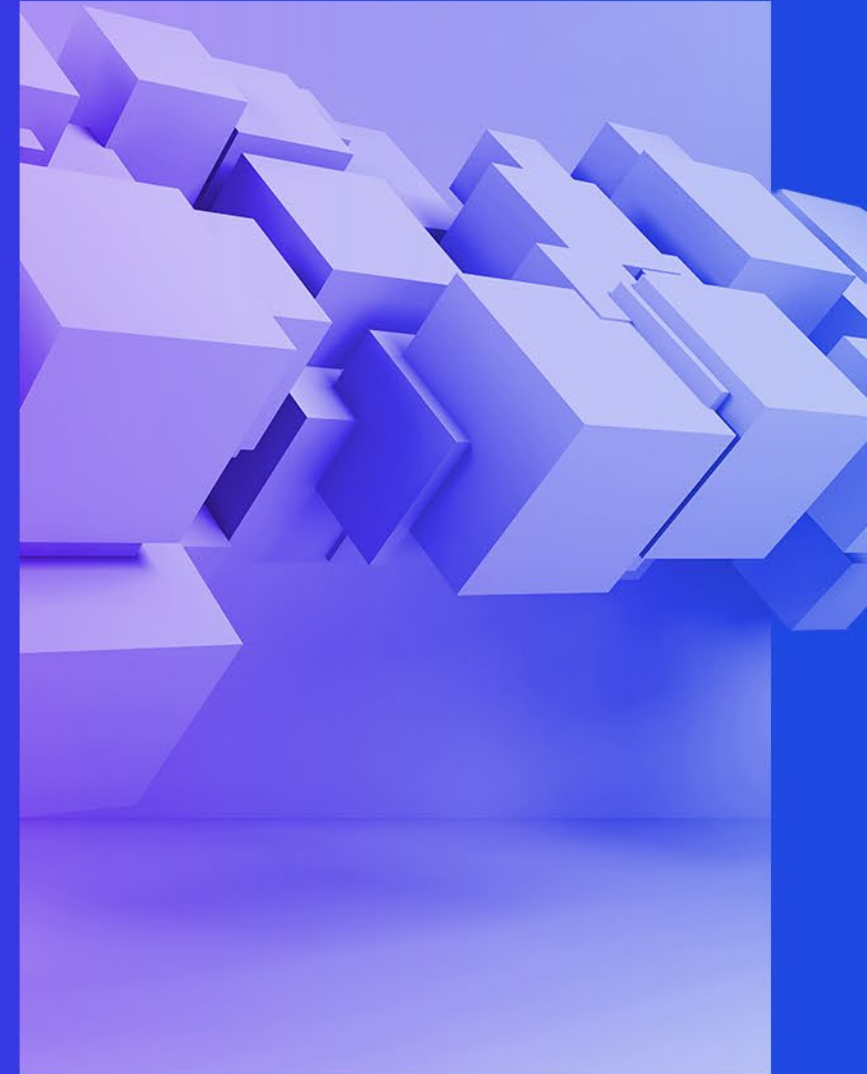




# Legislative Update

2023 Global Financial Reporting and Valuation Conference





# What's Next? Tax policy in a Divided Washington



# Notices

*The following information is not intended to be “written advice concerning one or more Federal tax matters” subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230.*

*The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.*

*In various sections of this document, for ease of understanding and as a stylistic matter, we may use language (such as “will” or “should”) that might suggest that we have come to a particular level of comfort or conclusion as to a particular issue. We hereby advise you that such language is not intended to state a level of comfort upon which you should rely.*

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# Political Dynamics

# Making tax law

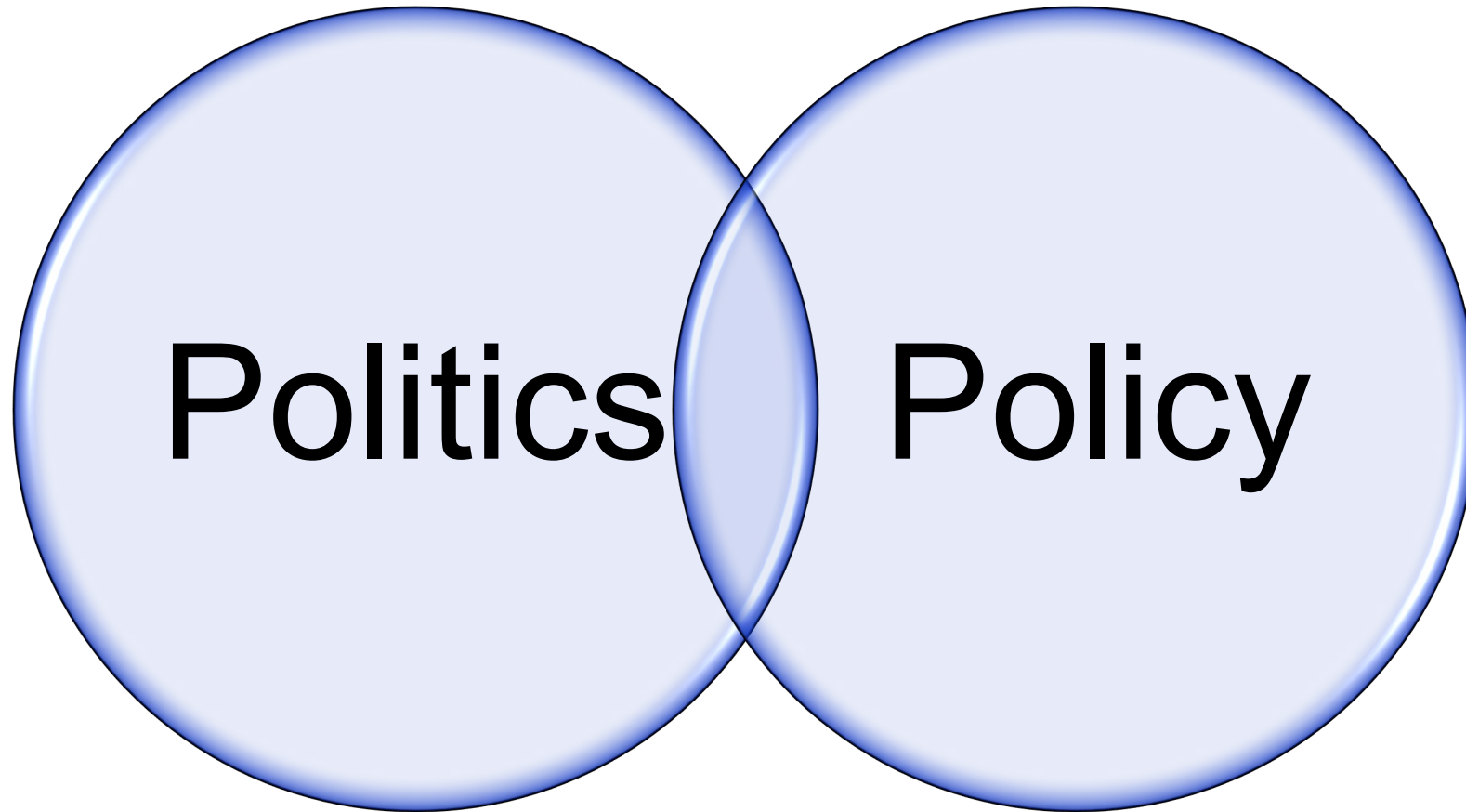


Politics



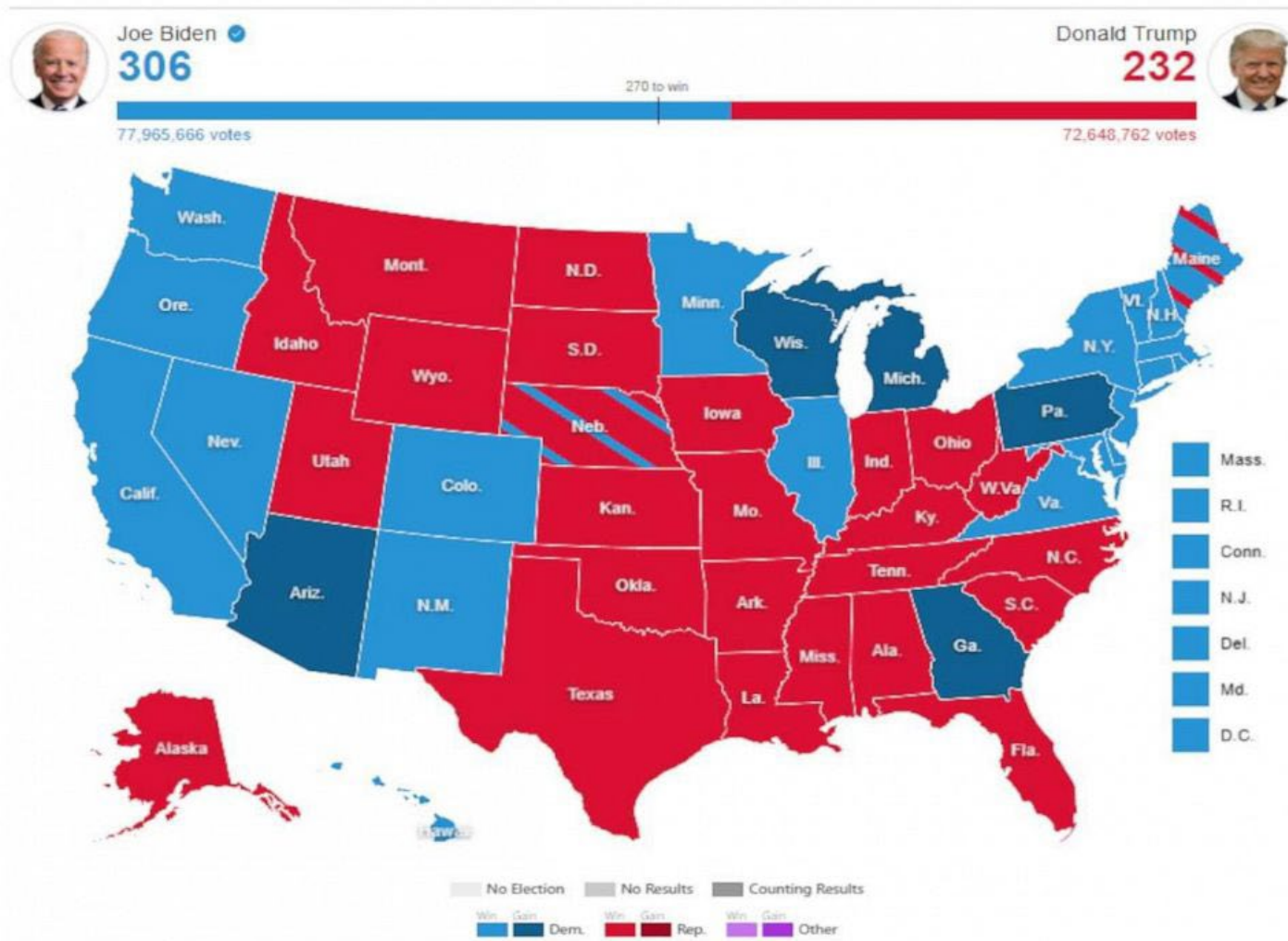
Policy

# Making tax law



# Political Realignment

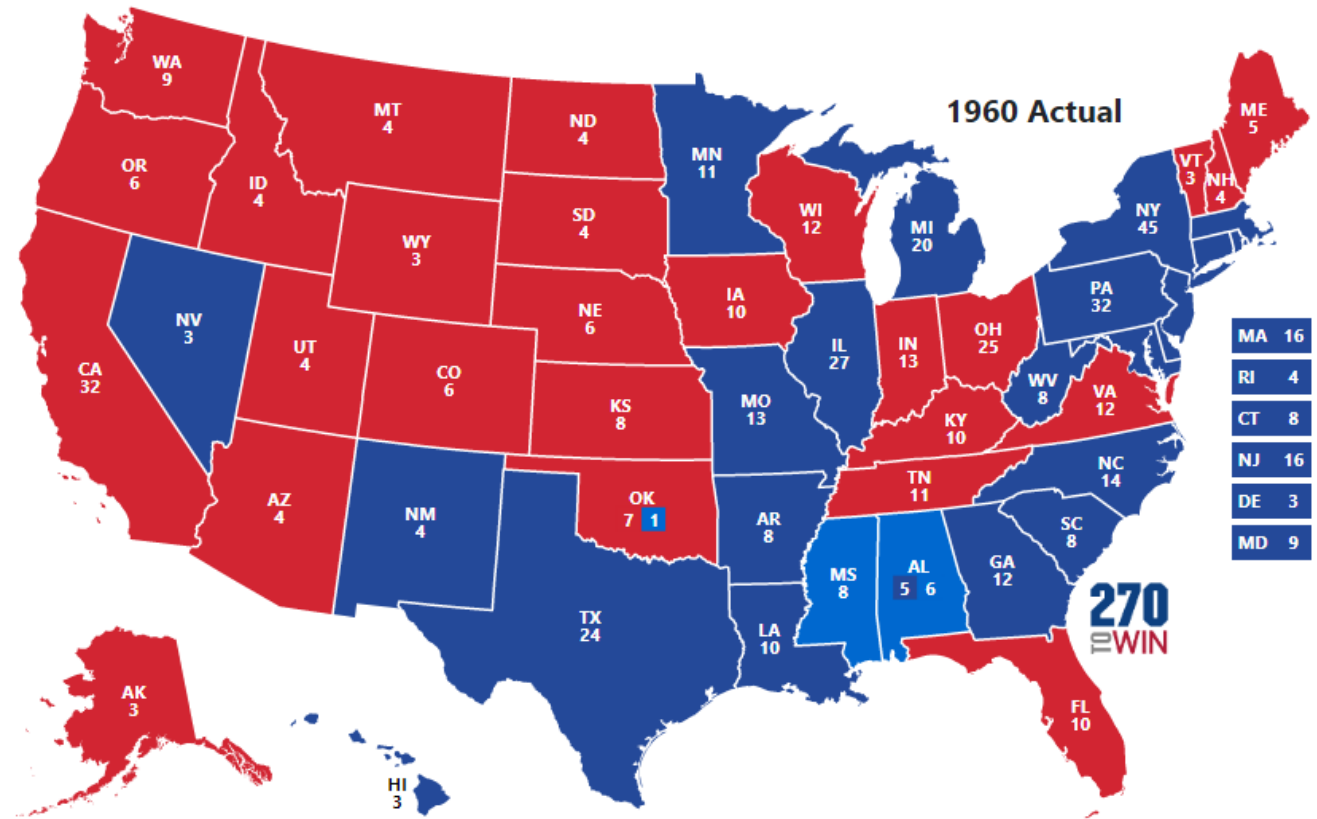
# 2020 Electoral Map



Counties are colored red or blue when the % expected vote reporting reaches a set threshold. This threshold varies by state and is based on patterns of past vote reporting and expectations about how the vote will report this year.



# 1960 Electoral Map



# Policy Shifts over time

 Trade

 Big Biz

1<sup>st</sup> Amendment 

 Trust in Institutions

 Use of Force

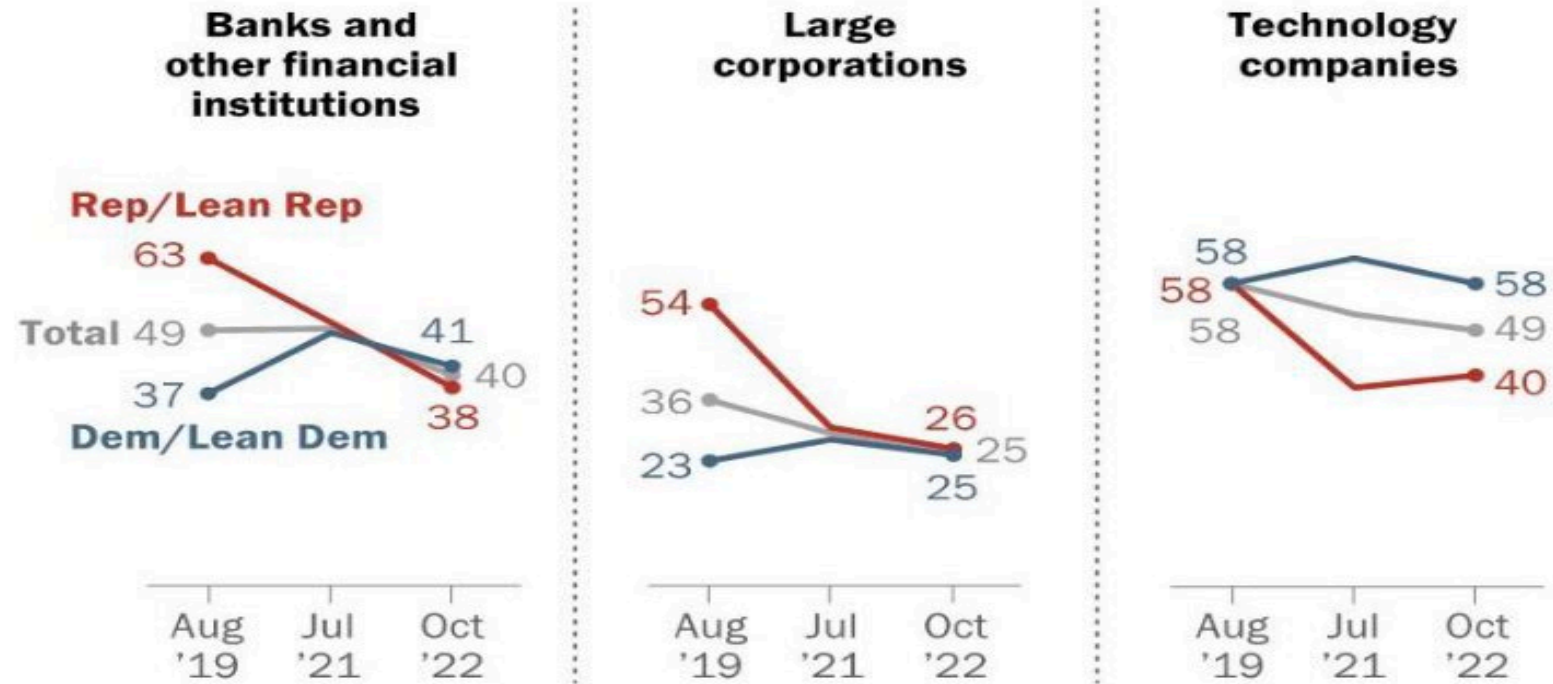
Russia 

Tax

# GOP and Corporate America

## Republicans' views of banks, large corporations have become much less positive since 2019

*% who say \_\_\_ have a **positive effect** on the way things are going in the country these days*



Source: Survey of U.S. adults conducted Oct. 10-16, 2022.

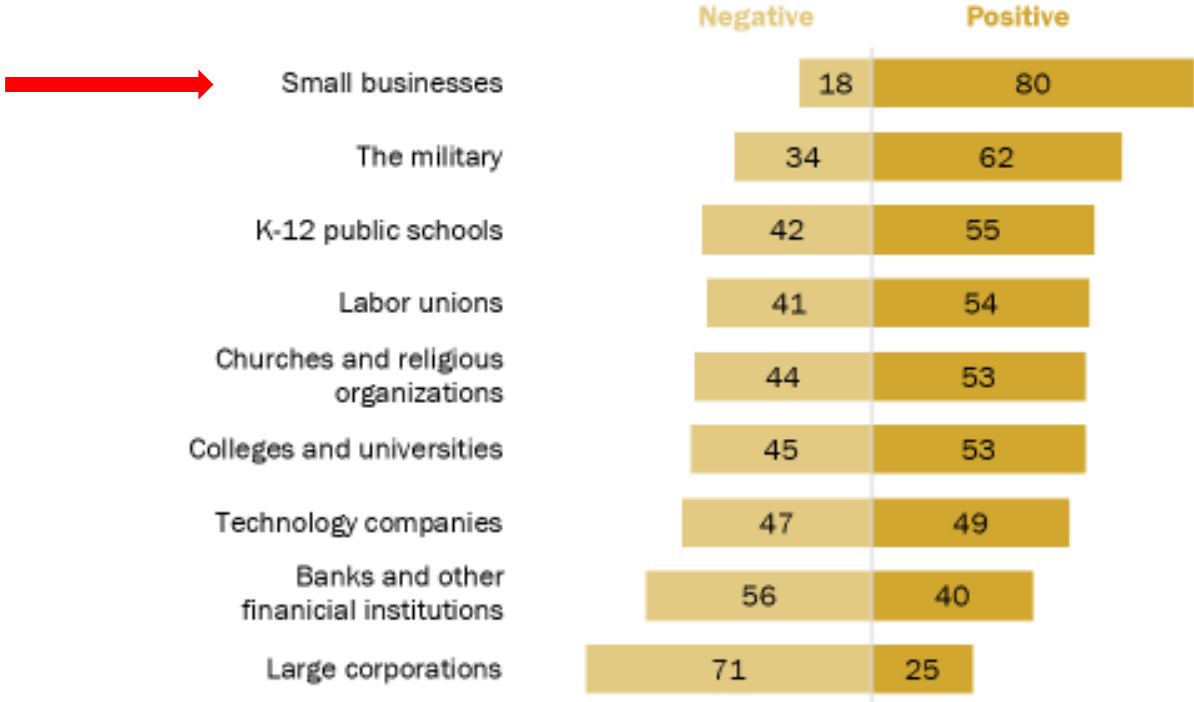
PEW RESEARCH CENTER

[Link here](#)

# America's Love Affair With "small business"

## Small businesses are broadly popular with the public, in contrast with large corporations and banks

*% who say each of the following has a \_\_\_ effect on the way things are going in the country these days*



Note: No answer responses not shown.  
Source: Survey of U.S. adults conducted Oct. 10-16, 2022.

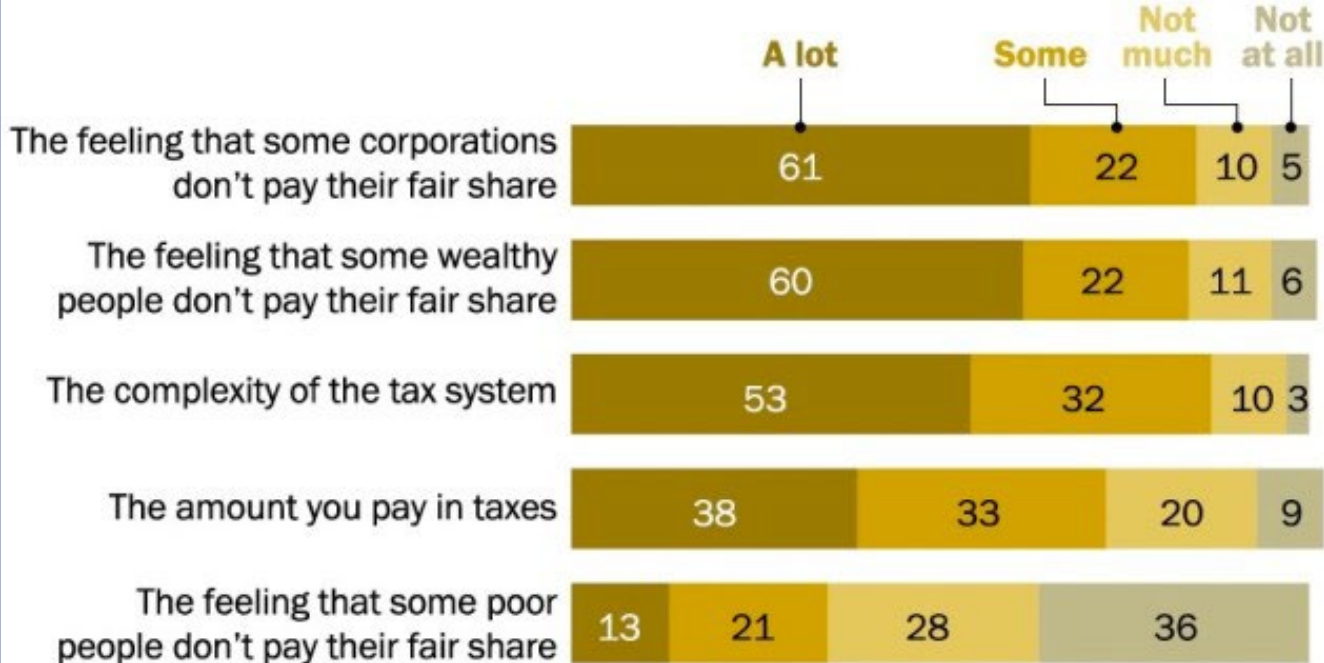
PEW RESEARCH CENTER

[Link here](#)

# Taxes: Too Much or Too Little?

## Americans' frustrations with the federal tax system

% who say each bothers them \_\_\_\_ about the federal tax system



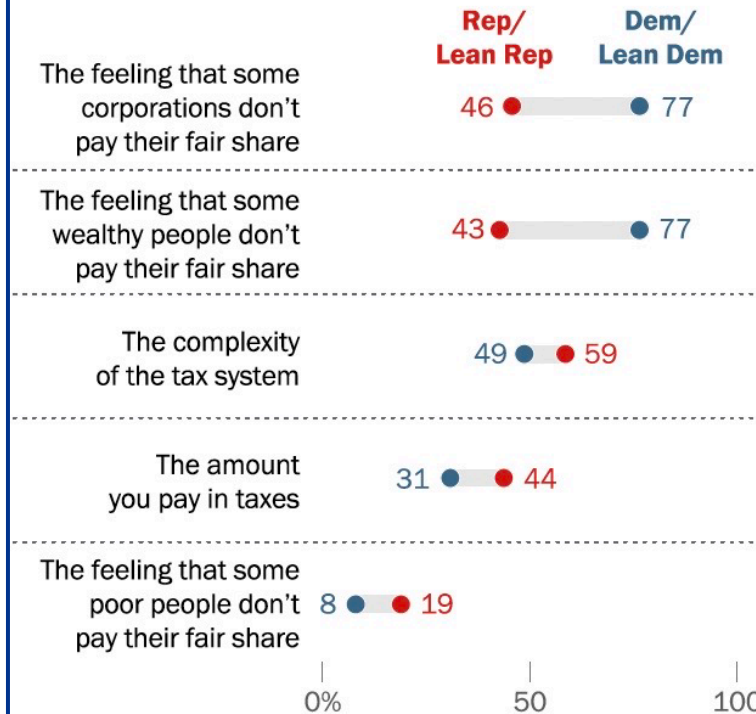
Note: No answer responses not shown.

Source: Survey of U.S. adults conducted March 27-April 2, 2023.

PEW RESEARCH CENTER

## Democrats' top tax frustration is the feeling that some don't pay fair share; Republicans cite complexity of system

% who say each bothers them 'a lot' about the federal tax system



Source: Survey of U.S. adults conducted March 27-April 2, 2023.

PEW RESEARCH CENTER



# The 2023 Tax Agenda

(will there be one?)

# Failed December 2022 extenders agreement

## “The Big 4”

- R&E Expensing (12/31/21)
- Interest deductibility (EBITDA) (12/31/21)
- 100% Bonus Depreciation (12/31/22)
- Enhanced Child Tax Credit (12/31/21)

## Others

- 12/31/21 Provisions
- 12/31/22 Provisions

For full list see: [JCX-1-22 | Joint Committee on Taxation \(jct.gov\)](https://www.jct.gov/jct-1-22/)

# *Build it in America Act* (select proposals)

## Tax Proposals

- Research and experimentation costs (section 174)
  - Deductible from 1/1/22-12/31/25
- Limitation of deductibility of interest (section 163(j))
  - Limit based upon 30% of EBITDA 01/01/22-12/31/25
- 100% bonus depreciation
  - Eligible costs subject to 100% deduction from 01/01/2023, to 12/31/2025
- Superfund Rate not applied after 12/31/22

## Revenue Raisers

- Repeal of clean electricity production credit
- Repeal of clean electricity investment credit
- Modification of clean vehicle credit
- Repeal of credit for previously-owned clean vehicles.
- Repeal of credit for qualified commercial clean vehicle



# Select other current tax proposals

## Issues under discussion include:

- [United States-Taiwan Expedited Double-Tax Relief Act](#) — (bipartisan)
- [Defending American Jobs and Investment Act](#) — (Smith)
- [Unfair Tax Prevention Act](#) — (Smith, Estes, Feenstra)
- [The Ending Tax Breaks for Massive Sovereign Wealth Funds Act](#) — (Wyden)
- [The Sports League Tax-Exempt Status Limitation Act](#) — (Wyden)

**Looking forward**

**2024 and beyond**

# Democratic tax agenda: business proposals (in billions)

Select business tax proposals	Biden	Ways & Means	House Revised**
Increase corporate rate	(28%) 857.8	(26.5%) 540.1	(21%) 0
Minimum tax on global book income tyba2022	148.3	0	318.9
Increase GILTI rate plus CxC^ tyba2022	(21%) 533.5	(16.5%) 185.2	(15%) 180.9
Modify FDII	123.9	*	*
BEAT repeal + SHIELD replacement	390.1	24.8	67.1
Further limit interest deductions [163(n)]	18.6	34.8	27.9
Fossil Fuel proposals	121.3	0*	0*
Reinstate Super Fund	24.8	38.4	24.8
Research and Development (174)	0	(4.0)	(4.0)
Foreign Tax Credits	0	23.5	18.7
Stock buyback excise tax tyba 2021	0	0	124.2

\*Included in GILTI score

^Groups items I.1.C1, C2, C6, C7 from JCT tables

**Total \$758.5-\$290.6**

Source: Administration's FY2022 Green Book estimates, Joint Committee of Taxation Revenue Tables

 = enacted in IRA

# Democratic agenda: individual proposals (in billions)

Select Individual tax proposals	Biden	Ways & Means	House Revised*
Increase ordinary income rate to 39.6%	131.9	170.5	0
Increase capital gains/div rate to	(39.6%^) 322.5	(25%) 123.4	0
“Rationalize” NII and SECA 3.8% tax	236.5	252.2	252.2
Carried interest as ordinary	1.5	14	0
Like-kind exchange repeal	19.6	0	0
Individual surtax on high-earners 5% 10M, 8% 25M	0	127.3	227.7
Limit losses [461(l)]	42.9	166.8	160.3
Modify SALT deduction \$80,000	0	0	2.0
Bank reporting	462.6	0	0
Miscellaneous tax administration	9.9	13.9	1.4

**Total \$643.6 \$483.3**

 = enacted in IRA

Source: Administration's FY2022 Green Book estimates, Joint Committee of Taxation Revenue Tables

\*Biden proposal includes cap gains realization at death



# Chairman Ron Wyden (D-OR) Proposals

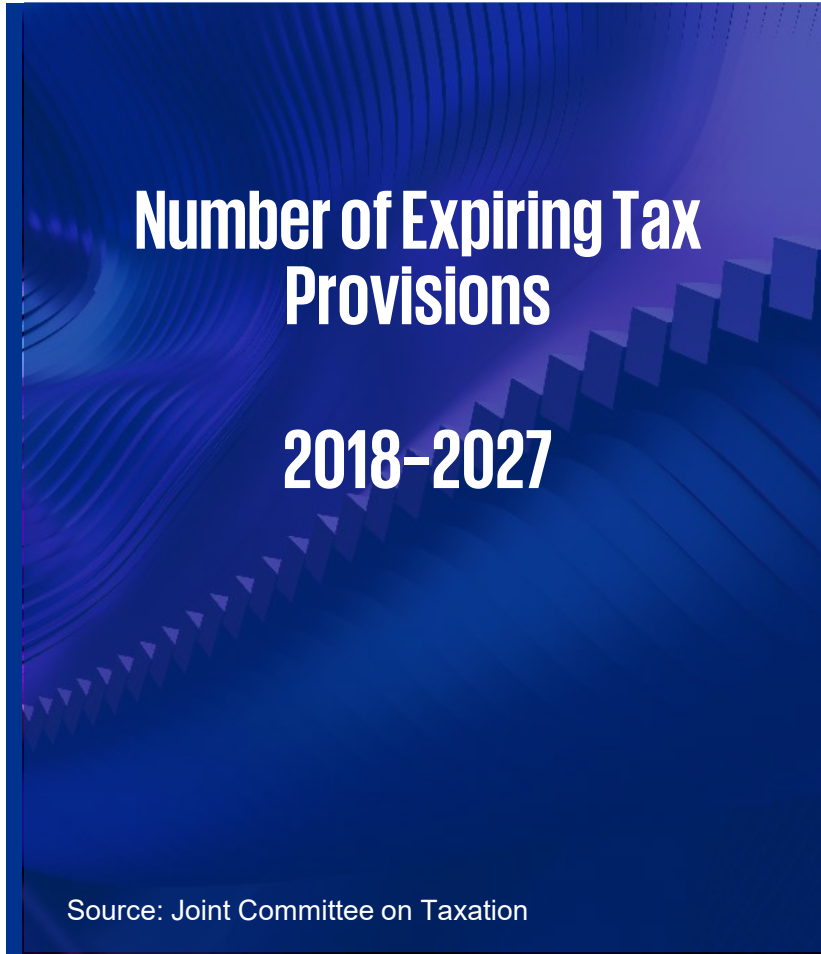
## White Papers

- *Modernization of Derivatives Act (MODA)*
  - Generally a mark-to-market regime
- Carried Interest
  - Converts carried interest income to ordinary
- Treat Wealth Like Wages
  - Tax unrealized capital gains at ordinary tax rates
- Partnership Reform
  - Proposes to close “loopholes” in the taxation of partnerships
- International Tax White Paper
  - Generally tracks BBBA proposals in adopting Pillar 2 and other reforms

# Republican agenda: oversight



# Republican agenda: Echoes of Tax Cuts and Jobs Act (2017)



2018	5
2019	9
2020	1
2021	3
2022	5
2023	1
2024	0
2025	25
2026	2
2027	1
<b>Total</b>	<b>52</b>

# Ways & Means Committee: Current GOP Members



## Jason Smith, MO, Chairman

Vern Buchanan, FL

Adrian Smith, NE

Mike Kelly, PA

David Schweikert, AZ

Darin LaHood, IL

Brad Wenstrup, OH

Jodey Arrington TX

Drew Ferguson, GA

Ron Estes, KS

Lloyd Smucker, PA

Kevin Hern, OK

Carol Miller, WV

Greg Murphy, NC

David Kustoff, TN

Brian Fitzpatrick, PA

Greg Steube, FL

Claudia Tenney, NY

Michelle Fischbach, MN

Blake Moore, UT

Michelle Steel, CA

Beth Van Duyne, TX

Randy Feenstra, IA

Nicole Malliotakis, NY

Mike Carey, OH



# Ways & Means Committee: TCJA GOP Members



## Jason Smith, MO, Chairman

Vern Buchanan, FL

Adrian Smith, NE

Mike Kelly, PA

David Schweikert, AZ

Darin LaHood, IL

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Beth Van Duyne, TX

Randy Feenstra, IA

Nicole Malliotakis, NY

Mike Carey, OH

# Senate Finance Committee: Current GOP Members



**Mike Crapo, ID** *Ranking Member*

**Chuck Grassley, IA**

**John Cornyn, TX**

**John Thune, SD**

**Tim Scott, SC**

**Bill Cassidy, LA**

**James Lankford, OK**

**Steve Daines, MT**

**Todd Young, IN**

**John Barrasso, WY**

**Ron Johnson, WI**

**Thom Tillis, NC**

**Marsha Blackburn, TN**

# Senate Finance Committee: TCJA GOP Members



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**John Cornyn, TX**

**John Thune, SD**

**Tim Scott, SC**

**Bill Cassidy, LA**

James Lankford, OK

Steve Daines, MT

Todd Young, IN

John Barrasso, WY

Ron Johnson, WI

Thom Tillis, NC

Marsha Blackburn, TN

# Select 2025 TCJA expiring Items

## Business Provisions

- BEAT Rate Increase
- GILTI Rate Increase
- FDII Reduction
- 199A
- WOTC Credit
- CFC Look through

## Individual Provisions

- Individual Rate Increase
- Enhanced Child Credit
- AMT Exemption Amount
- Increased Standard Deduction
- SALT Cap
- Personal Exemption (reinstated)
- Estate Tax Exemption Amount

For full list see: [JCX-1-22 | Joint Committee on Taxation \(jct.gov\)](https://www.jct.gov)

# Select 2025 TCJA expiring Items

Table 2.

## Budgetary Effects of Selected Alternative Assumptions About Revenue Policies Related to the 2017 Tax Act

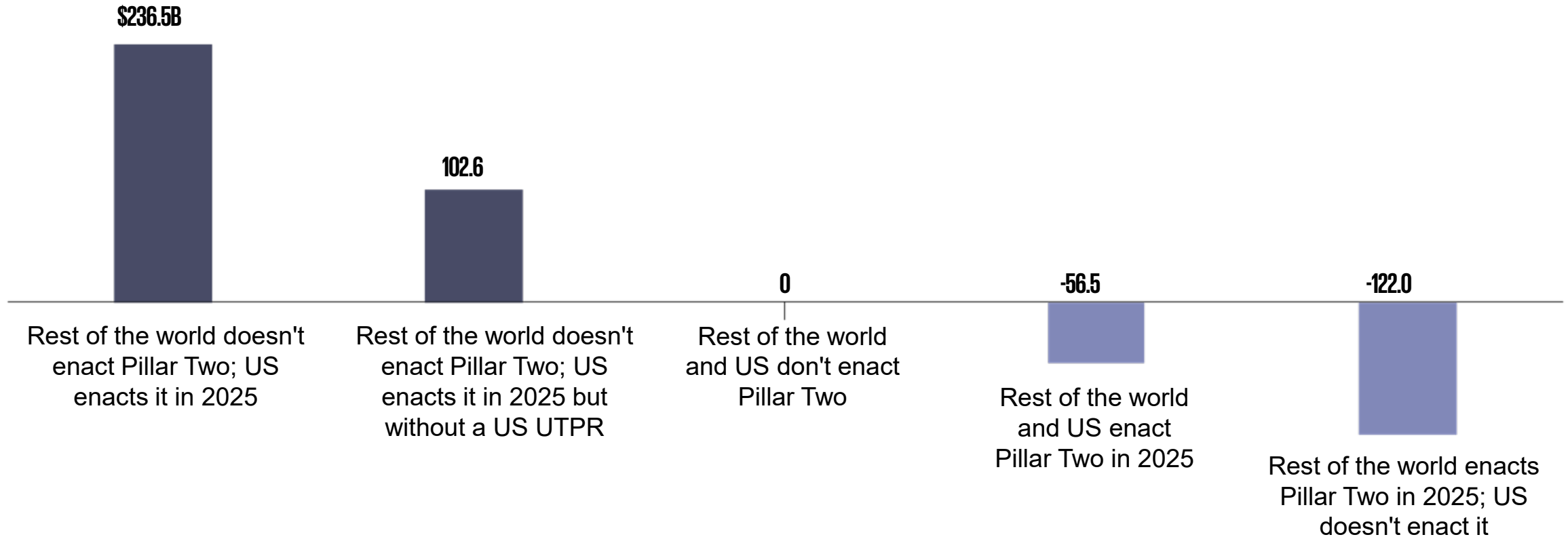
Billions of Dollars

	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	Total	
											2024–2028	2024–2033
<b>Extend the 2017 Tax Act's Changes to Individual Income Tax Provisions<sup>a</sup></b>												
Increase (-) in the deficit [JCT's estimate] <sup>b</sup>	*	-6	-134	-346	-334	-324	-318	-330	-342	-353	-820	-2,488
Debt-service costs	*	*	-2	-9	-18	-28	-39	-49	-60	-72	-29	-278
<b>Extend Higher Estate and Gift Tax Exemptions<sup>c</sup></b>												
Increase (-) in the deficit [JCT's estimate] <sup>b</sup>	*	-1	-3	-14	-16	-16	-17	-19	-20	-21	-32	-126
Debt-service costs	*	*	*	*	-1	-1	-2	-2	-3	-4	-1	-13
<b>Extend the 2017 Tax Act's Changes to the Tax Treatment of Investment Costs<sup>d</sup></b>												
Increase (-) in the deficit [JCT's estimate] <sup>b</sup>	-33	-35	-45	-53	-48	-35	-26	-20	-16	-15	-213	-325
Debt-service costs	-1	-2	-3	-4	-6	-7	-8	-9	-10	-11	-15	-59
<b>Maintain Certain Business Tax Provisions in Effect in 2023<sup>e</sup></b>												
Increase (-) in the deficit [JCT's estimate] <sup>b</sup>	0	0	-10	-18	-19	-20	-20	-20	-21	-22	-47	-150
Debt-service costs	0	0	*	-1	-1	-2	-2	-3	-4	-4	-2	-16

Source: [Budgetary Outcomes Under Alternative Assumptions About Spending and Revenues \(cbo.gov\)](https://www.cbo.gov/publications/2023/07)



# Pillar Two — potential impact on U.S. Revenue



Note: The UTPR is expected to be effective in 2025 for most countries that have adopted Pillar Two rules.

Source: Bloomberg Government based on data from "Possible Effects of Adopting The OECD's Pillar Two, Both Worldwide And In The United States," Joint Committee on Taxation (June 2023)

# Republican skepticism

“...this ‘America Last’ policy shifts jobs and...tax revenues out of the United States.”

— Chairman Smith and Ranking Member Crapo (press release), June 20, 2023

“The Biden Administration unilaterally surrendered to the OECD tax cartel by agreeing to a global tax code that will extract more than \$120 billion in US tax revenue over the next decade....”

— Chairman Smith and Ranking Member Crapo (press release), June 20, 2023

“...we request you include language in the FY24 State Department and Foreign Operations appropriations bill prohibiting any funding from being provided to the OECD.”

— GOP Ways and Means letter to Appropriations committees, March 24, 2023

“The deal negotiated by the Biden Administration, without consulting Congress, surrenders America’s sovereignty over our tax laws, gives foreign competitors like China an economic advantage, and would cause the United States to forfeit over \$120 billion of tax revenue over the next decades....The Biden Administration has no constitutional authority to write U.S. tax laws...”

— Chairman Smith (press release re: meeting with OECD,) September 1, 2023

# Resources

## Selected resources:

- [\*Catching Up on Capitol Hill\* podcast series](#)
- [Legislative Updates Homepage](#)





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