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This update reflects facts as of Monday morning, September 22, 2025. The situation is fluid and may change.

Congress adjourned for the Rosh Hashanah break last week without passing government funding legislation. Only two days will remain in the fiscal year when the Senate alone is scheduled to return on September 29. A partial government shutdown looms, as each party positions itself to blame the other, potentially affecting IRS operations. Meanwhile, other legislative business, such as potential tax legislation, remains an afterthought.

Government funding. Early last week, House Republicans narrowly passed a short-term funding bill to fund the government through November 21, with one Democrat voting aye, two Republicans voting no. The House continuing resolution, or “CR,” was “clean,” that is, it extended current funding levels without making any significant or controversial changes. The House Speaker then announced the House was adjourning until October 6, leaving the matter in the hands of the Senate.

The House CR and a Democratic alternative each failed in the Senate. There, sixty votes are needed for cloture to proceed, and neither was close; indeed, neither proposal reached even fifty, as both parties for the most part remained unified in their respective positions.

Senate Democrats are seeking substantial increases in spending in several areas. First and foremost, the Democratic alternative would make two substantial changes with respect to health care while extending government funding through October. It would extend and make permanent the ARPA-expanded Affordable Care Act premium tax credits that expire at the end of 2025 at a revenue cost of about $350 billion. It would also reverse nearly $1 trillion of the Medicaid spending cuts just enacted in OB3. And among other additions, it would also add back funding for the Corporation for Public Broadcasting and PBS, among other cuts made in OB3. The total cost of the proposed changes would be about $1.5 trillion.

The Democratic alternative also contains a provision that would prevent the executive branch from rescinding or impounding appropriated funds, either funds provided in this legislation or any other. The rescission of about $9 billion from fiscal year 2025 appropriations earlier this year by a simple majority vote in the Senate and a pending further rescission of nearly $5 trillion more potentially without even the need for a vote has been a particular point of partisan contention.

The Senate vote on the Democratic alternative was 47-45 (8 Republicans did not vote). The vote on the House CR was 44-48, with only one Democrat voting aye, two Republicans voting no (albeit for different reasons). Senate Democrats are seeking to highlight the OB3 Medicaid cuts. The expanded ACA premium tax credits are also an important political issue, as failure to extend them will increase substantially out-of-pocket health care premium costs for many. For some members of Congress, both could become 2026 election issues.

Only two scheduled session days remain for the Senate and the House has already adjourned. The parties are plainly far apart, and neither side at this point seems inclined to concede. An increasingly likely partial government shutdown would affect IRS operations, as it has in the past.

Tax. There are several items that might attract bipartisan support in a year-end tax bill, such as the Taiwan double-taxation legislation, restoration of a full deduction for gambling losses, an extension of the Work Opportunity Tax Credit, and new retirement savings incentives. Party differences overextending the expanded ACA credits are a serious obstacle. The prospects for a bipartisan bill would be enhanced dramatically if Congress finds a way to address the ACA credits in connection with funding legislation.

Another potential partisan stumbling block concerns the OECD Pillar 2 negotiations and, more directly, the proposed section 899 provision briefly considered in connection with OB3, which would increase tax rates on foreign investors from countries that impose “discriminatory” taxes on U.S. companies. As OECD negotiation of a so-called “side-by-side” P2 deal that would provide the United States a safe harbor has been slow, the Administration has raised again the prospect of a retaliatory tax.

Another proposal that has elicited some attention is one that would tax outbound payments for services. Introduced by Senator Moreno (R-OH), the Halting International Relocation of Employment Act (HIRE Act) would impose a 25% tax on such payments and deny a U.S. tax deduction.

Neither of these proposals appears currently to have Democratic support, which is needed to meet the 60-vote threshold in the Senate. Indeed, it is not clear whether these proposals have universal Republican support at present. Prospects for enactment thus seem uncertain, at best, although the threat remains.

The above 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.

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