Tax Legislative Update
58th TEI Upstate NY

Washington National Tax Services
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Agenda

Issues influencing US tax policy

Federal budget outlook

Outlook for tax legislation

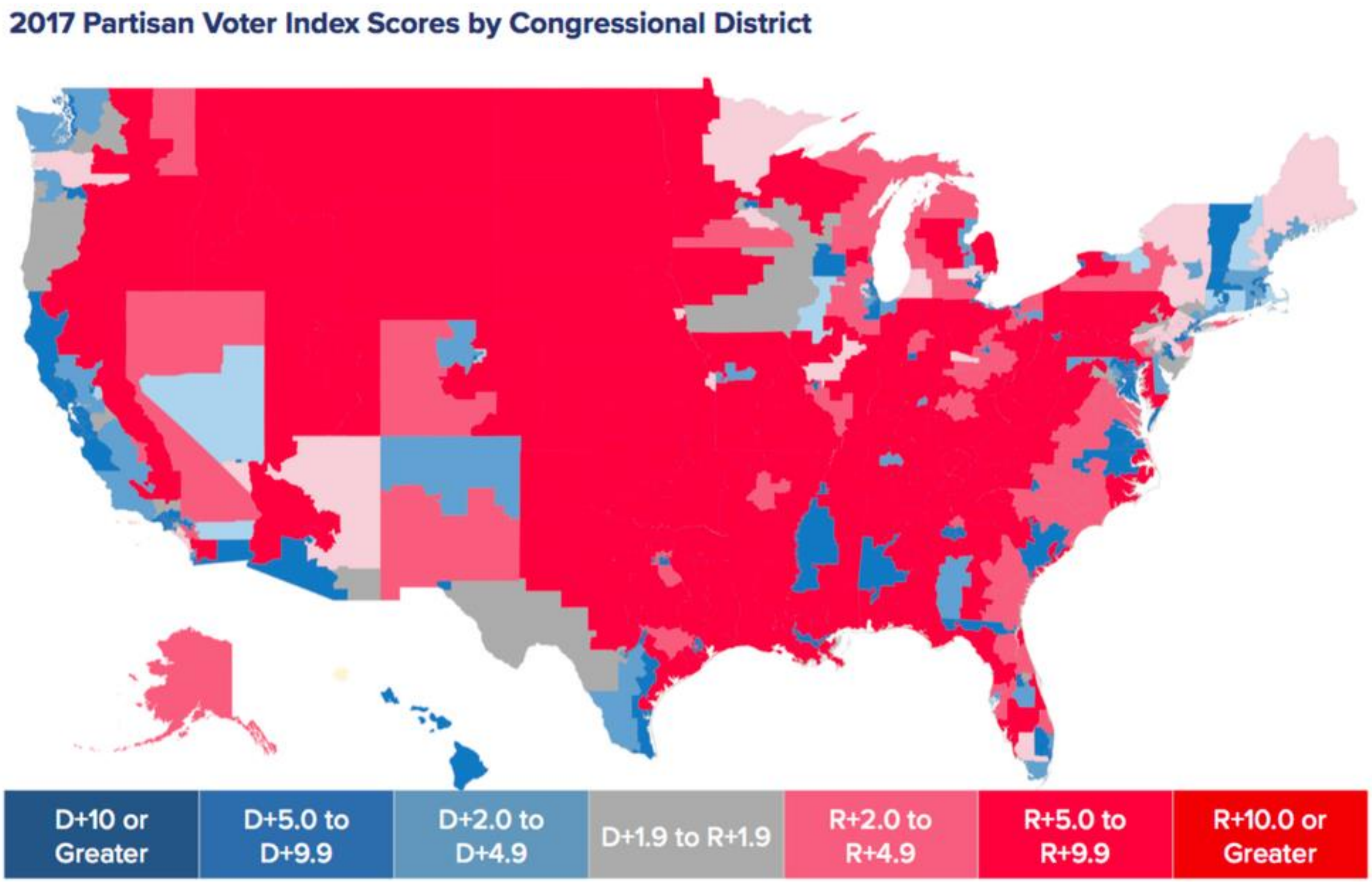
Prospects for tax reform

This document was not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer.

Issues influencing US tax policy

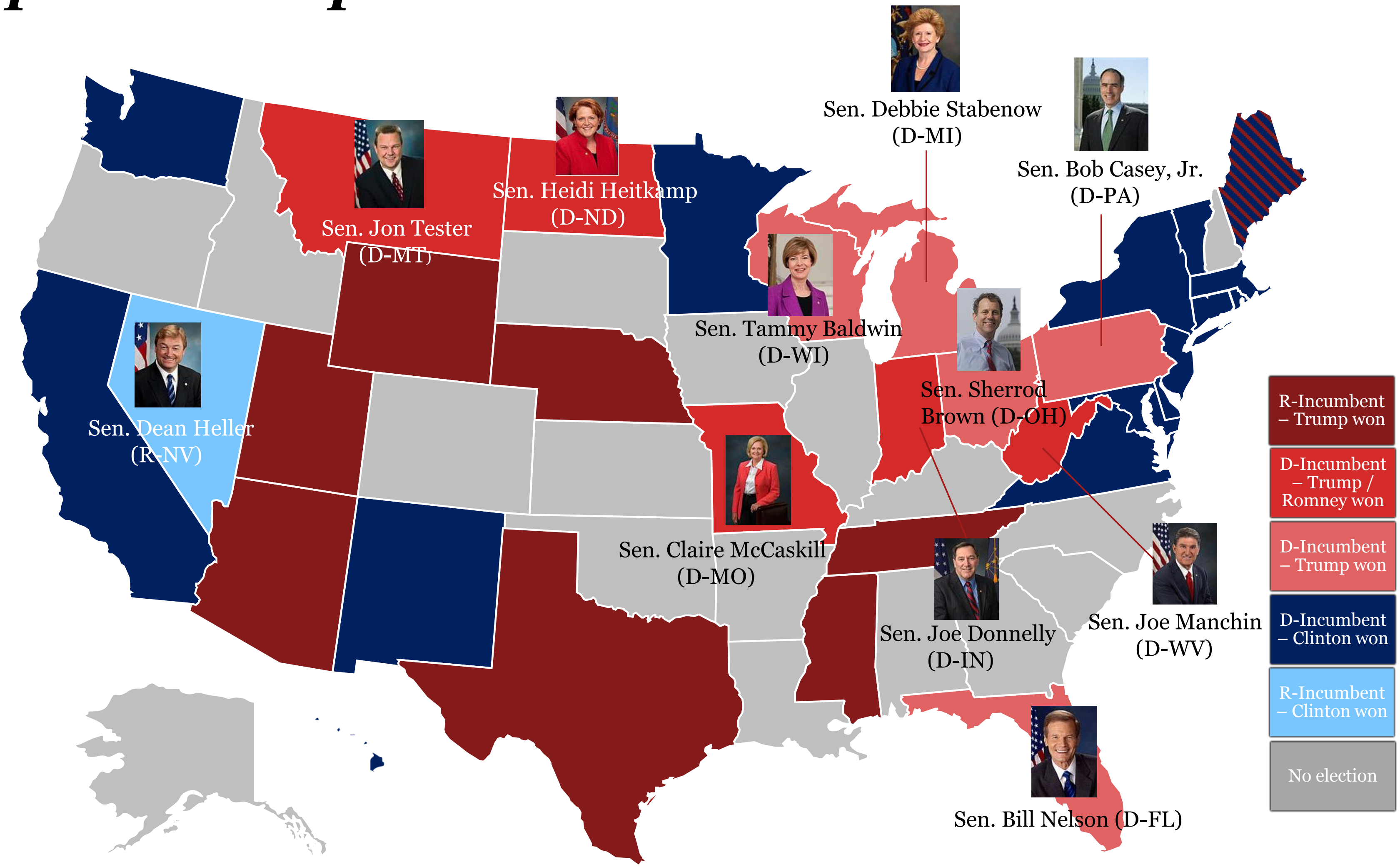
- Balance of power
- Economic concerns
- Federal budget deficits
- International competitiveness
- Global tax scrutiny

Political polarization reduces incentives for bipartisan legislation



Source: Cook Political Report

Key Senate races in 2018 could encourage bipartisanship



2-for-1 Executive Order to reduce regulations

President Trump on January 30, 2017 signed the Executive Order on Reducing Regulation and Controlling Regulatory Costs

- The order generally requires that for every new regulation proposed, agencies shall identify two existing regulations to be repealed
  - The agencies would have to go through the same rulemaking process to repeal the existing regulations
- The order also directs that the total incremental cost for all new regulations, including those repealed, shall be no greater than zero in FY 2017
- The order exempts regulations with respect to the military, national security, foreign affairs, and those related to agency organization, management, or personnel

President Trump's actions to curb regulatory activity are not unprecedented

- The UK, Canada, and Australia have all adopted some form of "pay as you go" (PAYGO) requirement with respect to new regulations
- The UK's "One-in, Three-out" policy requires that three existing rules be eliminated for every new rule
  - Agencies are urged to offset new rules "as quickly as possible" using a "fast track" process
- Canada has a "one-for-one" system that requires agencies to offset the administrative costs or "red tape" of new rules
  - Canada allows a 24-month period after a new rule is finalized for it to be offset

Comparison of Republican tax reform proposals

Major business provisions excluding border tax adjustment

Proposal	Current law	2014 Camp bill (H.R. 1)	2016 House GOP blueprint	White House
Corporate tax rate	35%	25% (phased in over 5 years)	20%	15%
International tax regime	'Worldwide' system with deferral Foreign tax credits to mitigate double taxation	'Territorial' system 95% foreign dividend exemption	'Territorial' system 100% dividend exemption system	'Territorial' system (original campaign proposal was for worldwide taxation <u>without</u> deferral)
"Deemed" repatriation	N/A	Previously untaxed foreign earnings: 8.75% cash & cash-equivalents 3.5% non-cash assets Paid over 8 years; assume reduction in foreign tax credits	Same as H.R. 1	One-time tax on previously untaxed foreign earnings (rate not specified; campaign proposal had 10% rate)
Cost recovery (full expensing)	Recover over the investment's applicable life (50% bonus depreciation for equipment in 2017, phased-out by end of 2019)	Repeal MACRS; implement ADS type system, with inflation	Full expensing for investments (tangible and intangible) excluding land	No proposal (campaign proposal allowed manufacturers to elect full expensing for investments)
Business interest expense	Deductible as incurred	Limit for thin capitalization	Deductible only against net interest income; special rules for financial services	No proposal (campaign proposal required manufacturers electing full expensing to forego interest expense deduction)
Top individual tax rate	39.6% plus 3.8% ACA tax and 1.2% income-based phase-out of itemized deductions	25%	33%	35%
Pass-through businesses	Taxed at individual rates	Same as current law	Taxed at individual rates not to exceed 25%	15% (unclear if distributions from large pass-through entities subject to additional dividend tax)

Border adjustments are a key component of House Republican tax reform plan

- Border Adjustment can be viewed as analogous to VAT, imposed on imports and taken off exports
- Applies to all cross-border purchases/sales: IP (e.g., royalties), raw materials, semi-finished, and finished goods
- Intended to remove US tax considerations from all location decisions; stem tax erosion from moving entities or production offshore; eliminate US transfer pricing incentives
- Estimated revenues of $1.2T sufficient to fund 10-percentage point reduction in corporate tax rate over ten years
- Major importers objecting due to potential impact on profits
- Policy makers expect stronger dollar to reduce cost of imports and offset loss of deductibility to sustain margins while preserving tax policy objectives

Major business provisions	10-year revenue cost (billions)
Reduce corporate rate to 20% and repeal corporate AMT	**-$1,845**
Expense investment; disallow net interest deduction on new loans	-$ 448
Territorial system	-$ 88
Deemed repatriation	$ 138
Border adjustments	**$1,180**
Repeal identified corporate tax expenditures	$ 172

Source: Tax Policy Center, September 16, 2016.

Senate Finance Committee Chairman Hatch on Senate approach to tax reform

- As of Feb. 1, 2017, Senate Finance Committee is in early stage of tax reform discussions
  - "Things are moving forward rather rapidly … hope to have tax reform proposal in one form or another to discuss publicly in the near future"
- GOP consensus on pro-growth tax reform that lowers business and individual rates and moves to a territorial tax system
- "Major concern on tax reform is producing a bill that can get through the Senate"
  - Hopes to produce a bill that has bipartisan support but prepared to use budget reconciliation to advance tax reform
  - With 52-seat GOP majority, Senate tax reform bill will require "near universal support to pass anything through reconciliation"
  - Senate bill likely to differ from any House-passed bill … "that's not a bad thing"

Legislative paths available for tax reform in 2017

Regular legislative process	
Benefits	• Legislation can be enacted permanently • No artificial restrictions on which measures can be included
Limitations	• 60 votes needed at every step in the Senate (i.e., to begin debate, vote on amendments, vote on passage, to conference, etc).
Budget reconciliation process	
Benefits	• Requires only simple majority vote at every step in the Senate (no filibuster allowed) • Expedited consideration (time limits for amendments and overall debate)
Key Limitations	• Legislation that increases the deficit outside of the budget window (typically 10 years) is subject to automatic sunset or other measures to avoid long term deficit effect • 60-vote Senate super-majority required to waive deficit rule • Senate rules also require reconciliation to be used only to enact measures that have a fiscal effect on the federal budget

Questions