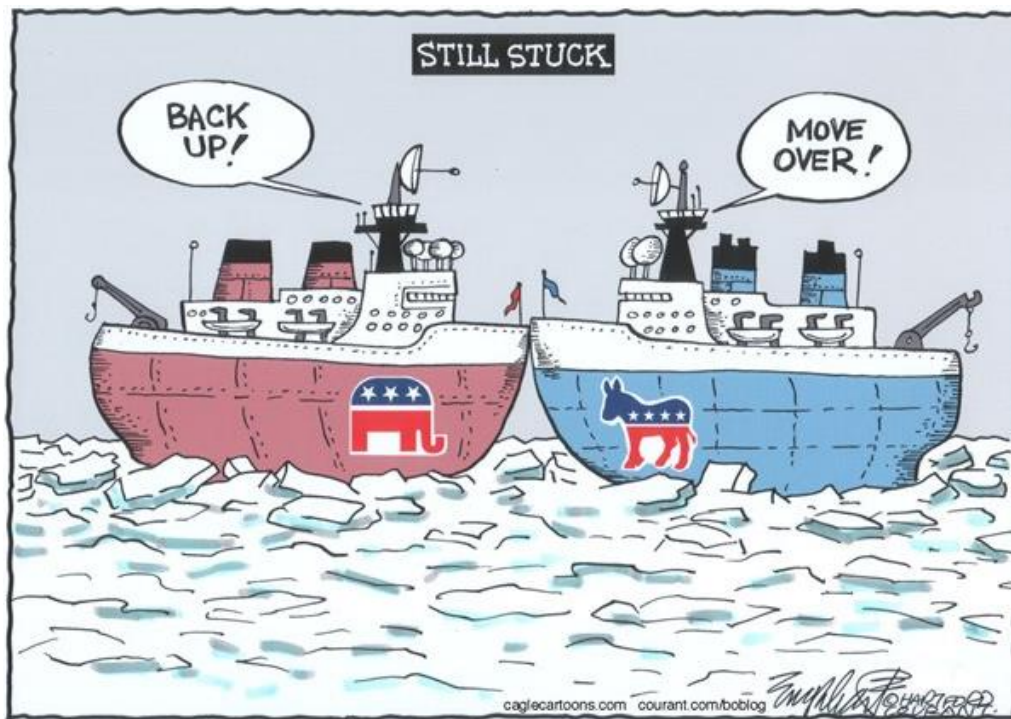


# Tax Policy Update

May 22, 2018

## AGENDA OF THE WEEK



Source: caglecartoons.com

It's a busy week for Congress — lawmakers are trying to get as much done as possible before departing for the weeklong Memorial Day recess. Major items on the to-do list include (1) the Senate's bipartisan banking bill; (2) farm bill; (3) FY 2019 defense reauthorization; and (4) the *Foreign Investment Risk Review Modernization Act*.

More details on these measures in the section below.

## LEGISLATIVE LANDSCAPE

**Vacation Packing List.** Congress will try to knock out the following items before leaving town for Memorial Day recess next week:

- **Banking Bill.** The House is finally ready to take up the [Senate's bipartisan banking bill](#) (S. 2155) with a vote as early as Tuesday. Passage is expected. As a refresher, the bill would provide targeted regulatory relief to smaller financial institutions like credit unions, community banks, and custodial banks. Of note, banks with less than \$250 billion in assets would no longer be automatically designated as a systemically important financial institution (SIFI).
- **Farm Bill.** The House may take another shot at H.R. 2 this week. The chamber rejected the bill in a 198-213 vote last week due to disagreements over an unrelated issue — immigration. Before the failed vote, the House Freedom Caucus had threatened to withhold support until lawmakers first take a vote on an immigration bill introduced by Rep. Bob Goodlatte (R-VA).
- **Defense Reauthorization.** The House is preparing to bring the FY 2019 defense reauthorization bill to the floor, but first the House Rules Committee must decide which amendments will get a vote. More than 500 amendments have been submitted.
- **CFIUS Reform.** The House Financial Services Committee and Senate Banking Committee are marking up their respective versions of the *Foreign Investment Risk Review Modernization Act* ([H.R. 5841](#) and [S. 2098](#)). These two bills intend to overhaul the Committee on Foreign Investment in the United States (CFIUS) and strengthen the government's ability to review certain outbound foreign investments.

**Wenstrup to Ways and Means.** Rep. Brad Wenstrup (R-OH) is the newest member of the House Ways and Means Committee, filling a vacancy left by the resignation of former Congressman Pat Meehan (R-PA). Wenstrup has been assigned to the human resources subcommittee as well as the oversight subcommittee. Additionally, Ways and Means Chairman Kevin Brady (R-TX) added Rep. David Schweikert (R-AZ) to the tax policy subcommittee.

[In announcing the subcommittee changes](#), Chairman Brady said: "Our Committee has delivered real results on behalf of the American people including historic tax reform and the first redesign of the IRS in decades. Our chairmen and members work tirelessly to enact these pro-growth policies that improve Americans' lives and accelerate our economy. We look forward to delivering even more results in the months to come, including important legislation to combat the opioid crisis and meaningful welfare reform."

**As the World Turns.** The Senate Finance Committee is shuffling its staff, as Deputy Staff Director and Chief Tax Counsel Mark Prater is preparing to retire from Congress. Prater's dual role will be split between Jeff Wrase and Jennifer Acuna. Wrase, the committee's chief economist, will step in as deputy staff director; Acuna will be promoted to chief tax counsel.

Prater's retirement should come as no surprise — after all, the difficult work of enacting tax reform is done. At this writing, Prater has not announced his next steps. Typically, tax staffers with Prater's extensive policy experience tend to migrate towards either accounting or law firms in Washington, as their legislative expertise and contacts are a commodity in the private sector. For instance, Randy Herndon, a former House and Senate GOP tax staffer, has left Capitol Hill to take a job with Capitol Tax Partners.

Democratic tax staffers are also in high demand these days in view of a potential "blue wave" this November, but many are staying put for now in case they retake the majority in the next Congress.

## REGULATORY WORLD

**Don't Get Carried Away.** Last week, Clifford Warren, IRS senior counsel (Passthroughs & Special Industries), said that the IRS is currently reviewing draft regulations clarifying the applicability of the three-year holding requirement with respect to carried interest.

The carried interest provision in the tax law increases the holding requirement from one year to three years, but the statute is unclear on whether the three-year holding requirement applies to the applicable partnerships interests or the underlying assets as well. Warren did not provide a specific timeline on when the IRS will issue a clarification, merely stating that the agency is "taking things one at a time." However, according to the Office of Management and Budget's Unified Agenda, a proposed rulemaking may be issued before June 2018.

Earlier this year, the IRS addressed a separate carried interest issue regarding applicability to S corporations via [Notice 2018-18](#).

## LINE ITEMS

1. Treasury Secretary Steven Mnuchin told Fox News Sunday that the U.S. would put its trade war on China on hold, as the two countries have agreed on a "framework" in which China would buy more goods from the U.S. [Read more](#)
2. The EPA has submitted its proposed 2019 RFS volumes to the Office of Management and Budget for review. The agency is aiming to finalize the requirements by Nov. 30.
3. At an event held by the American Payroll Association last week, IRS Commissioner David Kautter said that the IRS wants to hire approximately 1,700 full-time employees to help implement the tax law and ensure a smooth filing season next year.

## COMMANDER-IN-TWEET



**Donald J. Trump**   
@realDonaldTrump

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Under our potential deal with China, they will purchase from our Great American Farmers practically as much as our Farmers can produce.

6:16 AM - 21 May 2018

12,060 Retweets 52,488 Likes



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## IN THE QUEUE

### Congressional Activity

Tuesday, 5/22

#### **House Financial Services Committee**

Markup of the *Foreign Investment Risk Review Modernization Act*; *Housing Choice Voucher Mobility Demonstration Act*; *Options Markets Stability Act*; *Transitional Housing for Recovery in viable Environments Demonstration Program Act*; *Modernizing Credit Opportunity Act*. See bill details [here](#).

#### **Senate Appropriations Committee**

Subcommittee hearing to examine the FY 2019 budget request of the Department of the Treasury.

#### **Senate Banking Committee**

Markup of the *Foreign Investment Risk Review Modernization Act* (S. 2098).

Wednesday, 5/23

#### **Senate Banking Committee**

Hearing on "Ten Years of Conservatorship: The Status of the Housing Finance System."

**House Ways and Means Committee**

Subcommittee hearing on tax reform and small businesses.

**House Financial Services Committee**

Subcommittee hearing on “Legislative Proposals to Help Fuel Capital and Growth on Main Street.”

**House Financial Services Committee**

Subcommittee hearing on “The Impact of Autonomous Vehicles on the Future of Insurance.”

**House Education and Workforce Committee**

Subcommittee hearing on regulatory reform and economic opportunities for workers and employers.

**Senate Appropriations Committee**

Subcommittee hearing on the FY 2019 budget request of the HHS.

*Thursday, 5/24*

**Senate Banking Committee**

Hearing on “Cybersecurity: Risks to the Financial Services Industry and Its Preparedness.”

**Senate Finance Committee**

Hearing to examine rural healthcare in America.

**Agency Activity**

*Thursday, 5/24*

**CFPB**

Spring 2018 Community Bank Advisory Council meeting. Agenda includes a discussion of the Home Mortgage Disclosure Act.

**Other Activity**

*Tuesday, 5/22*

**Heritage Foundation**

Discussion on the Fed’s new capital rules proposal.

*Wednesday, 5/23*

**Tax Policy Center**

Discussion on “The Tax Cuts and Jobs Act: A Boost to Growth or a Missed Opportunity?”

## **Heritage Foundation**

Trade discussion with Sens. Ben Sasse (R-NE) and Joe Manchin (D-WV) as well as Commerce Secretary Wilbur Ross

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