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This update reflects facts as of Monday morning, May 4, 2026. The situation is fluid and may change.

Congress is on its May break this week, but it ended last week with a flurry of activity. On two urgent matters, it provided funding for the Department of Homeland Security and extended a critical provision of the Foreign Intelligence Surveillance Act. The House passed a package of IRS procedural measures and voted to reauthorize agricultural programs. And the Senate rejected another War Powers Act resolution on Iran. Meanwhile, the Office of the United States Trade Representative held hearings on potential new tariffs, while U.S. Customs and Border Protection also opened the portal for claims for refunds of International Emergency Economic Powers Act tariffs found invalid by the Supreme Court.

DHS funding. The House passed by voice vote the pending bipartisan Senate bill to fund most agencies of DHS, which it then sent to the President for signature. The funding bill left aside funding for Immigration and Customs Enforcement (ICE) and most of Customs and Border Protection (CBP). Democrats opposed funding for those two agencies without a long list of immigration enforcement reforms.

Following the Senate's lead, the House also passed the pending budget resolution, initiating the budget reconciliation process. The resolution provides instructions for \$70 billion to fund ICE and CBS for three years without requiring any changes to immigration enforcement. So, unlike the funding bill, the resolution narrowly passed by a 215-211 partisan vote.

Congress, when it returns, will be left with the task of passing a budget reconciliation bill. The budget reconciliation process enables Congressional Republicans to fashion a funding bill without Democratic support, avoiding the need for sixty votes in the Senate. The reconciliation bill will necessarily be quite narrow, however, as the resolution provides instruction only to the Homeland Security and Judiciary Committees of the House and Senate. Budget reconciliation rules, unless overridden by the Senate with sixty or more votes, prohibit the addition of provisions within the jurisdiction of other committees. That effectively rules out, among other things, the addition of partisan tax provisions.

The President has requested completion of action on funding by June 1.

FISA extension. Congress once again temporarily extended section 702 of FISA just hours before its expiration. That provision, which permits warrantless surveillance of non-citizens, was extended 45 days to provide Congress additional time to resolve bipartisan objections. The temporary extension was necessary because the three-year extension passed by the House included a permanent ban on central bank issuance of digital currency, a bill with the CBDC amendment could not pass the Senate.

With regard to the FISA extension itself, concerns have been raised by Democrats and some Republicans that section 702 warrantless surveillance can capture communications of U.S. citizens. Negotiations have been underway for some time, and reports indicate progress.

IRS procedural measures. The House also passed last week a bipartisan package of seven noncontroversial bills that provide taxpayer assistance and make improvements to tax administration. The package will now move to the Senate, where no schedule has yet been set for consideration.

For more detailed information on those bills, see the TaxNewsFlash of April 28: Legislative update: [House passes seven bills aimed at providing taxpayer assistance and improving tax administration](#)

Tariffs. The Supreme Court ruled in late February that the tariffs imposed by the President under IEEPA were unauthorized. The U.S. Court of International Trade directed the government to refund the estimated \$166 billion in tariffs collected under that IEEPA authority. Last week, CBP opened the first phase of the refund process through a newly developed automated system.

The President announced additional 10 percent tariffs under different authority on the same day as the Supreme Court ruling. Imposed under section 122 of the Trade Act of 1974, those tariffs can remain in effect for 150 days, expiring on July 24. Section 122 of the Trade Act provides the President authority to impose tariffs to address serious balance of payments deficits. Like the IEEPA tariffs, the President's exercise of section 122 authority is already being challenged in several courts.

Meanwhile, the Office of the U.S. Trade Representative (USTR) has undertaken investigations that could lead to imposition of new tariffs under section 301 of the Trade Act. Section 301 generally authorizes imposition of tariffs to address unfair trade practices. The sometimes' stated goal of the Administration is to reconstitute many of the IEEPA tariffs under section 301 authority before expiration of the current section 122 tariffs. To that end, USTR has begun to hold hearings on trade practices, which will continue this week.

War Powers Act. The WPA provides authority for military action in the case of imminent threat, but only for 60 days. The 60-day mark from the commencement of military action against Iran ended on May 1, although the Administration has offered different theories that the 60-day limit has not been breached. Democrats in the House and Senate have introduced a series of resolutions—eight in total—to require Congressional authority for further military action that have failed, with the voting mostly on partisan lines. It is likely that there will be

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more such motions debated when Congress returns next week as concern over the continuing effects of the conflict grows.

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