after Gaetz withdrew
Small Business Admin.	Kelly Loeffler	Crypto ties; late Trump loyalist; lost Ga. Senate to Warnock
HHS	Robert F. Kennedy Jr	Critic of CDC, vaccines; processed food
Education	Linda McMahon	Wife of owner of WWF; headed SBA under Trump 1.0
Medicare/Medicaid	Mehmet ("Dr") Oz	TV host; controversial medical advice; lost Pa. Senate race
Office of Management/Budget (OMB)	Russel Vought	Leading figure in Project 2025; headed OMB under Trump 1.0
Ambassador to France	Charles Kushner	Previously pardoned; Jared's father
Ambassador to Greece	~~Kimberly Guilfoyle~~	Engaged to Don Jr; ex-wife of Gov Newsom (CA); former Fox News host
Ambassador to Israel	Mike Huckabee	Religious right; West Bank belongs to Israel; there are no "Palestinians"
Defense	Pete Hegseth	Controversial; difficult confirmation; "cleaning house" in military and intelligence agencies; supporting militarization of DC and…?
State	Marco Rubio	More establishment; may eventually clash with Trump (UN, Ukraine)
Homeland Security	~~Kristi Noem~~	Lightning rod over ICE enforcement; fired; then scandal over husband

OTHER INTERESTING APPOINTMENTS (NO CONFIRMATION REQUIRED)

Post	Person	Comments
Border Czar	Thomas Homan	"Willing to run the biggest deportation operation this country's ever seen" Vocal proponent of Alligator Alcatraz
DOGE (Dept of Govt Efficiency)	Elon Musk Vivek Ramaswamy	Both gone; Ramaswamy left immediately to run for Governor of Ohio
Deputy Chief of Staff	Stephen Miller	Top proponent of Trump's anti-immigrant policies
Intelligence Advisory Board	Devin Nunes	Top Trump insider in Congress during Trump 1.0
AI and Crypto Czar	David Sacks	"Chair of President's Council of Advisors on Science and Technology"
Ukraine and Russia envoy	Keith Kellogg	
Press Secretary	Katie Zacharia	5-day tenure ("roughly half a Scaramucci")

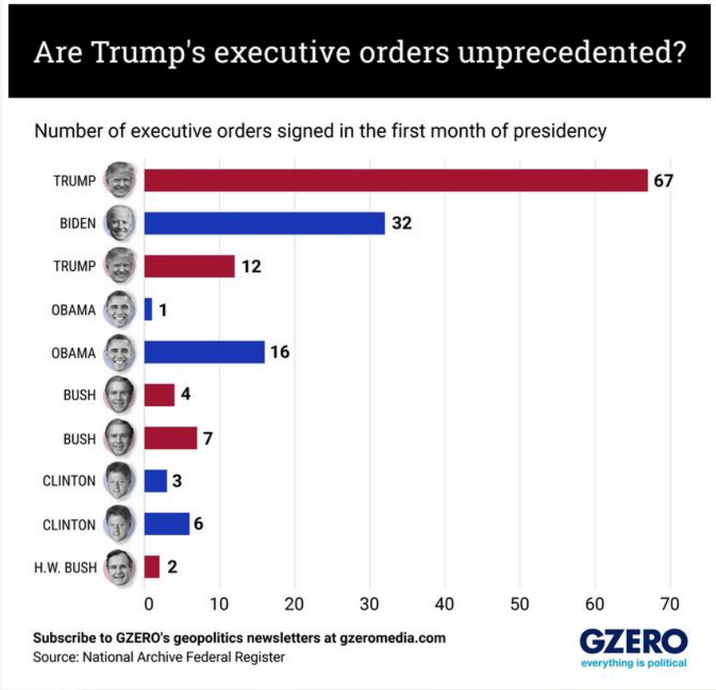
-- EXECUTIVE ORDERS --

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

EXECUTIVE ORDERS

- Number
  - Lots fast (see chart)
  - Total as of 8/1/2025 = 267; as of 10/26 = 292
- One sentence summary in chronological order
- Selected Orders:
  - Lake Ontario – renamed “Lake America”
  - Marijuana –expedite rulemaking re rescheduling
  - Create citizenship lists re- voter eligibility
  - Weaken Federal employee unions (4/24/26 order stripping bargaining rights)
  - “Gold card” immigration status – donate $1m ($2m if corp.) to Commerce Dept.
  - Eliminate fetal stem cell research/use (NIH)
  - Expand oil exploration/extraction in Alaska (11/13/25 – Interior Dept)
  - Laid off entire Office of Special Education and Rehabilitative Service (10/13/25 – Education Dept)
  - Withdrawal from World Health Organization (WHO); Organization for Economic Co-Operation and Development (OECD) global tax deal; various UN organizations
  - Establish/implement Department of Government Efficiency (DOGE)
  - Numerous orders related to trans people, DEI
  - Pausing enforcement of Foreign Corrupt Practices Act (FCPA)
  - Directing repeal of “unlawful regulations”
  - End federal funding for NPR and PBS
  - “Saving College Sports” – stop 3rd party (boosters) pay for play deals, allows regular endorsements; big schools to boost scholarships for women’s and non-revenue sports



VALIDITY OF EXECUTIVE ORDERS



- Tariffs
  - Background:
    - April 2, 2025 – Pres. Trump announced "Liberation Day" tariffs on many countries (Executive Order 14257).
    - Asserted unilateral power to do so under the International Emergency Economic Powers Act of 1977 (IEEPA)
  - V.O.S. Selections, Inc. v. U.S. and related/consolidated cases, 607 U.S. 229 (Feb. 20, 2026) (6-3 opinion)
    - Supreme Court: President lacks unilateral tariff power under the IEEPA
    - Status -- reimbursements (estimated > $133.5 billion); who gets paid vs. who paid; new round(s) of tariffs
- State citizenship lists. Trump v. California, 609 U.S. ___, 2026 WL 2473573 (2026)
  - Overruling lower courts – preliminary injunctions denied
  - Grounds: standing/ripeness
- Independent Agency Removals.
  - Trump v. Cook, 609 U.S. ___ (June 29, 2026) (Federal Reserve Board governors have for-cause protection)
  - Trump v. Slaughter, 609 U.S. ___ (June 29, 2026) (Federal Trade Commission commissioners do not)
- Nationwide Injunctions
  - Trump v. CASA, Inc., 606 U.S. 831 (2025) (placed limits on nationwide injunctions).
  - See "Nationwide Injunctions and Universal Judicial Relief One Year After Trump v. CASA," CRS Report R49022 (July 7, 2026).

-- STRUCTURAL CHANGES --

SBCA
Small Business Council of America

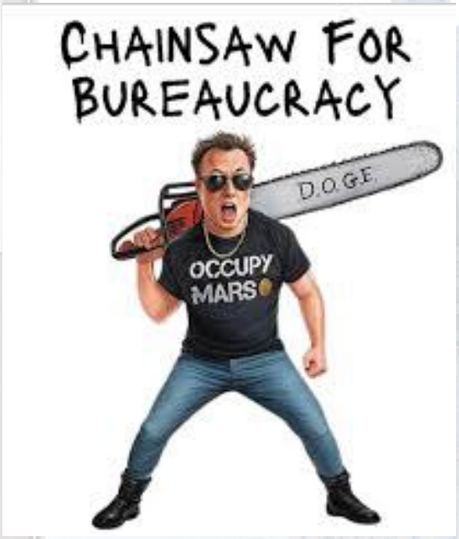
FRANTZ WARD
CELEBRATING 20 YEARS

DOGE
AND DECONSTRUCTION OF THE GOVERNMENT

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

DEPARTMENT OF GOVERNMENTAL EFFICIENCY (DOGE)



- Key players
  - Initial heads -- Elon Musk; Vivek Ramaswamy (both resigned; latter almost immediately)
  - "Auditors" vs. computer programmers; and aggressive/invasive tactics
- Trump Executive Orders – among first issued on taking office
  - Re - U.S. Digital Service (January 20th – on first day in office)
  - "Removing Barriers to American Leadership in Artificial Intelligence" (Jan. 23rd)
    - Revoked existing policies regulating government use of AI
    - Appointed David Sacks as "Special Advisor for AI and Crypto"
- Key underlying goals
  - Embedding AI in all parts of government (Kirschenbaum – see below)
  - Accessing as much data as possible about U.S. people (citizens and others) (next slide)
  - Creating a "**government without people**"
    - **Eliminating bureaucrats**.
      AI wouldn't have to be good at making decisions. It merely has to be a plausible competitor to human decision-making long enough to dislodge the *existing* human decision-makers in civil service, workers who embody the institution's values and mission. Once replaced, the human knowledge that produces the institution will be lost."
      Eryk Salvaggio, "Anatomy of an AI Coup," Feb. 9, 2025.

    - **In the future: opaque denial of government benefits, with no human contact?**
      "Soon enough, access to all manner of government services may be denied and curtailed on an equally automated basis, with all of the empathy of a helpdesk: I'm sorry, I'm afraid you do not qualify for Medicare or Social Security or a passport or a Library of Congress readers' card. Is there anything else I can assist you with today?" See Kirschenbaum, "The US of AI," Public Draft, February 25, 2025.

DEPARTMENT OF GOVERNMENTAL EFFICIENCY (DOGE)

DATA ACCESS



- DOGE aggressively accessing as much data as possible about everyone
  - Stated reasons include wasteful spending, redundant contracts, fraud, and deportations
  - Critics concerns:
    - Intended uses are opaque
    - Lack of control, oversight, and profiteering/conflicts of interest
  - See "Privacy under siege, DOGE's one big, beautiful database," Brookings (June 25, 2025)
- IRS
  - Legal protections for taxpayer data. See Privacy Act of 1974, 5 USC §552a (general protection vs. all agencies); Code sec. 6103; Taxpayer Bill of Rights
  - Where there's smoke? IRS Commissioners – extraordinary number of resignations in 2025 (see Tax Administration - IRS)
  - Centro de Trabajadores v. Bessent 2025 U.S. Dist. LEXIS 90993, No. 25-cv-0677 (DLF) (D.C. Cir. May 12, 2025), affirmed, 167 F.4th 1218 (D.C. Cir. 2026).
  - IRS provided tax return information ICE requested for "criminal enforcement" purposes
  - Injunction denied – Code §6103(i)(2) allows IRS to disclose taxpayer addresses alone to ICE on valid written requests for criminal investigations under 8 USC §1253(a)(1).
- Social Security
  - Supreme Court denied preliminary injunction; allowed DOGE unfettered access to SSA's data (SSNs, medical/mental health records, family court, etc.). Social Security Admin. v. AFSCME, 605 U.S. ___, 145 S.Ct. 1626 (June 6, 2025) (6-3 decision reversing 4th Circuit and District Court; remand to 4th Circuit pending).
  - After SCOTUS decision = more canaries on the coal mine? See "Social Security data chief resigns after whistleblower complaint over DOGE data access," Politico (Aug. 28, 2025)
- Treasury Department, Education Department, and Office of Personnel Management (OPM)
  - Preliminary injunction denied; DOGE allowed unfettered access following SSA v. AFSCME as precedent. American Federation of Teachers et al v. Bessent et al, 152 F.4th 162 (4th Cir. 2025) (2-1 decision), stay denied 157 F.4th 575 (2025).

REGULATIONS

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

~~REGULATIONS~~

DEREGULATION

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

BACKGROUND



- Authority for tax regulations
  - Legislative: Congress delegates (often politically harder) decisions to administrative agency; generally accorded more deference
  - Interpretive
    - Code §7805(a): Treasury Dept "shall prescribe all needful rules and regulations for the enforcement of [the Internal Revenue Code]"
    - Code §7805(b): no retroactive Regulations unless issued within 18 months of statutes effective date
  - Estimate # of delegations of authority in Internal Revenue Code range from hundreds to thousands.
- Administrative Procedure Act (APA) – 5 U.S.C. §706 (1946). Lays out:
  - Procedures agency must follow before promulgating final legislative (but not interpretive) regulations.
  - Basic rules for judicial review of agency actions
    - Courts "decide all relevant questions of law" and "determine the meaning or applicability of the terms of an agency action."
    - Courts are *required* to set aside agency actions not done in accordance with the law, and any arbitrary or capricious action is presumed to be outside the law.

~~CHEVRON~~ AND LOPER BRIGHT

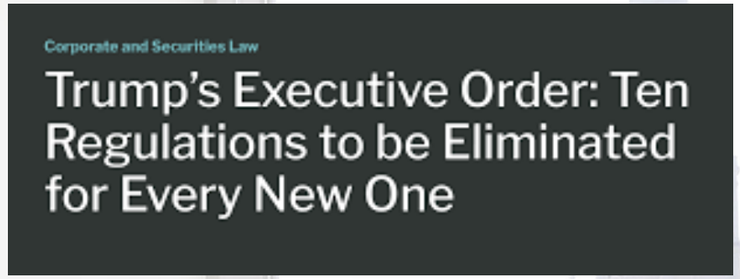


- Chevron USA v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984)
  - Created two-step analysis for determining whether an agency Regulation was valid
  - Almost all regulations were upheld under Chevron test, especially tax regulations
  - Example: Mayo Clinic (IRS lost on teaching hospitals, so issued regulations changing the law without Congressional action; Supreme Court upheld the regulations.
- Loper Bright Enterprises v. Raimondo, 603 U.S. 369 (June 28, 2024)
  - Taxpayers did not want to pay for observers required by regulatory agency (NMFS); challenged validity of the relevant Regulations
  - Supreme Court: "[the APA] requires courts to exercise their independent judgment in deciding whether an agency has acted within its statutory authority, and courts may not defer to an agency interpretation of the law simply because a statute is ambiguous; Chevron is overruled."
  - Loper Bright: Delegation triggers deference – applied two-step test
    - Constitutionally permissible delegation by Congress?
      - Yes = then court applies "reasoned decision" standard;
      - No = then court uses "independent judgment" to find the "single best meaning" via rules of statutory construction, etc.
      - More/clearer delegation = more judicial deference to regulations
    - Agency has "power to persuade" courts but not "power to control"
    - "Major Questions Doctrine" – courts apply less deference where an agency interpretation is of a question of "deep economic and political significance"
- Key take-aways
  - Nearly all Federal regulations, formerly basically the "rule of law" are now subject to challenge
  - Disclosure still required of return takes position contrary to Regulations (see Form 8275-R)

- For more background and analysis, see Kadish and Pantoja, "Open Season on Regulations: *Loper Bright* and the Demise of *Chevron*," Probate Law Journal of Ohio Vol. 35, Issue 6 at 295 (July/August 2025).

DE-REGULATION – EXECUTIVE ORDERS

- Executive Order "Unleashing Prosperity Through Deregulation" (January 31, 2025)
  - Agencies must eliminate 10 regulations for each new one
    - Result = far fewer regulations issued 2025-2026
    - See "Tracking regulatory changes in second Trump Administration"
  - Each agency must identify the following types of existing regulations:
    - Unconstitutional or which raise serious constitutional difficulties, such as exceeding the scope of the Federal Government by the Constitution;
    - Based on unlawful delegations of legislative power;
    - Based on anything other than the "best reading of the underlying statutory authority or prohibition."
    - Regs. falling into those categories (as well as 4 others) are put on a list for rescission or modification by OIRA
      - Rescission arguably requires APA notice and comment
      - Expect Administration to push on that
  - Significance
    - Trump Administration is proactively implementing Loper Bright both as to new and existing regulations
    - Possible alternate avenue to challenge Regulations (OIRA vs. court review)
    - Expect more "sub-regulatory guidance" (Rev. Rul.; PLRs, GCMs, FAQs, etc.)



-- SPECIFIC AREAS--

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

TAX ADMINISTRATION

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

TAX ADMINISTRATION

IRS

- Leadership
  - Commissioner
    - Seven different IRS Commissioners since January…?
    - Billy Long
      - Confirmation to removal in under 8 weeks = shortest-serving Commissioner since position was created in 1862
      - See "White House Remains Coy on Long's Exit," Tax Notes Federal (Aug. 13, 2025).
      - SFC Democrats (Ranking Member Wyden) investigating misconduct by Long
      - Long nominated as ambassador to Iceland; confirmation hearing could be messy
    - Scott Bessent (Treasury Secretary) – serving as acting commissioner.
  - Chief Counsel – Don Korb nominated; Senate Finance hearing set for Sept 10th; previously served as Chief Counsel 2004-2008
  - Other top leadership - removal and investigation for alleged misconduct vs. Rs
    - LB&I commissioner Holly Paz
    - IRS' OPR acting director Elizabeth Kastenberg Appropriations
- Appropriations
  - Administration proposed cutting annual budget by 20%, or $2.5 billion)
  - House appropriators propose cutting another $300 million – would be lowest since 2002; 45% less enforcement funding than prior FY
  - Since 2010, Senate has pushed back against some House cuts to IRS funding
- Workplace reduction
  - IRS has lost @ 25% of its 100,000 employees, mostly from resignations. TIGTA (Report 2025-IE-R027, July 18, 2025).
  - See "Treasury Looks to Undo Some IRS Resignations," Tax Notes Federal (Sept. 1, 2025).
- Paperless Refunds
  - Executive Order 14247 dated 3/25/25. Effective 9/30/25: electronic payments only; no more checks (limited exceptions)
    - Currently 94% of refunds are electronic, but > 5 million taxpayers get checks
    - Put account # on tax return – otherwise expect delays
  - See ABA Tax Section Comments (Sept. 2, 2025) opposing mandatory IRS e-payments and "Group Urges Caution in Implementation of Paperless Refunds" Tax Notes Federal (Aug. 28, 2025)

DEPT OF JUSTICE (DOJ)
TAX DIVISION



- Department of Justice (DOJ) – Tax Division
  - Litigates Federal tax cases - both civil and criminal (except in Tax Court)
  - Established in 1934
- Possible elimination?
  - DOJ's budget request
    - Would close Tax Division; split lawyers between DOJ's general Criminal and Civil divisions; but essentially removing related funding (i.e., not preserving normal tax litigation funding)
  - House bill
    - 2026 Commerce, Justice, Science and Related Agencies Appropriations bill)
    - Would end funding for DOJ Tax Division
  - Senate version maintains funding (slightly reduced)

PROJECT 2025 TRACKER – TREASURY DEPARTMENT

Objective	Status	Comment
Reduce estate/gift tax	Completed (7/4/25)	Enacted in OBBBA
Withdraw from Paris agreement	Completed (1/20/25)	
Reverse consideration of environmental, social and governance principals	Completed (1/20/25)	Trump rescinded Biden order directing evaluation of climate-related financial risk
Close Office of Equity, Diversity and Inclusion; treat participation in any DEI initiative as per se grounds for termination	In Progress	Partially blocked by court orders
Repeal Corporate Transparency Act	In Progress	Treasury announced no more enforcement for domestic activity
End financial support and withdraw from the OECD	In Progress	Trump withdrew from OECD global tax deal
Reverse expansion of IRS under Inflation Reduction Act (IRA)	In Progress	Substantial layoffs; buyouts
Reduce corporate income tax rate	In Progress	OBBBA permanently lowers rate to 21% (Project 2025 called for 18%)

Objective	Status	Comment
Repeal key sections of Dodd-Frank	Not Started	
Cease funding to and withdraw from World Bank and International Monetary Fund	Not Started	
Eliminate Climate Hub office	Not Started	
Limit employee benefits via cap on untaxed benefits employers can deduct	Not Started	
Enact 2-bracket system (estd tax increase of $3,000 for median family of 4)	Not Started	
Eliminate US Trade and Development Agency	Not Started	
Wind down and privatize Fannie Mae and Freddie Mac	Not Started	

Source: Project 2025 Tracker (8/31/2025)

TARIFFS

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

TARIFFS



- "Tariff"
  - Definition: a tariff (or duty - the words are used interchangeably) is a tax levied by governments on the value including freight and insurance of imported products. Different tariffs apply on different products by different countries.
  - Per Trump: "the most beautiful word in the dictionary."
  - Who pays?
    - The company that brings the product into the U.S. (i.e., the importer)
    - Added cost ultimately gets passed on to customers (or reduces profits if not possible, after back inventory is exhausted)
    - Estimated cost of Trump's tariff plans = $2,600/year per American household
  - Revenue generation vs. trade impact
    - "Tariffs are a revenue workhorse, but there aren't enough imports for those revenues to make up for the loss of income taxes." Alex Muresianu, Tax Foundation (Tax Notes, Nov. 7, 2024)
- Congressional action is probably not needed –President has broad power to impose tariffs to protect U.S. national security, defend industries hurt by foreign trade practices, or respond to an "international emergency"– all via delegation of power by Congress.
- Court challenges to Trump tariffs (see below under Executive Orders) – headed to Supreme Court
- External Revenue Service?
  - Executive Order "America First Trade Policy" (Jan. 20, 2025 – 1st day in office): Treasury, Commerce and Homeland Security to investigate feasibility of establishing External Revenue Service (ERS) "to collect tariffs, duties and other foreign trade-related revenues."
  - S. 175 (Sen. Bernie Moreno, R-OH) – would divert IRS funds to create ERS. (Status – referred to Senate Finance 1/21/25)

TARIFF RATES BY COUNTRY

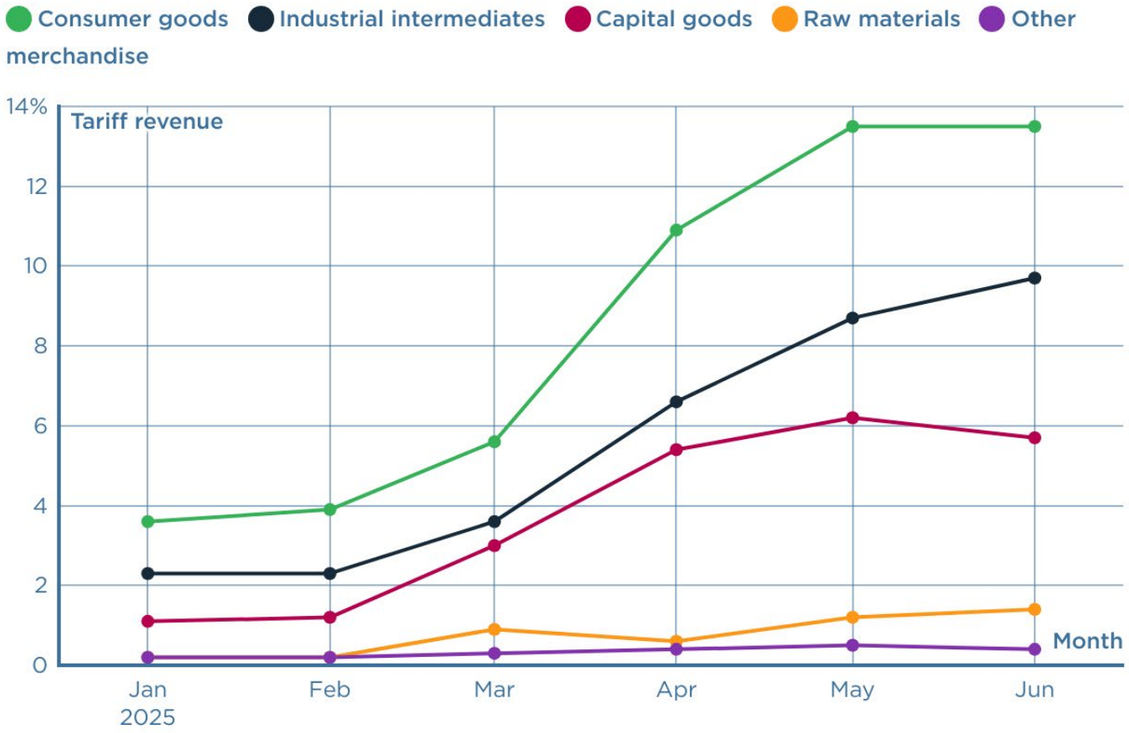
Country	Reciprocal tariff rate announced April 2, 2025	IEEPA tariff rate effective through February 23, 2026	Section 122 tariff as of February 24, 2026
Australia	10%	10%	10%
Bangladesh	37%	20%	10%
Brazil	10%	10% (plus 40% additional duty)	10%
Cambodia	49%	19%	10%
Canada	25% for most goods; 10% for energy and potash; 0% for USMCA-compliant goods	35%; 10% for energy and potash; 0% for USMCA-compliant goods)	10%
China	34%, increased to 84% then 125%, then decreased to 10%	10%+ (plus 10% “fentanyl” tariff)	10%
European Union	20%	15%	10%
India	26%	25%	10%
Indonesia	32%	19%	10%
Israel	17%	15%	10%
Japan	24%	15%	10%
Mexico	25% for most goods; 10% for energy and potash; 0% for USMCA-compliant goods	25% for most goods; 10% for energy and potash; 0% for USMCA-compliant goods	10%
Pakistan	29%	19%	10%
South Korea	25%	15%	10%
Switzerland and Liechtenstein	31%	15%	10%
Taiwan	32%	20%	10%
Thailand	36%	19%	10%
United Kingdom	10%	10%	10%
Vietnam	46%	20%	

Source: https://www.avalara.com/us/en/learn/guides/us-tariffs-by-country.html

Figure 1

How much tariff revenue is the US collecting on different products?

Monthly tariff revenue as percent of monthly total import value (CIF), by major product categories, January 2025–June 2025



#PIIECharts

Learn more at piie.com/research/piie-charts

CIF = cost, insurance, freight

PIIE

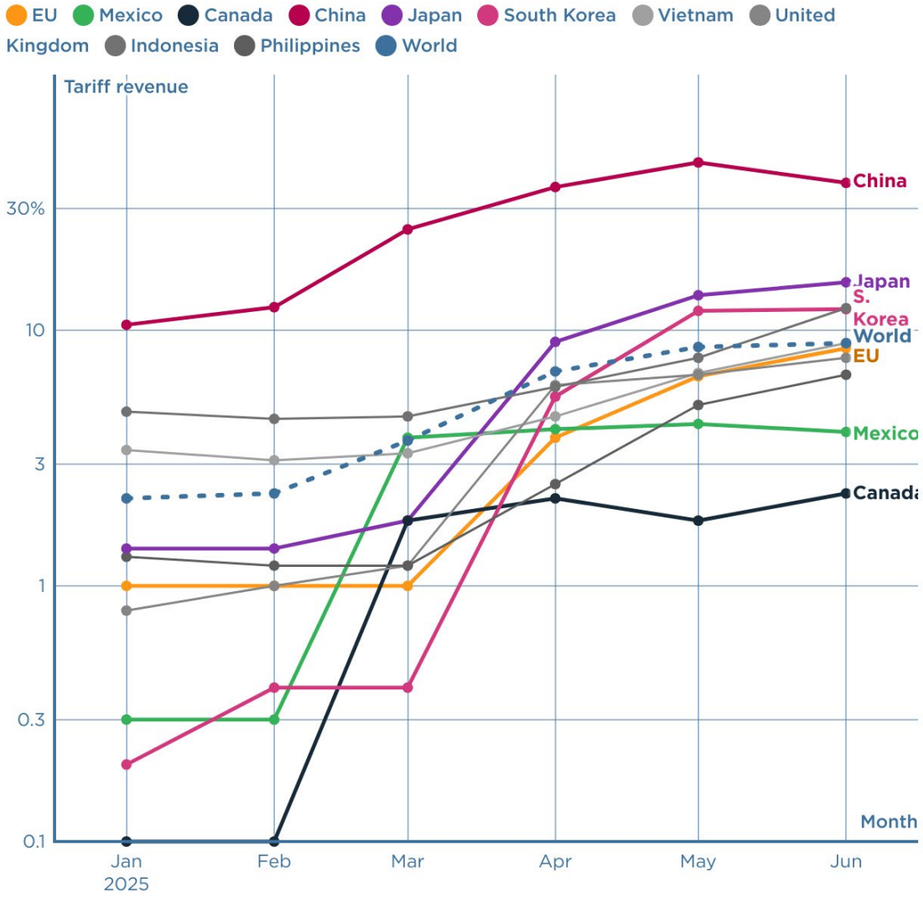
Notes: Tariff revenue data are calculated duties estimated by the United States International Trade Commission (USITC), based on US tariff rates and any special import statuses claimed by importers. Category follows Annex I of BEC (Rev.5) report. The CIF value is the total cost paid to the foreign seller, insurance paid to cover the risk of loss in transit, and freight paid to the ocean shipping, air transport, or trucking firm.

Source: USITC DataWeb. UNSD — Classifications on economic statistics.

Figure 2

How much tariff revenue is the US collecting on different countries' goods?

Monthly tariff revenue as percent of monthly total import value (CIF), by import sources, January 2025–June 2025



#PIIECharts

Learn more at piie.com/research/piie-charts

CIF = cost, insurance, freight

Notes: Tariff revenue data are calculated duties estimated by the United States International Trade Commission (USITC) (latest update in June 2025), based on US tariff rates and any special import statuses claimed by importers. The CIF value is the total cost paid to the foreign seller, insurance paid to cover the risk of loss in transit, and freight paid to the ocean shipping, air transport, or trucking firm.

Source: USITC DataWeb.

PIIE

TARIFFS

Figure 3

Can Trump's tariff revenues help pay for the federal budget deficit?



#PIIECharts

Learn more at piie.com/research/piie-charts

PIIE

Notes: Cumulative tariff revenue is the total of monthly calculated duties estimated by USITC since January 2025.

Source: Congressional Budget Office.

U.S. AND CHIP MANUFACTURERS

- Intel
  - Trump deal: U.S. to buy @10% of Intel for @$8.9 billion
    - $5.7 of which were grants already awarded under CHIPS Act
    - Intel possibly avoiding rescissions?
  - Prior government ownership of companies
    - 2009 - under Obama administration, U.S.
      - Took 60% stake in GM as part of bankruptcy and governmental bailout;
      - Later sold the shares
- Nvidia and AMD
  - Agreement to pay 15% of revenue to US Government for AI chips sold to China (reversing July decision to halt sale of Nvidia's H20 chip)
  - Critics:
    - Corporations can pay a fee to avoid national security restrictions
    - Violates Constitution's prohibition on taxes on exports (Article I, Section 9, Clause 5 (Export Clause): "No tax or duty shall be laid on articles exported from any state." See also United States v. U.S. Shoe Corp., 523 U.S. 360 (1998)



IMMIGRATION

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

IMMIGRATION -- DETENTIONS

- Kilmar Abrego Garcia
  - Administration wrongly deported Salvadoran man to a notorious prison in El Salvador, despite an earlier immigration court ruling against his removal.
  - Administration initially said it couldn't return Garcia but he was brought back to the United States to face federal human smuggling charges in Tennessee, to which he's pleaded not guilty.
  - Abrego Garcia was again taken into custody by immigration officials on August 25th; now seeking to deport him to Uganda
  - Abrego Garcia has claimed asylum and is seeking to block any deportation.
- "Alligator Alcatraz"
  - Court ordered facility shut down due to lack of required environmental impact study.
  - Feds argued Federal environmental impact study requirements don't apply to state funded projects
  - Florida reportedly spent $218 million on the facility;
  - Allegations of Border Czar conflicts of interest with detention constriction companies;
  - Florida Gov. Ron DeSantis reportedly preparing to open a second immigration detention facility dubbed "Deportation Depot" at a state prison in north Florida.



IMMIGRATION -- DEPORTATION



- See: 55 million US visa holders to be vetted for deportable offenses (The Hill, 8/21/25)
- **Deporting detainees who filed habeas petitions**. United States v. Russell, No. 1:25-cv-02029, D. Md. 8/26/25.
  - DOJ sought to block District Court's standing order stopping immediate deportation of detainees who filed habeas petitions
  - Holding: Injunction denied - appropriate remedy is to appeal to the Court of Appeals); no "end-around"
- **Quick Deportations** (expedited removal) Make the Road New York v. Noem, No. 25-cv-190, 812 F.Supp. 321 (S.D. N.Y 2025),
  - Background
    - Expedited removal allows deportation of undocumented immigrants without court proceedings.
    - Formerly used only arrests at/near southern border; Administration sought to expand nationwide; removal of anyone arrested in the U.S. could cannot prove they have lived in the country for > 2 years
    - Expansion attempted in Trump's first term but it stalled in court. Federal Appeals Court eventually allowed the expansion, but not until after his first term ended; Pres. Biden repealed the policy
  - D.DC Ct. App (per curiam opinion, June 23, 2026) – Government is not required "to instruct individuals on available defenses against deportation"
  - Status – petition for rehearing filed (July 27, 2026)
- **Administrative Closure**. [CASE CITATION]
  - Allows judges to fast track for some migrants (e.g., crime victims, juveniles).
  - Longstanding – approx. 360,000 migrants were granted administrative closure since 1990.
  - Supreme Court: President can block immigration judges from using Administrative Closure to close deportation cases.
- **Hyundai Fun-Day**
  - South Korean firms have pledged to invest $150 billion in US, $26 billion from Hyundai-LG
  - September 4th – US Immigration raided construction site of new Hyundai-LG electric vehicle battery plant in Georga, arresting 475 people, mostly S. Korean nationals building the plant
  - September 7th – after diplomatic incident, S. Korea is sending charter plane to retrieve its nationals.
- **Shootings by U.S. immigration agents in second Trump administration**

	Dead	Injured	Total
Immigration (ICE)	6	16	22
Border Patrol (CBP)	7	10	17

LAW ENFORCEMENT

SBCA
Small Business Council of America
FRANTZ WARD
CELEBRATING 20 YEARS

LAW ENFORCEMENT
NATIONAL GUARD AS POLICE FORCE



- **Los Angeles**
  - June 2025 – 4,000 National Guard and 700 Marines deployed after protests over raids by ICE
  - Court challenges
    - June 12th – District Court (Breyer, J.) held deployment was illegal.
    - June 19th – 9th Circuit reversed, allowing Trump to retain control of California's National Guard pending Gov. Newsome's lawsuit against deployment
    - Sept. 2nd - District Court (Breyer, J.) held Trump violated the 1878 Posse Comitatus Act (prohibits using U.S. military for domestic law enforcement); found no "rebellion" as claimed by administration
- **Washington DC**
  - August 11th - Trump declared emergency, signed Executive Orders activating DC National Guard and putting federal government in charge of local police; expires Sept. 11th unless Congress authorizes extension; DC Mayor Murial Bowser – will coordinate with federal law enforcement indefinitely going forward.
  - Unlike States, President commands DC National Guard because of Home Rule Act
  - Lawsuit pending; Courts refusing to convince many who have been arrested
- **Chicago**
    - Trump: "I love the smell of deportations in the morning… Chicago is about to find out why it's called the Department of WAR."
    - Gov. Pritzker (D) claims administration is staging Texas National guard for deployment in Illinois
- Baltimore
- New Orleans (reportedly welcomed by Gov. Landry (R) who controls Louisiana National Guard)

EXECUTIVE VS. JUDICIAL



- Arrests of Judges
  - Milwaukee County judge Hanna Dugan – arrested by FBI; accused of helping undocumented immigrant evade ICE agents.
    - Found guilty of felony obstruction of federal agents; not guilty of concealing an undocumented immigrant from arrest
    - Sentence = $5,000 fine; no prison time or probation
    - Resigned from her 9-year judgeship on Jan. 3, 2026
  - New Mexico county judge Jose Luis Cano –
    - Arrested 4/24/25; accused of evidence tampering (destruction of immigrant's cellphone with incriminating photos of illegal firearms).
    - Resigned judgeship in March 2025; permanently barred by N.M. Sup. Court from holding future judicial office
    - Trial date set for Jan. 8, 2027
- Impeachment threats against judges
  - Performative vs. actual
    - Senate - 2/3 vote required to convict/remove; would currently require 14 Ds
    - History – only 15 federal judges have ever faced impeachment; mostly for bribery, corruption or perjury
  - Judge James Boasberg
    - Confirmed by Senate 96-0 in 2011
    - Ruled against Trump's deportation of alleged gang members without a hearing
    - Trump called for his impeachment; Articles introduced in March – 22 cosponsors;
    - Rebuke from Chief Justice John Roberts: "Impeachment is not an appropriate response to disagreement concerning a judicial opinion."
- Threats to defund unfriendly courts. Speaker Johnson - threats to defund courts that disagree with Trump's agenda
- Threats of violence against federal judges who rule against Trump administration
  - Per Federal Marshals: 10/1/24 – 2/28/2025: 80 individual judges threatened. 3/1/2025 – 4/15/25: additional 162.
  - Marshals protect judges, but report to US Attorney General; currently President can pull judges' security
  - See Brennan Center for Justice – September 2026 report (hate mail and calls to judges/famili8es, home floor plans posted online; "pizza doxing" (including in name of Daniel Anderl, late son of U.S. Dist. Ct. Judge Esther Salas, who was murdered at family's NJ home in 2020).

DEI

- Project 2025 – DEI Initiatives – categories:
  - Abolishing DEI offices and personnel
  - Personnel Ending government's participation in DEI initiatives
  - Amending laws to align with conservative vision of nondiscrimination
  - Enforcement action against organizations that engage in DEI
- Executive Orders – 2nd Term – immediate implementation / priority items
    - "Ending Radical And Wasteful Government DEI Programs And Preferencing" (Jan. 20, 2025 – 1st day in office)
    - "Ending Illegal Discrimination and Restoring Merit-Based Opportunity" (Jan. 21, 2025 – 2nd day in office) ("institutions of higher education have adopted and actively use dangerous, demeaning, and immoral race- and sex-based preferences under the guise of so-called 'diversity, equity, and inclusion' (DEI) or 'diversity, equity, inclusion, and accessibility' (DEIA) that can violate the civil-rights laws of this Nation.")
- Law Firms – pressure from government
  - US EEOC and Dept of Justice – March 2025: investigation of DEI practices of 20 top law firms
  - Various large law firms (DLA Piper, Skadden Arps, Reed Smith) have capitulated to varying extents
- Supreme Court provisionally let administration cut $783 million of research funding in anti-DEI push. National Institutes of Health v. American Public Health Association, 606 U.S. ___, 145 S.Ct. 2658 (2025)
  - Via SCOTUS' "shadow docket" – expedited emergency process. Critics: process lacks transparency; sweeping decisions with little to now explanation
  - Dissent (Justice Ketanji Brown Jackson): "This is Calvinball jurisprudence with a twist… "Calvinball has only one rule: There are no fixed rules. We seem to have two: that one, and this Administration always wins."



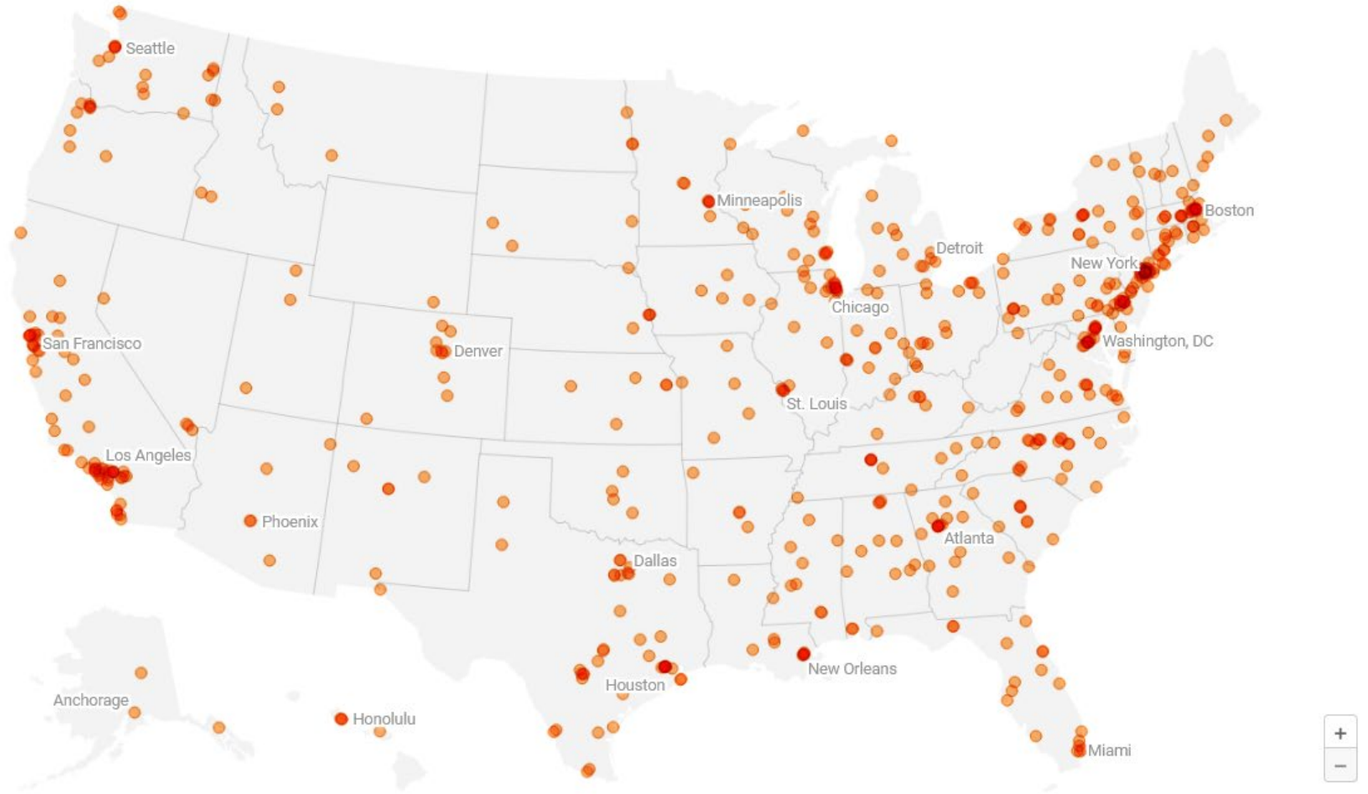
COLLEGES / UNIVERSITIES



- Increased Endowment Tax (see OBBBA – Exempt Organizations)
- Department of Education – proposed closing, moving $1.7 student loan program to SBA
- Terminating/Freezing Grants
  - "Ending Illegal Discrimination and Restoring Merit-Based Opportunity" Executive Order (Jan. 21, 2025 – 2nd day in office) ("institutions of higher education have adopted and actively use dangerous, demeaning, and immoral race- and sex-based preferences under the guise of so-called 'diversity, equity, and inclusion' (DEI) or 'diversity, equity, inclusion, and accessibility' (DEIA) that can violate the civil-rights laws of this Nation.")
  - Terminating > 4,000 grants to > 600 universities/colleges in every state of $6.8 - $8.2 billion (DOGE claims $3.3 - $3.7 billion unspent as savings); even more frozen
- Harvard vs. HHS
  - Research funds
    - Administration froze $2.2 billion of research funds, claiming Harvard wasn't doing enough to stop antisemitism on campus
    - District Court ruling – freeze violated Harvard's First Amendment and Due Process rights. Harvard College v. United States HHS, Civ. No. 25-cv-11048-ADB (Sept. 3, 2025)
  - International students
    - Dept of Homeland Security – rescinded Harvard's right to participate in the Student and Exchange Visitor Program, barring @ 7,000 international students and recent graduates. Alleged failure to comply with HHS information requests
    - Harvard sued; Administration countered by invoking Foreign Enemies Act (never previously invoked against domestic entity)
  - Current status: oral arguments heard by First Circuit Court of Appeals in October 2026; awaiting decision

DEFUNDING UNIVERSITIES

Federal grant funding to universities and colleges that the Trump administration has targeted for termination



Hover or click for details and use + / - to zoom in / out.

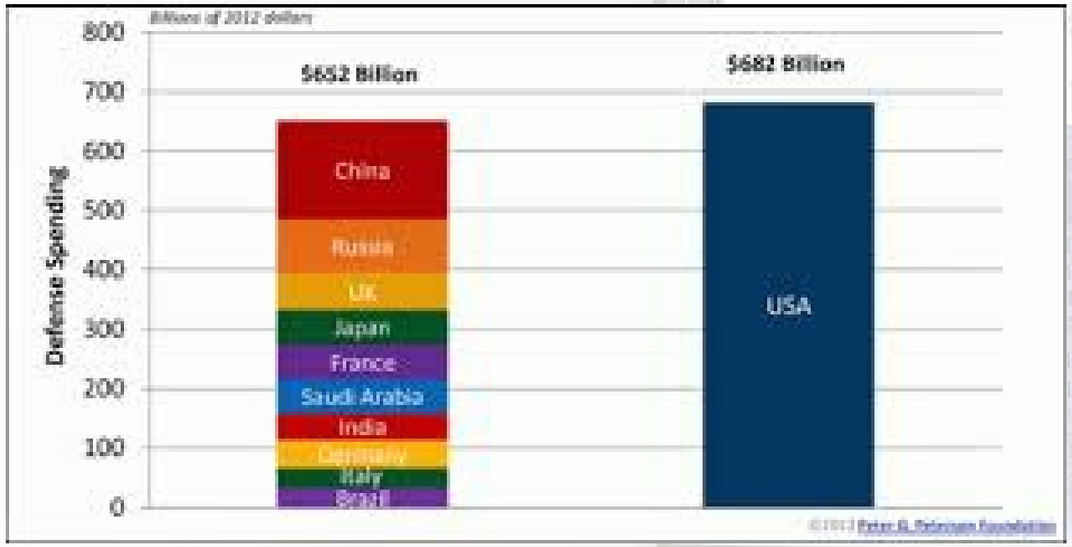
** "Treasury" data are data from the U.S. Department of the Treasury's Bureau of Fiscal Service's USAspending site.*
*** "DOGE/HHS" data are data from the Department of Government Efficiency's (DOGE) "Savings" page and the U.S. Department of Health and Human Services' (HHS) Tracking Accountability in Government Grants System (TAGGS) "Grants Terminated" report.*

Information on overall grant values and grants terminated is either sourced directly from the Department of Government Efficiency "Wall of Receipts" page, the U.S. Department of Health and Human Services' TAGGS "Terminated Grants" report, or the U.S. Department of Treasury, Bureau of Fiscal Service's USAspending award profiles.

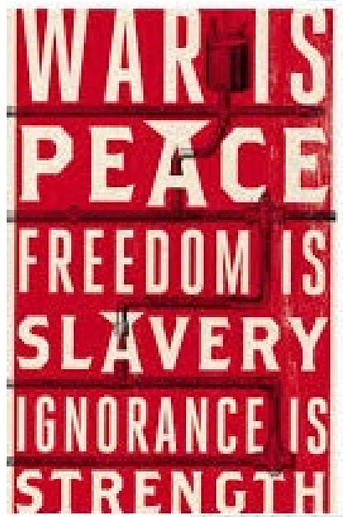
Source: Department of Government Efficiency, "Wall of Receipts" (last accessed July 2025); U.S. Department of Health and Human Services Tracking Accountability in Government Grants System, "Grants Terminated" (last accessed July 2025); U.S. Department of the Treasury, Bureau of Fiscal Service, USAspending, "Home" (last accessed July 2025).

INTERNATIONAL RELATIONS

- **Ukraine**
  - Trump and Zelensky; Trump and Putin
  - Would/can Putin (or Zelensky) ever accept a compromise?
  - Europe, others supporting Ukraine; Trump supporting Putin
- **Iran**
  - Protests
  - Trump threats if protestors are killed
  - Israel – allegations by military before recent elections
- **Venezuela**
  - Physical extradition leader (Maduro)
  - Avoiding a power vacuum
  - War Powers Act
  - Selected articles (Foreign Policy):
    - The End of the Beginning in Venezuela
    - Venezuela after Maduro
    - The Regime Change Temptation in Venezuela
    - The Peril of Ousting Maduro
- **Brazil** – Bolsornaro given post-election asylum in U.S. vs. court order to stand trial for corruption and money-laundering
- **Greenland -** Stephen Miller: "no one would stop U.S. from seizing Greenland"



NAMING NAMES



- "Who Controls the Words, Controls the World"
- Geography –
- "Restoring Names That Honor American Greatness"
  Exec Order 14172 (1/20/25 – 1st day in office)
    - Gulf of ~~Mexico~~ America
    - Mount ~~Denali~~ McKinley (Pres. McKinley won Spanish-American War; loved tariffs)
    - Exec. Order 14422 (8/27/26): Lake ~~Ontario~~ America
- Department of ~~Defense~~ War – Exec. Order 14347 (9/6/25)
  - History
    - Dept. of War for > 150 years
    - Renamed Dept of Defense in late 1940s
    - Stated purpose - renamed "to communicate to America's adversaries and the rest of the world that America was not about making war but defending the United States, and saying that if that requires war, there are four major armed services."
  - Legality? Under federal law, President cannot change the name unilaterally via Executive Order, but must have approval from Congress

KEY COURT CASES (GENERAL)

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

SELECTED CASES - GENERAL

- **IRS Data Sharing with Immigration Agency (ICE)**. Center for Taxpayer Rights v. IRS, 1:25-cv-00457-CKK (D.DC. Aug. 20, 2025) (motion to block sharing as violation of Code §6103)
- **Political activity/statements by religious organizations** (so-called "Johnson Amendment") - National Religious Broadcasters v. Commissioner, No. 6:24-cv-00311 (E.D. Tex. 2025)
  - See Aprill, "Misunderstanding *National Religious Broadcasters*," Tax Notes (July 25, 2025) and Kindell and Reilly, "Election Year Issues," IRS 1993 EO CPE Text.
- **Tariffs – validity of Executive Orders imposing tariffs**. (see earlier slide under Tariffs)
- Universal (national) injunctions by District Courts limited.
  Trump v. CASA, Inc. 606 U.S. 831 (June 27, 2025) (birthright citizenship case).
- **Rescissions** (see earlier slide under Rescissions)
  - DEI funding termination allowed. Supreme Court upholds termination of $783 million to NIH linked to DEI initiatives.
  - **Pocket rescissions** –
    - District Court barred;
    - Supreme Court (via its "shadow docket") lifted temporary injunctions, temporarily allowing administration's FY 2025 pocket rescissions on foreign aid to proceed
  - President Trump – via September Rescission Package "special message to Congress" proposed cancelling approx. $810 million in previously appropriated FY 2026 budget authority, including:
    - HHS Office of Refugee and Entrant Assistance ($567.4 million)
    - Dept. of Education – Higher Education/International Programs ($69.6 million)
    - HUD Housing Counselling Assistance ($56.1 million)
    - Smaller reductions for FEMA, DOJ and Dept. of Commerce



TAX COURT

SBCA
Small Business Council of America

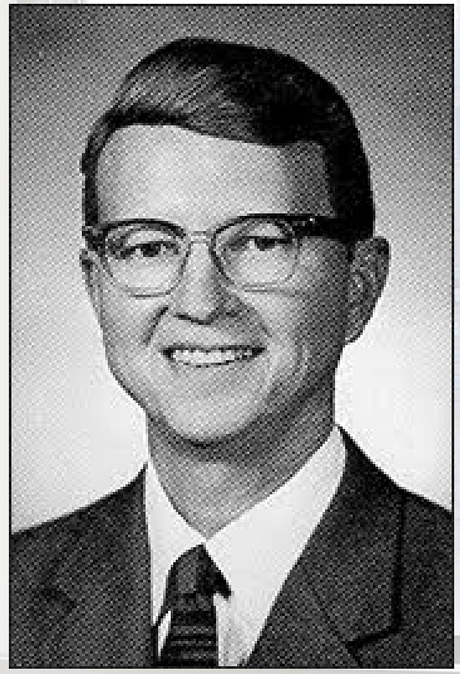
FRANTZ WARD
CELEBRATING 20 YEARS

TAX COURT -- PETITIONS

- Issue: Can Taxpayer file a Tax Court Petition >90 days after Notice of Deficiency?
- Key recent Supreme Court cases:
  - Boechler, P.C. v. Commissioner, 596 U.S. 199 (2022). CDP petition was filed late (by one day). Tax Court dismissed for lack of jurisdiction under Code sec. 6213(a); 8th Cir. Affirmed. Supreme Court unanimously reversed, holding Code §6213(a) is procedural, not jurisdictional.
  - Enbridge Energy, LP v. Nessel, 608 U.S. 67 (April 22, 2026). 30-day removal deadline in §1446(b)(1) is nonjurisdictional, but cannot be equitably tolled. Each deadline has to be reviewed to see whether Congress intended to make it nontollable.
- Circuit Courts thus far all follow Boechler, agree Code sec. 6213(a) is nonjurisdictional; recent split on whether equitable tolling is available
  - Holding equitable tolling is available:
    - Decided after Boechler but before Enbridge Energy:
      - Sixth Circuit – Oquendo v. Commissioner, 148 F. 4th 820 (6th Cir. Aug. 25, 2025)
      - Second Circuit -- Buller v. Commissioner (No. 24-1557, 2nd Cir. Aug 14, 2025)
      - Third Circuit - Culp v. Commissioner, 75 F. 4th 196 (3rd Cir. 2023)
    - Decided after Enbridge Energy:
      - Maniktala v. Commissioner 186 F.4th 548 (8th Cir. Aug. 11, 2026)
      - Government petition filed for rehearing en banc filed Oct. 26, 2026 (nine days after First Circuit decision in Kyick Holdings (below)
  - Holding equitable tolling is not available (creating split in the circuits):
    - First Circuit: Kyick Holdings v. Commissioner, (1st Cir., Aug 17, 2026)
- For good summary, see Cuyler, Circuit Courts Diverge on Equitable Tolling for Deficiency Petition Deadline, Tax Notes Federal (October 26, 2026).
- What now?
  - Expect Tax Court to follow Circuit Court precedent to which appeal lies under the Golsen rule
  - Expect eventual Supreme Court decision resolving split in circuits
  - See also Fogg, "Collection After Late Tax Court Filing," Tax Notes Federal (November 2, 2026).

TAX COURT

ON-LINE ACCESS TO BRIEFS AND MEMORANDA



- Administrative Order No. 2026-02 (October 21, 2026)
  - Motions electronically filed starting Jan. 1, 2027 by practitioners admitted to practice before the Tax Court will be available online via DAWSON (the court's online case management system), along with supporting briefs and memoranda.
  - Included
    - Motions (pleadings)
    - Briefs and memoranda
- Builds on Administrative Order No. 2023-02, which allowed online access to post-trial briefs electronically filed by admitted practitioners (motions were excluded because parties often attach exhibits with information that must be redacted).
- Reminder: Tax Court Rule 27 requires redaction of four categories of information: taxpayer identification numbers, dates of birth, names of minor children, and financial account numbers.

KEY UPCOMING DATES

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

KEY DATES



- December 31, 2025 – expiration date for:
  - Enhanced ACA Subsidies
    - In flux – expired 12/31/25; Congress extended them 1/8/26
    - However full implementation for 2026 remains uncertain
  - Various IRA Energy Efficiency Credits
- January 1, 2026
  - Statutory PAYGO Sequester was scheduled to begin
  - Continuing Appropriations and Extensions Act 2026 – reset the PAYGO scorecard, canceling about $3.4 trillion in recorded deficit increases from previous laws
- January 30, 2026
  - Fiscal Year End (Appropriations, CR or Government Shutdown)
  - Current expiration date for:
    - Authorization of Temporary Assistant for Needy Families (TANF) & Related Programs
    - Medicare, Medicaid, & Other Health Care Extenders
    - National Flood Insurance Program Authorization
- September 30, 2026 – deadline (extended 12/2025) for comprehensive Farm Bill
- **November 3, 2026 – U.S. midterm elections**
- December 31, 2026
  - Medicare Physician Payment Increase Expires
- 2027 (estimated) – Debt Ceiling Reached

-- APPENDIX --
PREVIOUS
RECENT TAX- RELATED
LEGISLATION

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

2025-2026
TAX LEGISLATION

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

KEY LEGISLATION ENACTED IN 2025



- Laken Riley Act (S.5; P.L. 119-1, Jan. 29, 2025)
  - Non-US nationals *charged* or convicted of certain crimes (e.g., stalking, sex offenses, or domestic violence) can be deported or denied entry

- Full-Year Continuing Appropriations and Extensions Act of 2025 (P.L. 1968, March 10, 2025)
  - Funds government through September 30, 2025

- One Big Beautiful Bill Act of 2025 (P.L. 119-21, July 4, 2025)
  - (next section)

- Rescissions Act of 2025 (P.L. 119-28, July 24, 2025)
  - (section after OBBBA)

TAX-RELATED LEGISLATION (2026)

- Consolidated Appropriations Act of 2026 (P.L. 119-75, Feb. 3, 2026)
  - Code §9826 – mandates pharmacy benefit managers (PBMs) to provide transparency reports on drug spending, rebates, and spread pricing for plan years starting 30 months after the date of enactment
  - Code § 9831(a)(2) – amended to narrow the small employer exemption to ensure PBM transparency requirements apply to all group health plans regardless of size
  - Code § 4980D(g) – modifications imposing excise tax penalties of $100 per day per affected individual on plan sponsors failing to ensure PBM compliance with the new reporting and disclosure obligations.

- 21st Century ROAD to Housing Act of 2026 (P.L. 119-101, July 11, 2026)
  - Authorizes certain HOME Investment Partnerships Program funding for infrastructure improvements related to housing assisted under Code § 42 (Low-Income Housing Tax Credit)
  - References qualified opportunity zones designated under IRC § 1400Z-1 in connection with certain competitive housing grants

- Federal Disaster Tax Relief Certainty Act of 2026 (P.L. 119-108 Sept. 11, 2026)
  - Extends special federal income tax treatment for qualified disaster-related casualty losses
  - Allows individuals to deduct qualified net disaster losses without itemizing and without the 10% AGI limitation, effective for taxable years beginning after Dec. 31, 2024
  - Excludes certain qualified wildfire relief payments from gross income, effective for payments received in taxable years beginning after Dec. 31, 2025

- Lindsey O. Graham Sanctioning Russia and Iran Act of 2026 (P.L. 119-111, Sept. 18, 2026)
  - Imposes a variety of sanctions, tariffs, and prohibitions related to Russia, including tariffs of up to 100% on goods imported to US from five largest importers of Russian crude oil or gas (e.g., China, India) and any other country knowingly buying oil/gas from Russia.
    - Allows President to waive sanctions by informing Congress he has determined they are not in the national interests
    - See Executive Order 14436 (Oct. 16, 2026) (Trump exempts Russia from sanctions despite statute)
  - Extends an existing Iran-related sanctions law
  - expands a tax deduction for teacher expenses to include early childhood educators providing educational or childcare services for children under age 6



OBBBA 2025

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS


PARTY
LIKE IT'S
2017

INITIAL OBSERVATIONS

- >870 pages long
  - No official name (short title) –stricken by Sen. Parliamentarian
- Distribution analysis
- Scoring
  - Dynamic scoring (the old smoke + mirrors)
    - Revenues from 2017 TCJA – projected vs. actual
  - Baseline scoring (the new smoke + mirrors)
- Deficits/debt and the minority party
- The Dating Game (effective dates)
  - Experienced lobbyists
  - Vanity dates
    - Jan 19/20 (e.g., bonus depreciation)
- If Not Now, then When?
  - Patches, sunsets and trade-offs
  - Prior recurring example – AMT patch (Ds) vs. capital gains rates (Rs)
  - Tidal shift?



IS IT BIG?
IS IT BEAUTIFUL?

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

IT'S…



OBBBA -- ROADMAP

- Estate, Gift and GST Tax
- Individuals
- Charitable Donations
- Exempt Organizations
- Small Business
- Retirement / Savings



OBBBA

ESTATE, GIFT AND GST



- Exemption equivalent
  - 2025 - $13.99 million
  - 2026 - increased to $15 million
  - No sunset (“permanent”)
  - Indexed annually for inflation (after 2026)

  [Code sec. 2010(c)(3); Act sec. 70106]

- ABLE accounts
  - Unlimited annual gift tax exclusion for contributions to ABLE accounts
  - No sunset (permanized)

  Code sec. 529A(b)(2)(B); Act sec. 70115

IT'S THE…



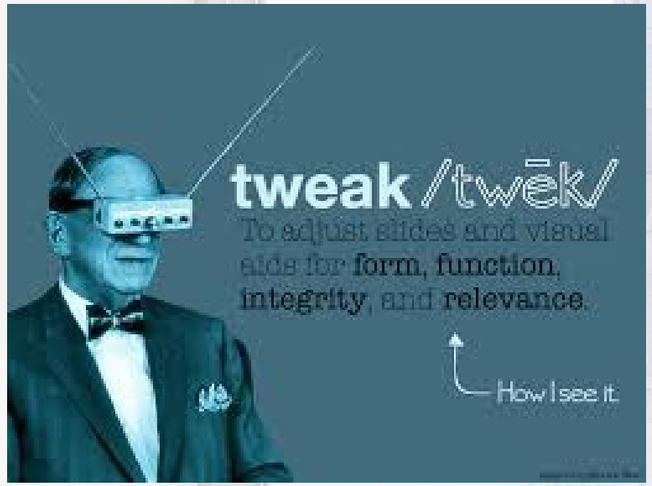
OBBBA – INDIVIDUALS

WERE TO SUNSET / PERMANIZED



- Individual income tax rates
- Miscellaneous itemized deductions – permanently suspended (except unreimbursed educator expenses).
- Savers credit for ABLE Accounts
- Student loans discharged for death or disability – excluded from gross income
- Moving expense deduction limitation; disallowance of employer provided moving expense exclusion
- Mortgage interest deduction limitation ($750,000 of acquisition indebtedness – half for married filing separately)
- Casualty loss deduction
  - Deduction limitation expanded to include state-declared disasters
  - Qualified disaster related personal casualty loss rules – extended (but only through August 2, 2025).
- Wagering (gambling) losses – additional limitation added (only 90% of losses)

OBBBA – INDIVIDUALS
PERMANIZED WITH TWEAKS



- Standard deduction
  - 2017 – doubled standard deduction; was due to sunset 12/31/25
  - Permanized and increased
  - Amounts:
    - $15,750 for individuals (from $12,000) [about 25% more]
    - $23,625 for head of household (from $18,000)
    - Bonus amount – up to $6,000 more for seniors (see next slide)
  - Effective date = **taxable years beginning after Dec. 31, 2024**.
    [Code sec 63(c)(7); Act sec. 70102]
- Alternative minimum tax (AMT)
  - Permanently extended increased AMT exemption amounts
  - Increases phaseout limit to 50% (from 25%); modifies inflation adjustment
  - Estimates: sunset would have impacted > 8 million taxpayers (traditionally viewed as a mostly "Blue State" issue)
    [Code sec 55(d)(4); Act sec. 70107]
- State and Local Tax (SALT) Cap. Limitation increased to $40,000 (2025 and 2026), 101% of previous year's cap (2027-2029); reverts to $10,000 (2030 and beyond)
  - MAGI phaseout begins at $500,000 (2025), $505,000 (2026) and 101% of prior year's threshold (2027-2029 / half for married filing separately); phaseout cannot reduce deduction below $10,000.
  - Effective date – **taxable years beginning after Dec. 31, 2024**.
    [Code sec 164(b); Act sec. 70120]

OBBBA – INDIVIDUALS

ITEMIZED DEDUCTIONS



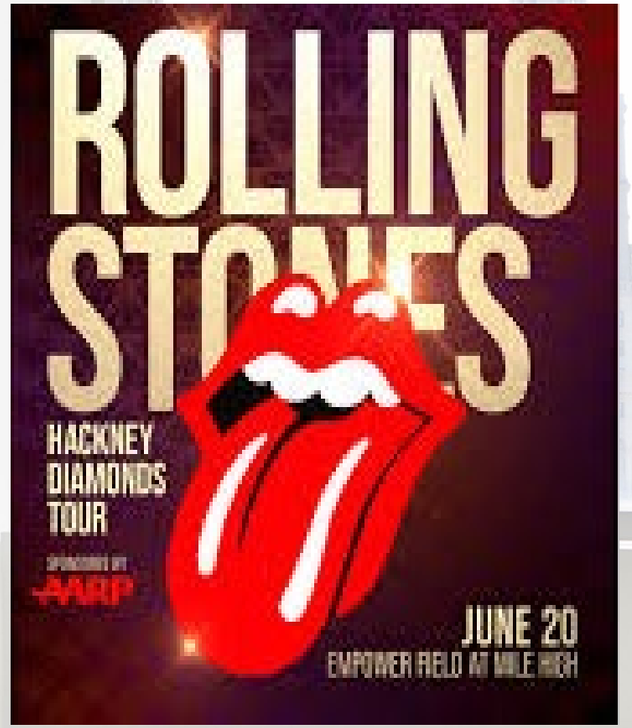
- "Haircut" (aka Pease limitation) – reduce itemized deductions by 2/37 of lesser of:
  - Itemized deduction amount; or
  - Excess of
    - Taxable income; over
    - Section 1(j) threshold for 37% tax bracket.
    - Does not apply to sec. 199A qualified business income deduction.
  - "Rationale" of the nutty 2/37th fraction:
    - 35% = max. benefit from itemized deductions
    - 37% marginal rate taxpayers thus can't get the last 2%, because it exceeds the 25% cap
  - Corporations – haircut is 10%.
  - Effective date = taxable years beginning after Dec. 31, 2025.

- Floor
  - Charitable contribution deduction only for donations > 0.5% of taxpayer's contribution base for the taxable year
    - Carries forward
    - Corporate floor = 1% of AGI
  - Effective date = taxable years beginning after Dec. 31, 2025.
  - Expected impact?
    - 2/3 of charitable donations come from individuals (rest from foundations, bequests, corporations)
    - 2018 (when standard deduction was first doubled) – huge reduction in charitable donation
    - 2025 – net effects hard to predict:
      - 25% larger standard deduction – likely to reduce charitable donations
      - But above-the-line charitable deduction – likely to increase small donations
    - Donors may choose to accelerate contributions to 2025 (to avoid haircut/floor starting in 2026)

OBBBA – INDIVIDUALS

INCREASED DEDUCTION FOR SENIORS

- New deduction for seniors (65 before end of taxable year)
- Purpose
  - In lieu of campaign promise to stop taxing Social Security income (Reconciliation restrictions)
  - See Cummings, Jr., "Social Security Messaging and Demise," Tax Notes Federal (Sept. 1, 2025) (concluding new deduction will negatively affect solvency of SS Trust Fund)
- Amount:
  - $6,000 reduced by
  - AGI over $75,000 ($150,000 joint)
- Other requirements apply
- Effective date: taxable years beginning after Dec. 31, 2024 and before Jan 1, 2029.



[Code secs. 151(d)(5)(C), 6213(g)(2); Act sec. 70103]

OBBBA – INDIVIDUALS

OTHER STUFF

- Tip Income [Code secs. 224 (new), 63(b)(5); Act sec. 70201]
  - Deduction up to $25,000 for qualified tips; phases out at AGI >$300,000 (joint; $150,000 for others).
  - Eligibility
    - Individuals in traditionally and customarily tipped industries.
    - Available to both itemizers and non-itemizers.
  - Effective date: **taxable years beginning after Dec. 31, 2024 and before Jan. 1, 2029**.
- Overtime Pay [Code secs. 225 (new), 63(b)(6); Act sec. 70202]
  - Deduction up to $12,500 for qualified overtime compensation ($25,000 for joint returns); highly compensated employees excluded
  - Available to both itemizers and non-itemizers
  - Effective date: **taxable years beginning after Dec. 31, 2024 and before Jan. 1, 2029**.
- Energy Tax
  - Repealed (from Inflation Reduction Act), but effective dates vary
  - Check on deadlines for claiming clean energy incentives.
- Auto Loan Interest [Code secs. 163(h)(4), 62(a)(22); Act sec. 70203]
  - Deduction for interest on purchase of applicable passenger vehicles (exception to “personal interest” limitation.
  - Effective date: for indebtedness incurred after Dec. 31, 2024, for taxable years beginning after Dec. 31, 2024 and before Jan. 1, 2029.



OBBBJ



OBBBA

CHARITABLE CONTRIBUTIONS



- "Above-the-line" deduction for non-itemizers
  - Permanized (was due to sunset)
  - Increased to $1,000 ($2,000 for joint returns) [from $300/$600]
  - Cash contributions only; no deferred giving vehicles (e.g., DAFs)
  - Effective date – for tax years beginning after 12/31/2025.

- Charitable contributions
  - Haircut (2/37^{ths} rule / Pease limitation)
  - Floor (only >1/2% for individuals; >1% for corporations)
  - Details: see prior slide – Individuals / Itemized Deductions

- Scholarship granting organizations (new Code secs. 25F and 139K)
  - Credit up to $1,700 for cash contributions to organizations that grant scholarships for qualified elementary or secondary education expenses.
  - Carryforward of credit up to five years.
  - Income exclusion for qualified elementary and secondary education scholarships from scholarship-granting organizations
  - Effective date: contributions/amounts received after 12/31/2026.

OBBBA

EXEMPT ORGANIZATIONS



- Endowment Tax (Excise Tax on Investment Income of Private Colleges/Universities) [Effective: taxable years beginning after Dec. 31, 2025]
  - Increases tax rate to tiered rate structure ranging from 1.4% to 8% based on size of the student adjusted endowment (previously fixed 1.4%).
  - "Applicable educational institution" = eligible educational institution with at least 3,000 tuition paying full-time equivalent students.
  - "Net Investment Income" (NII) – expanded to also include:
    - Interest income on institutional loans from school to students
    - Federally subsidized royalty income
    - Proceeds from any patent, copyright or other intellectual or intangible property resulting from work of students or faculty members that used federal money to fund their research (regardless of how little or how long ago)
  - House provisions that didn't survive through final bill:
    - Threshold was >500 students
    - Exemptions for schools that
      - Were religious (e.g., Notre Dame);
      - Did not accept Federal financial aid
      - Large # of non-U.S. students
    - **Rate was 21%!!!** (Final – ranges from 1.4% to 8%)
    - Example of difference – Harvard University (estd. endowment = $50.7 billion)
      - Current law (1.4%) = $79.5 million per year
      - OBBBA (4%) = $227.2 million per year
      - House bill (21%) = $1.19 billion per year
    - Yale expects to pay about $280 million in endowment taxes in 2026.
- Exempt Orgs -- other House provisions not included in final bill:
  - Parking tax
  - Treas. Sec. authorized to revoke 501c3 status of organizations deemed to support terrorists (procedurally and otherwise a "slippery slope" – see, e.g., Doctors Without Borders)

OBBBA – SMALL BUSINESS
QBI (199A) AND QSBS (1202)



- Qualified business income (QBI) deduction [Code sec. 199A; Act sec. 70105]
  - Permanized (was due to sunset 12/31/25)
  - Inflation adjusted minimum deduction of $400 for taxpayers with at least $1,000 of income from active qualified trades or businesses (new provision).
  - Effective date: for taxable years beginning after Dec. 31, 2025.

- Qualified Small Business Stock (QSBS) [Code sec. 1202; Act sec. 70431]
  - Changes percentage exclusion from income on qualifying sale of QSBS stock
    - Percentage based on year stock was acquired and holding period.
  - Changes gross asset and per-issuer limitation
    - Limitation depends on stock issuance date(s)

OBBBA – SMALL BUSINESS PARTNERSHIPS

- Payments to partners for property or services.
  [Code sec. 707(a)(2); Act sec. 70602]
  - Allocations/distributions in substance payments for property or services = treated as payments for property or services (disguised sales), not as allocations/distributions from a partnership to a partner.
  - Removes old prerequisite that Regulations must be issued to implement.
  - Effective date: for services performed and property transferred after July 4, 2025.

- Limitation on Excess Business Losses for Noncorporate Taxpayers.
  [Code sec. 461(l); Act sec. 70601]
  - Disallowance of deduction for excess business losses and of carryforward of disallowed amounts as NOL carryforwards in succeeding years – permanized
  - $250,000 figure in aggregate business income calculation – indexed for inflation

** Proctor and Gamble story

OBBBA – SMALL BUSINESS EXPENSING / DEPRECIATION

- Expensing [Code sec. 179(b); Act sec. 70306]
  - Amount increased to $2.5 million (reduced by excess of qualified property cost over $4 million) [previously $1 million reduced by cost if 179 property over $2.5 million]
  - Effective for property placed in service in taxable years beginning after Dec. 31, 2024.
- Depreciation
  - Qualified Production Property [new Code sec. 168(n); Act sec. 70307]
    - Elective 100% bonus depreciation deduction for “qualified production property” placed in service before Jan. 1, 2031; extensive definitions.
    - Effective date: for property placed in service after July 4, 2025, but before Jan. 1, 2031, construction of which begins after Jan. 19, 2025, but before Jan. 1, 2029.
  - Bonus depreciation [Code secs. 168(k), 460(c)(6)(B); Act sec. 70301]
    - Permanently reinstates 100% bonus depreciation
    - Election available 40% or 60% for various qualified property placed in service, and specified plants planted or grafted, during first taxable year ending after Jan. 10, 2025.

OBBBA – SMALL BUSINESS
RESEARCH AND EXPERIMENTAL EXPENDITURES (R&E)



- Research and Experimental Expenditures (R&E) [Code secs. 174(e), 174A; Act sec. 70302]
  - Permanently reinstates immediate expensing of domestic research and experimental expenditures, with an election to amortize certain expenditures.
  - Any amount paid or incurred in connection with the development of any software is treated as an R&D expenditure. N/A to certain expenditures for acquisition or improvement of land or property, or exploration expenditures.
  - Election to deduct in prior years; possibly consider amended returns.

  Effective date: amounts paid or incurred in **taxable years beginning after Dec. 31, 2024.**

OBBBA – SMALL BUSINESS

OTHER



- Residential Construction Contracts [Code sec. 460(e); Act sec. 70430]
  - Percentage of Completion Method of Accounting Exception – expanded and changed.

- New Markets Tax Credit [Code sec. 45D(f); Act sec. 70423]
  - Permanently extended (was due to sunset)
  - 5-year carryover of unused limitation (previously cut off in 2030)

- Qualified Opportunity Zoes (QOZ) [Code secs. 1400Z-1 and -2; Act sec. 70421]
  - Permanized
  - Tons of new rules

- Information reporting threshold [Code secs. 6041, 6041A and 3406(b)(6); Act sec. 70433]
  - Threshold raised to $2,000 of annual payments per year (from $600); indexed for inflation
  - Backup withholding applies
  - Effective date: for payments made after December 31, 2025.

“WE WANT YOUR POLLEN”



OBBBA – SMALL BUSINESS COMPENSATION / EMPLOYEE BENEFITS (1)



- Employer-provided Childcare Credit. [Code sec. 45F; Act sec. 70401]
  - Credit increased to 40% (from 25%) and 50% for eligible small businesses
  - Yearly cap increased to $500,000 (from $150,000) - $600,000 for eligible small businesses; amounts indexed.
  - Permanent $5,250 exclusion for employer-provided student loan payments (indexed after 2026)
  - Effective date: taxable years beginning after Dec. 31, 2025.

- Paid Family Medical Leave (FML) Credit [Code secs. 45S, 280C(a); Act sec. 70304]
  - Permanized (was due to sunset)
  - Employer can elect credit of either:
    - Percentage of wages paid to qualifying employees on FML; or
    - Percentage of premiums paid/incurred for FML insurance.
  - Effective date: taxable years beginning after Dec. 31, 2025.

OBBBA – SMALL BUSINESS

COMPENSATION / EMPLOYEE BENEFITS (2)

- Dependent Care Assistance Programs
  [Code sec. 129(a)(2)(A); Act sec. 70404]
  - Increased to $7,500 (from $5,000) - $3,750 for married filing separately
  - For expenses paid or incurred by employer under qualified program
  - Effective date: taxable years beginning after Dec. 31, 2025.
- Employer payments of student loans
  [Code sec. 127(c)(1)(B), (d); Act sec. 70412]
  - Permanent $5,250 exclusion for employer provided student loan payments (indexed after 2026)
  - Effective date: for payments made after Dec. 31, 2025.
- $1 million compensation limit
  [Code sec. 162(m)(7); Act sec. 70603]
  - Applies aggregation for publicly held corporation that is a member of a controlled group.
  - Effective date: taxable years beginning after Dec. 31, 2025.
- Health Savings Accounts (HSAs) – various changes

OBBBA – RETIREMENT / SAVINGS

- Trump Accounts [new Code secs. 530A, 139J, 6434 and 6659 (c)(7); Act sec. 704204]
  - Tax-exempt "Trump accounts" for qualifying children
  - Treated like individual retirement accounts (IRAs).
  - Annual contributions are limited to $5,000, indexed annually for inflation, with exceptions for certain exempt contributions.
  - Excludes employer contributions to Trump accounts from employee gross income.
  - Qualified contributions are excluded from beneficiary's gross income.
  - "Extra credit" -- for accounts established or U.S. citizens born Jan 1, 2026 – Dec. 31, 2028 after Dec. 31, 2024, government adds initial contribution of $1,000.
  - Penalties for improper credit claim -- negligently claimed = $500; fraudulently claimed = $1,000
  - First date to establish Trump Account = July 1, 2025
  - Extraordinary donations pledged by philanthropists
    - Michael and Susan Dell - $6.26 billion pledge ($250 in 25 million accounts)
    - Ray and Barbara Dalio – ($250 in 300,000 accounts in Connecticut)
    - Some companies will match contributions to Trump accounts for employees (BNY, BlackRock)
  - See: Morningstar, "10 Things to Know About the Trump Savings Account" and "Bessent: 'Trump Accounts Pathway to Privatizing Social Security'" ("In a way, it is a backdoor for privatizing Social Security… If all of a sudden these accounts grow and you have in the hundreds of thousands of dollars for your retirement, then that's a game changer.")
- Educational savings (529 accounts) [Code sec. 529(c)(7); Act secs. 70413, 70117]
  - Disbursements allowed for elementary, secondary, and homeschooling expenses
  - Increases annual aggregate per-beneficiary distribution limit to $20,000 (from $10,000).
  - Effective for **distributions made after July 4, 2025**.
- Rollover from 529 plan to ABLE account – permanized.

GIVE ME A B – GIVE ME ANOTHER B!

GIVE ME ANOTHER B!!!

WHAT'S THAT SPELL?



RESCISSIONS ACT OF 2025

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

RESCISSIONS ACT OF 2025 (HR 4; P.L. 119-28)



- "Impoundment" = Executive Branch delaying or withholding enacted funding
  - Congress holds the "power of the purse" – approves budget and appropriates funds
  - Executive branch is responsible for administering the funds
  - Congressional Budget and Impoundment Control Act of 1974 ("ICA") controls what/when/how the Executive Branch can impound appropriated funds.

- "Rescission" = canceling funds previously appropriated
  - President can propose rescissions under ICA, but Congressional approval is required

- Rescissions Act of 2025 (HR 4; P.L. 119-28)
  - First time Congress has ever fully deployed the ICA's procedures to rescind appropriated funds
    - Precedent for future (e.g., next time Ds control Congress and White House)?
  - Cancelled nearly $9 billion of previously approved funding for
    - State Department
    - US Agency for International Development (USAID)
    - Other independent agencies/organizations (including the Corporation for Public Broadcasting)
  - Congress approved entire request except refused to cut $400 million of funding for Pepfar (AIDS / HIV program)

- See: Supreme Court upholds termination of $783 million to NIH linked to DEI initiatives

SELECTED
TAX LEGISLATION
PRE- 2025

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

IRS APPROPRIATIONS (2022-2023)

- Inflation Reduction Act of 2022 (HR 5376) – Supplemental (bonus) Appropriation for IRS
  - $78.9 billion for FY 2022 to FY 2033
  - $1.4 billion rescinded in Fiscal Responsibility Act of 2023 (PL 118-5)
  - $20.2 billion more rescinded in Consolidated Appropriations Act of 2024 (P.L. 118-47)
  - $58 billion = approximate balance remaining after chip-aways
    - Or approximately $6 billion extra per year for remaining bonus period (FY 2024-2033)
    - Chip-aways resulted in @ 31.5% reduction from original IRA 2022 appropriation
- Regular Appropriations for IRS
  - $12.32 billion (for both FY 2023 and FY 2024)
  - Bonus (IRA 2022) appropriation adds about 50% more per year
- IRS spending request for FY 2025: $12.3 billion annual + $104 billion over 10 years

FISCAL RESPONSIBILITY ACT OF 2023 (P.L. 118-5) – JUNE 3, 2023

- Debt limit increased through January 2025 (i.e., after 2024 election)
- What Rs got
  - Caps discretionary spending for FYE24 and FYE25
  - Rescinds appropriated but unused COVID-19 funds
  - Reduces IRS funding by $1.4 billion (from the $80 billion provided in Inflation Reduction Act of 2022)
  - Imposes PAYGO on regulations; waivable by OMB
  - Ends 2020 student loans payment moratorium effective 9/1/23
  - Broadens work requirements for adult SNAP recipients with no dependents
  - Easier federal permits for energy projects (especially Mountain Valley Pipeline)
- Major political fight prior to passage
  - Far-right Rs (Freedom Caucus) were furious; wanted to hold out for larger spending cuts
  - House Speaker Kevin McCarthy (R-Ca) feared consequences of defaulting on Government obligations; compromised with House Ds, violating one of the deals struck when becoming Speaker
  - This led to his ouster, a period of chaos, and eventual election of (at least for now) Mike Johnson (R-La.)



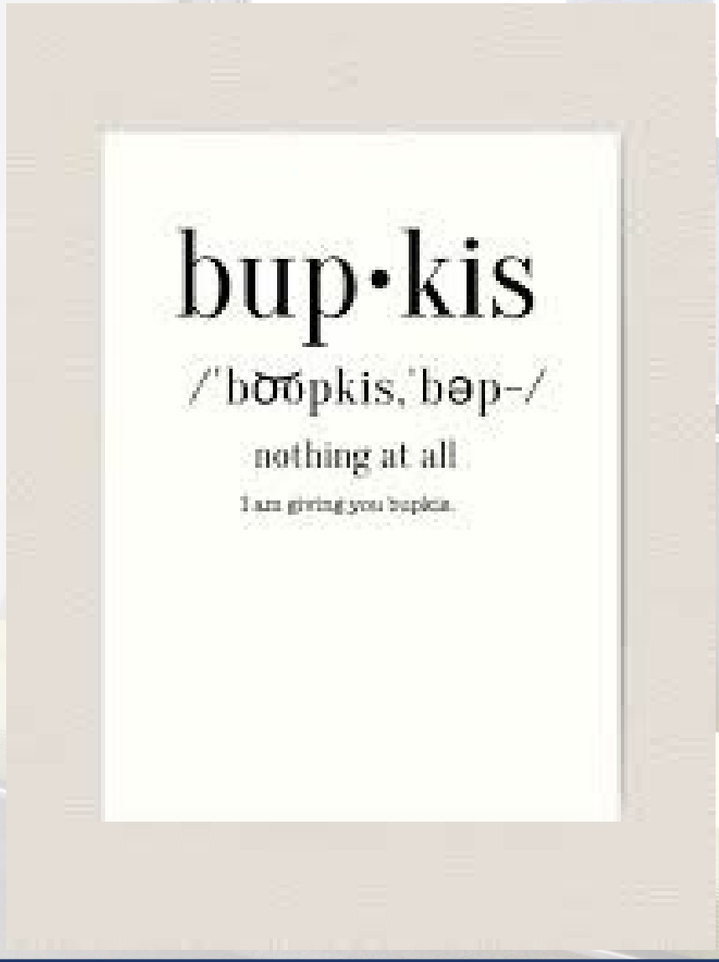
ELECTORAL COUNT REFORM AND PRESIDENTIAL TRANSITION IMPROVEMENT ACT OF 2022 (P.L. 117-328, DECEMBER 29 2022)

- Revises Electoral Count Act of 1887
  - Changes voting, certification, counting and transition in Presidential elections
  - Goal = prevent chaos like when Donald Trump refused to concede the 2020 presidential election, then sought to have VP Mike Pence block the formal certification of the election results
- New State procedures –
  - Governor (or mayor for DC) generally issues a "Certificate of Ascertainment"
  - Exceptions for court judgment or superseding state law or constitution
- Review of any claims by candidates
  - Expedited review guaranteed in US District Court
  - Final order required before electors meet
- New rules on Congressional proceedings
  - VP's role is "solely ministerial" with no power to "determine, accept reject or otherwise adjudicate or resolve disputes…"
  - Any objections by members of Congress require written sign-on by at least one-fifth of House members and one-fifth of Senators (previously needed only one from each)
- Transition funds made available to more than one candidate if failure to concede within 5 days.



CONSOLIDATED APPROPRIATIONS ACT, 2023 (P.L. 117-328) – DECEMBER 19, 2022 OVERVIEW

- Ukraine support
  - See "The budget deal reflects Senate Republican fears of the new GOP House"
- Health care (The Health Extenders, Improving Access to Medicare, Medicaid, and CHIP, and Strengthening Public Health Act of 2022)
  - See "The December Omnibus Bill's Little Secret: It Was Also a Giant Health Bill"
- Electoral reform (Electoral Count Reform Act of 2022)
- Tax provisions?
  - SECURE 2.0
  - Plus bupkis!!!
  - And since then…



CONSOLIDATED APPROPRIATIONS ACT, 2023 (CONT.)

SECURE 2.0

- Delay of RMDs
  - Prior law - beginning at age 72.
  - Increased to age 73 (2023) then age 75 (2033).
- No RMDs for Employer-Sponsored Roth Plans (starting 2024)
- Rollover unused 529 (College Savings Plans) funds to Roth IRA; tight limitations apply (amounts and otherwise). (Starting 2024)
- Catch-Up Contributions
  - To Retirement Plans - . Starting in 2025, specific to those aged 60-63, (1) all catch-up contributions will be treated as Roth contributions, and (2) the catch-up limits will be increased to the greater of $10,000 for 150% of the “normal” catch-up limit, inflation adjusted
  - to IRAs – indexed for inflation starting 2024
- Employer Matching Available for Student Loan Payments (starting 2024)
- Roth Employer Match Allowed with Plan Amendment (starting 2023)
- Penalty Tax For Failed RMDs - reduced from 50% to 25%, or 10% so long as the tax is reported early enough. (starting 2023)
- Terminal Illness Exception for Early Withdrawal Penalty - terminally ill person (certified as expected to live less than 7 years) may withdraw retirement assets without a penalty tax (starting 2023)
- RMD – Increased Allowability of Life Annuities (starting 2023)
- Saver’s Matching by the Government - certain lower income taxpayers will be eligible for up to a 50% government match of contributions to retirement accounts, capped at $2,000 (starting 2027)
- Technical Corrections and massive follow-on guidance needed

INFLATION REDUCTION ACT OF 2022 OVERVIEW

- History
  - Infrastructure bill and BBB to bbb to micro-bbb
  - How did Ds manage to pass this?
  - Manchin; Rs divided – focusing on policy vs Trump
- Tax
  - Corporate
    - Corporate AMT
    - Excise tax on repurchase of corporate stock
  - Funding IRS
  - SALT and excess business loans for noncorporate taxpayers (minor effective date changes)



INFLATION REDUCTION ACT OF 2022

IRS FUNDING



- Total funding increases – about $80 billion over 10 years (through September 30, 2031)
  - Enforcement: $45,637,400,000
  - Operations support: $25,326,400,000
  - Business systems modernization: $4,750,700,000
  - Taxpayer services: $3,181,500,000
  - Treasury Inspector General for Tax Administration (TIGTA): $403,000,000
  - Office of Tax Policy (Treasury): $104,533,803
  - US Tax Court: $153,000,000
  - Treasury Department for oversight functions: $50,000,000
- Treasury Secretary Yellen memo – gives IRS Commissioner Rettig 6 months to deliver an operational plan with how spending will be spent and metrics by which to judge progress.
  https://www.axios.com/2022/08/17/yellen-irs-plan-fund
- Inflammatory anti-IRS rhetoric since passage
  - IRS "stockpile of ammunition
  - Is IRS strike force poised "to shoot some small business person in Iowa?"
- Senate Finance hearing – February 15th – confirmation of Daniel Werfel as IRS Commissioner
- House Ways & Means Chair – Jason Smith (R-Mo.) – top priority is oversight of "IRS' plan for the Ds $80 billion windfall"

INFLATION REDUCTION ACT OF 2022
IRS FUNDING

IRS Appropriations (billions)	FYE2021		FYEs 2022-2031 (bonus funding)	
	Total	%	HWM Nov 3 [10 yrs]	Percent Added Per Year
Taxpayer services	2.556	21%	3.1815	12%
Enforcement	5.213	44%	45.7507	88%
Operations	3.928	33%	25.3264	64%
Modernize systems (IT)	0.223	2%	4.757	213%
Total	11.92		79.0156	66%

IRS FUNDING -- GOING FORWARD?

- Appropriations Committees
  - House (Rs) advanced 18% cut in annual funding (June 2024)
  - Senate (unanimous) sought flat 12.8 billion funding (August 2024) but Rs to push later for cuts
  - Similar to 2024 Omnibus: House sought 9% cut; Senate kept IRS funding flat; Senate prevailed
  - IRS funding should be resolved (at least initially) in 2025 Omnibus Appropriations Bill either at/around year-end or in early 2025
- But wait! IRS funding could still be cut back after Appropriations in subsequent tax legislation
  - Lame duck (tax extenders)
  - 2025 tax legislation (TCJA, etc.)
    - If Rs sweep House/Senate/White House, they would have greater latitude to cut IRS funding back via Reconciliation
- And there's more!!! If he wins, Trump may refuse to give IRS funds despite Congress' appropriations
  - Impoundment Act -- Background:
    - The Congressional Budget and Impoundment Act of 1974 – bars presidents from withholding funds appropriated by Congress
    - Played key role in Trump's impeachment trial and GAO report (Trump withheld $400 million in military aid to Ukraine unless/until Zelenskyy investigated Biden family's activities)
  - If Trump wins, he says he will challenge the Impoundment Act as unconstitutional
    - IRS funding is a likely candidate for what to withhold
    - Also decries funding for "Green New Deal" and will "rescind all unspent funds under the misnamed Inflation Reduction Act."
    - See "Trump's Impoundment Claim Could Hinge on IRS Funding," 2024 Tax Notes Federal 169-3 (Sept. 3, 2024); statements at Economic Club of New York (Sept. 5, 2024



CHIPS ACT OF 2022

- $52.7 billion for chip manufacturing and research
  - $39 billion over 5 years to expand domestic semiconductor manufacturing – incentives (including 25% tax credit) to build, expand and modernize US facilities and equipment
    - Intel - $20B plant planned in New Albany (near Columbus) – orig. estd. 3k workers + 7k construction;
      Completion date for the first fab currently projected around 2030–2031, with both initial manufacturing facilities by 2032.
    - Companies receiving incentives will be restricted from expanding chip manufacturing in China for 10 years
  - $11 billion over five years to Department of Commerce to spur R&D in advanced semiconductor manufacturing, invest in new technologies, and expand workforce training
  - $1.5 billion for “Public Wireless Supply Chain Innovation Fund” to help telecom companies compete with Chinese telecom giant Huawei
- $170 billion for scientific research, innovation and space exploration
  - More than doubles federal government’s prior baseline funding
  - National Science Foundation – for AI, quantum computing, advanced manufacturing, 6G communications, energy and material science
  - Strengthen and protect supply chain, manufacturing, communications, computer and pharma
  - Increase STEM education



INFRASTRUCTURE INVESTMENT AND JOBS ACT (H.R. 3684)

SHRINKAGE

COMPARISON WITH BIDEN PROPOSAL (AMERICAN JOBS PLAN)

Total cost reduced to approx. $1 Trillion (from $2.65 Trillion)

Totally excluded ->

	Biden Proposal	Bipartisan Infrastructure
Housing/schools/buildings	$326B	0
Long-term care	$400B	0
Tax Credits (including clean energy)	$424B	0
R&D / manufacturing	$566B	0

Major reductions ->

	Biden Proposal	Bipartisan Infrastructure
Electric vehicles	$157B	$15B
Water infrastructure	$111B	$55B
Public Transit	$77B	$39B
Reconnecting Communities	$24B	$1B

INFRASTRUCTURE BILL (H.R. 3684)
CRYPTOCURRENCY REPORTING

- Mandatory yearly tax 1099-B reporting of all “digital transactions”
  - By all “digital currency brokers” (starting January 2023)
    - Digital currency broker = any person who (for consideration) regularly provides any service effectuating transfers of digital assets on behalf of another person.
    - Keep Innovation in America Act (HR 6006) introduced Nov. 18, 2021 to clarify definition
  - Digital assets – treated as “specified securities”
    - Means brokers have to track and report customer ID, cost basis and gain/loss
    - Definition – any “digital representation of value” recorded on a blockchain or similar technology
      - Cryptocurrencies
      - Non-fungible tokens (NFTs)?
- Digital assets = cash for purposes of structured transaction rules (Code §6050I) – Form 8300 required on receipt of >$10,000 (cash, now including digital assets) in one or multiple transactions).
- JCT revenue estimate - $28 billion over 10 years

UNALLOCATED SPENDING (INFRASTRUCTURE, PANDEMIC, CHIPS AND IRA)

- $1.6 trillion = authorized for climate, infrastructure and energy ($1.1 for direct spending – grants, loans and contracts)
  - $300 billion = formally awarded by agencies (less than 17%)
  - Only $125 - $185 billion actually spent
  - Including “announcements” of large awards = $543 billion (about 50% of direct spending allowed)
- Practical consequences
  - “Saving gunpowder” – look for increase in announcements as election draws nearer
  - Time pressure for Biden to formally award, especially on areas Trump disfavors (e.g., clean energy)

2020-2021
LEGISLATION

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

AMERICAN RESCUE PLAN ACT OF 2021

2021 COVID STIMULUS - H.R. 1319, P.L. 117-2, (MARCH 22, 2021)



- $1.9 Trillion of additional spending/relief
- Stimulus payments = $1,400/per
- PPP loans and related
  - Additional funding
  - Eligibility expanded to include nonprofits with 15% or < lobbying activities
  - COBRA premium assistance added as countable PPP payroll expense
  - New Restaurant Revitalization Fund – grands to eligible restaurants
- Taxes
  - Tax cuts for low/middle income taxpayers (short-term / 2021)
  - Extension of Excess Business Loss Limitation
  - Expand limitation on excess employee remuneration
- Unemployment insurance
  - Extension
  - Tax relief
  - Modernization = $2B (modernize system, prevent fraud, ensure fair access)
- State and Local Government assistance
- Other: Child Care agencies; agricultural, nutritional, water/utility, public health, healthcare testing, mental health, housing, public transportation, disaster relief

THE BIG BURRITO ACT OF 2021**

(** CONSOLIDATED APPROPRIATIONS ACT OF 2021 (H.R. 133))



- $2.3 Trillion spending
  - $900 billion – COVID-19 stimulus relief
  - $1.4 trillion – "omnibus" spending
  - Total exceeds $2.2 Trillion CARES Act (March 2020)
  - "We have a record!"
    5,593 pages = longest bill ever passed by Congress
- Funds the government through FYE 9/30/2021
  - Since extended to Dec. 3rd
  - Becomes key 2021 deadline for action (or at least future continuing resolution (C.R.))
- Cherry picking non-COVID provisions from the >5,500 pages
  - Military appropriations (National Defense Authorization Act) included "Corporate Transparency Act" (see next slide)
  - Tax deductions restored for corporate meal expenses (trade-off for expanding tax credits for working poor/low-income)
  - Debt forgiveness ($1.3 billion) from federal loans to 44 historically Black colleges/universities
  - Postponed grants to state/local governments (too divisive to include)

AND THE BIG FINISH…

SBCA
Small Business Council of America

FRANTZ WARD
CELEBRATING 20 YEARS

CONTACT



Matt Kadish

mkadish@frantzward.com

(216) 515 – 1078

We need you –
come join and help!

www.sbca.net

SBCA
Small Business Council of America