



Zero One Strategies

September 2024

Tax Legislation in Budget Reconciliation

The expiration in 2025 of key tax rates and provisions within the [Tax Cuts and Jobs Act of 2017](#) provides Congress an opportunity not only to reconsider those rates but to open the entire Tax Code to reforms and new programs. Recently, in analyzing the political dynamics of the 2024 elections that will influence Congress's approach to tax reform, Politico [published](#), "If Republicans run the board and take the White House and Capitol Hill, they're likely to push through their tax plan without needing any Democratic votes, through a process known as budget reconciliation, which they used to pass the 2017 cuts. Democrats would probably do the same if the situation is reversed." Budget reconciliation procedures are historically an important way Congress has passed consequential tax law, so it is valuable to understand what might be ahead in 2025.

Budget Reconciliation Overview

Budget reconciliation is a legislative process in the U.S. Congress designed to expedite the passage of budget-related legislation. This process allows certain spending or revenue bills to bypass the Senate's usual 60-vote requirement to overcome a filibuster, enabling passage with a simple majority of 51 votes (or 50 votes plus the Vice President's tie-breaking vote).

Scope and Limitations

Reconciliation bills can address three main areas: spending, revenue, and the federal debt limit. Each fiscal year, Congress can pass up to three separate reconciliation bills, each focusing on one of these areas. However, if a single reconciliation bill includes both spending and tax provisions, no additional bill can address either spending or revenue within the same fiscal year. Typically, Congress opts for one comprehensive reconciliation package. Exceptions exist, such as passing a reconciliation bill in one budget year ending September 30 and another shortly after the start of the next budget year on October 1.

Historical Usage

Congress does not choose to use reconciliation procedures every year, but reconciliation has been pivotal for passing significant (and often partisan) tax legislation into law, such as the Tax Cuts and Jobs Act of 2017.

Budget Windows and Constraints

Reconciliation can increase short-term deficits but must not increase the deficit beyond the budget window, usually ten years, unless offset by savings elsewhere. This often results in tax provisions, like tax cuts, expiring within this period (or "sunsetting within the ten-year window").





The Byrd Rule

The Byrd Rule allows Senators to challenge provisions in reconciliation bills deemed "extraneous." A provision is considered extraneous if it:

- Does not alter outlays or revenues;
- Increases spending or decreases revenue contrary to reconciliation instructions;
- Falls outside the submitting committee's jurisdiction;
- Changes spending or revenue incidentally to non-budgetary components;
- Increases the deficit beyond the reconciliation measure's fiscal years; or
- Proposes changes to Social Security.

A Byrd Rule objection is ruled on by the presiding Senator, with the Senate Parliamentarian's advice. Overturning this ruling requires a 60-vote majority. The Senate can waive the Byrd Rule with a three-fifths majority vote.

Reconciliation Process

The President submits an annual budget request to Congress each spring, outlining the White House's spending priorities and revenue goals. The House and Senate Budget Committees then draft a budget resolution, setting spending targets for the upcoming fiscal year, independent of the President's request. To initiate reconciliation, both chambers must pass identical budget resolutions with reconciliation instructions. These instructions direct specific committees to draft legislation by a set date to:

- Adjust spending by specified amounts over a specified period;
- Alter revenues by specified amounts over a specified period; or
- Modify the public debt limit.

For example, in 2021 ([S.Con.Res 5](#)), reconciliation instructions directed 23 Congressional committees. For the tax-writing committees, those instructions said:

COMMITTEE ON WAYS AND MEANS.—The Committee on Ways and Means of the House of Representatives shall submit changes in laws within its jurisdiction to increase the deficit by not more than \$940,718,000,000 for the period of fiscal years 2021 through 2030.

COMMITTEE ON FINANCE.—The Committee on Finance of the Senate shall report changes in laws within its jurisdiction that increase the deficit by not more than \$1,296,487,000,000 for the period of fiscal years 2021 through 2030.

Once the House and Senate pass their budget resolutions, each instructed committee drafts and approves bills meeting their spending targets. These bills are then consolidated into a single omnibus reconciliation bill by the respective Budget Committees and moved to the House and Senate floors for debate.

Under reconciliation rules, debate is limited to twenty hours in the Senate; Senators cannot filibuster a reconciliation bill. Senators can offer unlimited amendments to the omnibus bill, but they must offer the amendments verbally in person. The Congressional Budget Act prohibits





amendments that raise spending or cut taxes without being fully offset, but an amendment can entirely strike a provision without offsetting any resulting cost.

If the House and Senate pass different versions of a reconciliation bill, a conference committee reconciles the differences. Alternatively, the Senate may negotiate a compromise bill with the House before debate begins to bring a House-passed bill directly to the Senate floor, as was the case with the [American Rescue Plan Act of 2021](#).

Additional Resources

CRS, [The Budget Reconciliation Process: Stages of Consideration](#)

CRS, [The Budget Reconciliation Process: The Senate’s “Byrd Rule”](#)

CRS, [The Budget Reconciliation Process: Timing of Legislative Action](#)

CRS, [S.Con.Res. 5: The Budget Resolution for FY2021](#)

CRS, [The American Rescue Plan Act of 2021 \(ARPA; P.L. 117-2\): Title IX, Subtitle G—Tax Provisions Related to Promoting Economic Security](#)

CRS, [The Budget Reconciliation Process and the Statutory Limit on the Debt](#)

Center on Budget and Policy Priorities, [Introduction to Budget “Reconciliation”](#)

Committee for a Responsible Federal Budget, [Reconciliation 101](#)

Peter G. Peterson Foundation, [What is Budget Reconciliation?](#)

Tax Notes, [Budget Reconciliation and Tax Reform](#)

Questions?

Congressional procedures are complicated and political dynamics are always changing. If you have questions about policy or strategy, please email me at Stacey@ZeroOneStrategies.com.