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What a Change in Congressional Majorities Means for Tax and Estate Planning

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When the 120th Congress convenes on January 3, 2027, Democrats will control both the House and the Senate, while President Trump retains the veto through January 2029. The One Big Beautiful Bill Act (OBBBA) remains the law, and nothing in it changes because of Tuesday's election. What changes, at least until January 2029, is who sets the agenda, who runs the House Ways and Means Committee and the Senate Finance Committee, and who exercises congressional oversight over Treasury and the IRS.

The Procedural Toolkit

Agenda control. Revenue bills must originate in the House. With the gavels at both houses of Congress, Democrats decide which bills receive hearings, markups, and floor time.
Budget reconciliation. Reconciliation is the main path around the Senate filibuster for tax legislation. The resulting bill can pass the Senate with 51 votes.

The Byrd Rule. Reconciliation has limits. The Byrd Rule confines the bill to provisions with a direct budgetary effect and generally prevents provisions that increase deficits beyond the budget window.

The filibuster. Outside reconciliation, most Senate bills still need 60 votes. With roughly 54-56 Democratic seats projected, any standalone tax bill needs Republican support.

Oversight. Committees can hold hearings, issue subpoenas, and request tax return information. They will also shape the IRS through appropriations and, in the case of the Senate, the confirmation of Treasury officials, an IRS Commissioner, and Tax Court judges.

What Those Powers Mean in Practice

Reconciliation removes the filibuster but not the veto. Overriding a veto requires 290 House votes and 67 Senate votes, and Democrats fall short of both. A reconciliation package can force the President to make a decision, but it cannot force enactment. It is not yet certain whether Democrats will pursue reconciliation at all, and political

observers expect a high volume of messaging bills as the open 2028 presidential field takes shape.

What Is Likely to Be Pursued, and What Is Likely to Pass

The Democratic agenda will likely center on affordability (e.g., restoring the enhanced ACA premium tax credits), higher income tax rates on high earners, wealthy taxpayers and large corporations, a larger stock buyback excise tax than the current 1%, and renewed discussion of a wealth tax. On the transfer tax side, prior proposals such as the *For the 99.5 Percent Act* would cut the federal estate and generation skipping transfer tax (GST) exemption to $3.5 million (from its current $15 million for U.S. citizens and domiciled taxpayers), reduce the federal gift tax exemption to $1 million, and raise federal gift, estate, and GST tax rates (currently up to 40%) to 45%-65%, tighten grantor trust rules, and limit basis step-up at death.

Realistic prospects for enactment of broad tax reform before 2029 are dim. Narrow bipartisan deals remain possible, but likely to be attached to must-pass spending bills and would not involve any major tax reform.

Takeaways for U.S. and International High-Net-Worth Clients

Plan under current law and before 2029. The $15 million estate and gift exemption for U.S. taxpayers has no sunset, but "permanent" means no built-in expiration, not immunity. A future unified government could lower it through reconciliation. High net worth clients who have not yet done planning with their lifetime gift tax exemption should consider completing transfers while the rules are known and before selected assets could increase in value.

Watch effective dates. Modestly retroactive tax changes can be upheld. Language drafted in 2027 and 2028 could carry into 2029 legislation with dates reaching back to introduction.

Build in flexibility. Disclaimers, powers of appointment, trust protectors, and decanting authority let current structures adapt to future (i.e., post-2028) law, particularly where grantor trust status or basis planning is central.

Monitor the international agenda. Political commentators list international and partnership tax reform on the Democratic agenda. Multinational and inbound clients should model the cost of any rate or regime changes over a multi-year horizon, while recognizing enactment before 2029 is unlikely.

Bottom Line

The 2026 midterm elections changed the politics of tax policy, not U.S. tax law. For the next two years, taxpayers and their advisors can plan with reasonable confidence under current law. However, planning should start well before a new President and Congress take office and broader tax reform may be enacted in 2029. Our team will

continue to monitor for potential tax legislation. Now is the time to review your tax and estate plans, and our team is ready to help you act to secure the benefits of the current law.



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