

Capitol Hill Weekly

**Washington National Tax
Federal Legislative & Regulatory Services**

September 29, 2025



This update reflects facts as of Monday morning, September 29, 2025. The situation is fluid and may change.

A partial government shutdown will begin at midnight Tuesday without an extension of funding. No visible progress toward an agreement occurred during last week's Rosh Hashanah Congressional recess, so a shutdown seems rather likely; how long is uncertain. Regardless, the Senate Republican leadership is planning another vote this week on a bloc of pending executive branch nominations, although that bloc does not include the two key open IRS positions. The President has imposed a new round of tariffs on pharmaceuticals and other products, but the precise scope of these tariffs is uncertain. Amidst this and other political distractions, there has been little consideration of a second tax bill.

Government funding. The House, before adjourning, narrowly passed a relatively "clean" continuing resolution that would simply fund the government at current levels through November 21. It did so, however, without Democratic support. Sixty votes are needed for Senate passage, and Democrats are making three key demands: (i) extension of ACA premium tax credits expanded by ARPA, (ii) restoration of over \$1 trillion in cuts made in OB3 to Medicaid, public broadcasting, and international organizations, and (iii) a prohibition of future executive branch rescissions and impoundments of funds appropriated in the pending legislation or any other.

The total of the additional spending proposed in an alternative Democratic continuing resolution would be about \$1.5 trillion. The Medicaid proposal would reverse the cuts just made, narrowly, in the Republican tax and spending OB3 bill. So, Congressional Republican leadership, with full support of the White House, had been refusing even to discuss the Democratic proposals. Late last week, a White House meeting with Congressional leaders from both parties was scheduled for Monday, September 29. There has been no indication, however, that either side is ready to move from its position, so prospects for a funding agreement before the deadline remain dim. Each party seems content at present to take its respective position to the public, obviously with an eye on the 2026 midterm elections. Public reaction may be a key to the length of any shutdown on October 1. And, of course, that well may not be the last word, as sometime in the Fall Congress could again face the same issues, if not resolved at this juncture.

Nominations. Senate Republican leadership exercised a rule change last week that presents another in a long line of erosions to the Senate supermajority/filibuster rule. The rule change allows a simple majority to approve multiple executive branch nominations. Previously, the Senate

had to consider each one separately. In the past, in many, if not most cases, the Senate would agree to confirmation routinely by unanimous consent (UC). A single senator, however, could prevent UC by objecting, and increasingly objections are being made over issues often unrelated to the qualifications of the nominees. That has slowed the process and other Senate business considerably, frustrating whichever party is in the majority.

Unfortunately, the two key Senate-confirmed IRS positions are not among those the Senate is planning to consider this week. The nomination of Don Korb to be chief counsel has not yet been approved by the Finance Committee. The White House has not yet nominated anyone to replace Billy Long as Commissioner, who left almost two months ago. Currently, Treasury Secretary Bessent is Acting Commissioner and Assistant Secretary for Tax Policy Ken Kies is Acting Chief Counsel.

Tariffs. The President announced a new round of tariffs last week. They cover a range of products, including pharmaceuticals, heavy trucks, and various kinds of furniture. The exceptions and interaction with trade agreements the Administration has made with other countries has left the scope of application of these tariffs somewhat uncertain, however.

The authority for these new tariffs is not the International Emergency Economic Powers Act (IEEPA), which is the authority for most of the tariffs imposed previously by the President, and which is currently the subject of litigation. Instead, the authority cited for these tariffs is section 232 of the Trade Expansion Act of 1962, which empowers the President to impose duties upon a finding by the Secretary of Commerce, made in a report to the President, that the imports in question threaten to impair U.S. national security.

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Contacts

John Gimigliano

Co-Principal in Charge, Federal,
Legislative & Regulatory Services
Washington National Tax
T: 202-533-4022

E: lgimigliano@kpmg.com

Jennifer Acuña

Co-Principal in Charge, Federal,
Legislative & Regulatory Services
Washington National Tax
T: 202-533-3800

E: jenniferacuna@kpmg.com

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