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TAX REFORM WATCH 2021:

News and Perspective on Tax Planning and Priorities

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Our Roots Date Back to 1932

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360+
employees



Top 70
Firm in
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Industry
Expertise



\$70M
Revenues



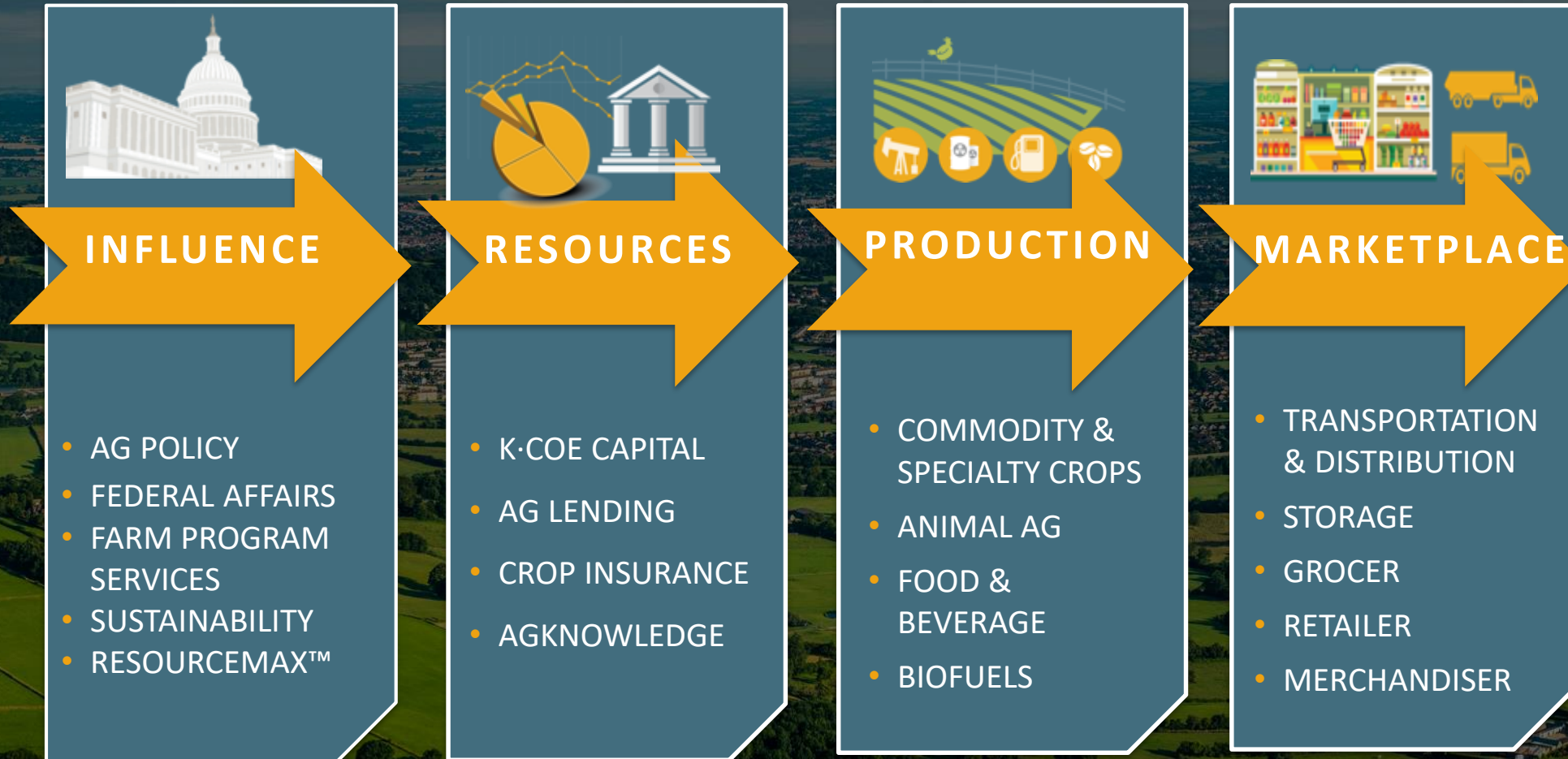
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National
Scope

From Policy to Plate...

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Legislative Process Expectations

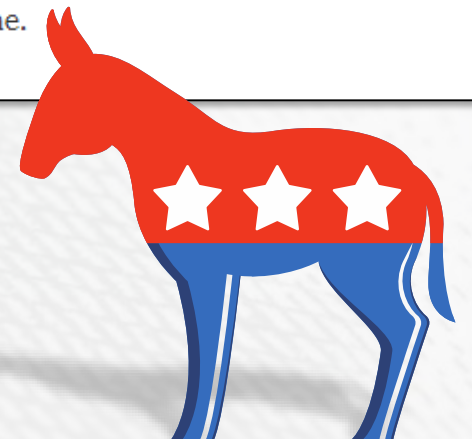
Democratic Priorities:

- The American Rescue Plan
 - \$2 trillion COVID – signed into law
 - Child tax credit
 - \$1,400 direct payments
 - Funding for PPP program
 - Vaccine rollout

The New York Times

Divided Senate Passes Biden's Pandemic Aid Plan

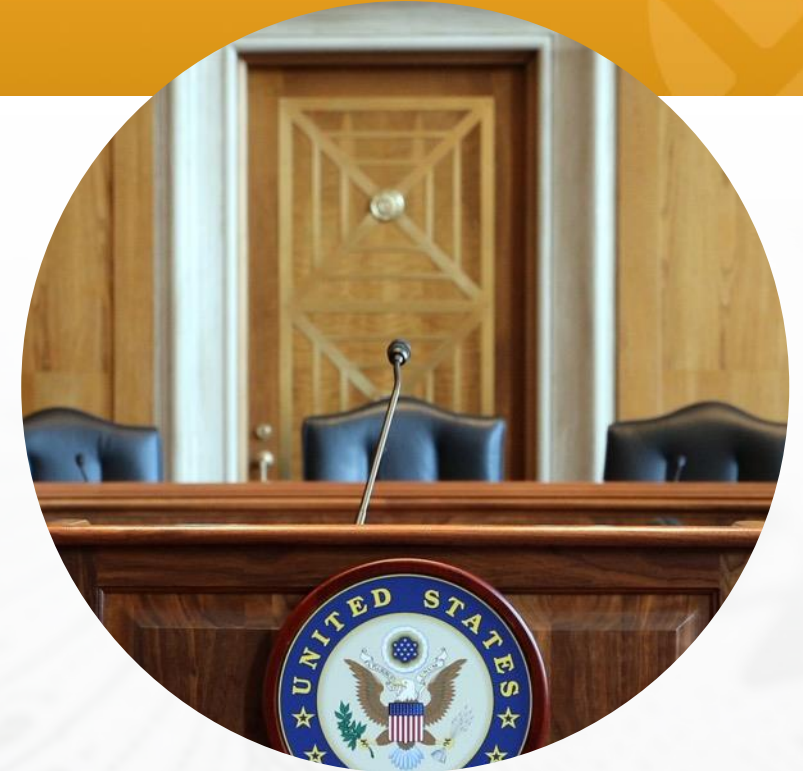
The chamber approved the package after a grueling marathon of amendment votes and last-ditch negotiations. The measure must now clear the House a second time.



Legislative Process Expectations

Democratic Priorities:

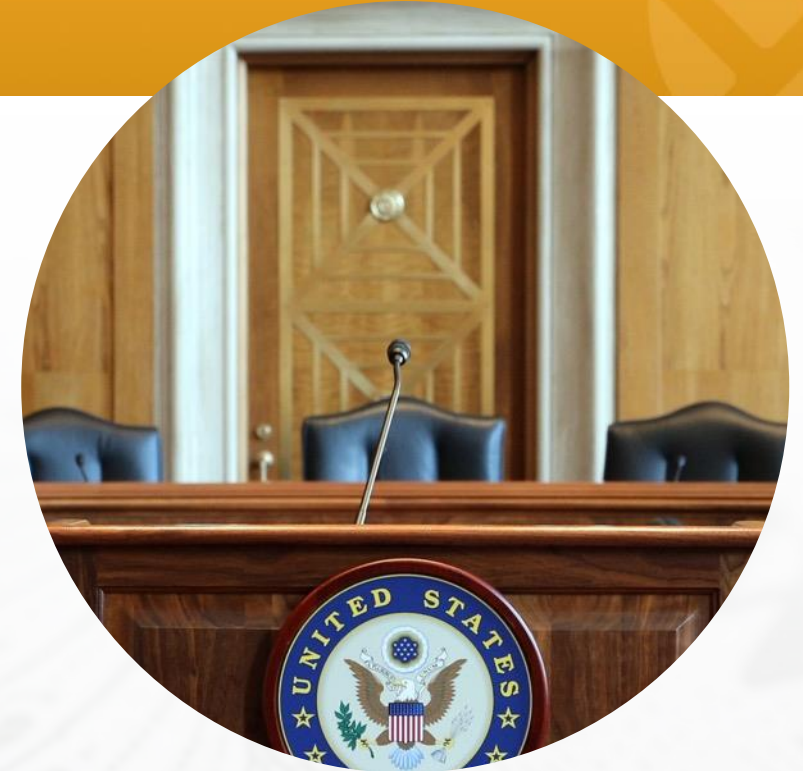
- The American Jobs Plan - \$1.9 trillion infrastructure
 - \$100 billion for rural broadband
 - \$17 billion for inland waterways and ports
 - Funding for roads, bridges and water systems
 - Funding for VA hospitals
 - Funding for electric vehicle charging stations
- Corporate tax rate increase (21% to 28%)
 - Minimum tax on book profits; international tax



Legislative Process Expectations

Democratic Priorities:

- The Care Economy – expected \$2 trillion package
 - Childcare
 - Community college funding
 - Universal pre-K
 - Student debt relief
- Increase in upper bracket tax rates (>\$400k)
- Estate tax changes
- Capital gains tax rate changes (>\$1 million)



Compromise Required: Narrow Margins

- Senate is tied 50-50.
- Moderate Senators Joe Manchin of WV and Krysten Sinema of Arizona are key.
- House 218 Democrats-212 Republicans (5 vacancies).
- Limits the flexibility of the majority party.
- Moderating influence on legislation



Legislative Process Expectations

Budget Reconciliation:

- Requires only 50 votes to pass legislation in the Senate if pursuant to a budget resolution.
- Limitations: no policy riders; budget neutral.
- The same vehicle Republicans used in 2017 to pass the Tax Cuts and Jobs Act.
- Democrats used in 2021 for the American Rescue Plan Act.
- Recent parliamentarian ruling: ability to amend budget resolutions.
- Senator Manchin has expressed an interest in regular order and opposition to filibuster reform.

Estate & Gift Tax Bills Previously Introduced

- **Ultra-Millionaire Tax Act of 2021 – Introduced March 1st**
Senator Warren (D-MA) and Representatives Jayapal (D-WA) and Boyle (D-PA)
- **Death Tax Repeal Act of 2021 – Introduced March 9th**
Senators Thune (R-SD), McConnell (R-KY), and Crapo (R-Idaho)
- **For the 99.5% Act – Introduced March 25th**
Senators Sanders (I-VT) and Whitehouse (D-RI)
- **Sensible Taxation and Equity Promotion (STEP) Act – Introduced March 29th**
Senators Warren (D-MA), Van Hollen (D-MD), Booker (D-NJ), Whitehouse (D-RI), and Sanders (I-VT)



Expected Timeline

- **June and July** – Hearings on American Jobs Act. Goal to pass House by July 4.
- **July, September, and October** – Legislative process likely continues into the fall.
- Tax provisions likely take effect for 2022 tax year.
- Green and other stimulative tax incentives could be retroactive to 2021 tax year.



Targets on the Table – Businesses

- ☐ Increase corporate income tax rate to 28%
- ☐ Assess 15% minimum “book income” tax for largest corporations
- ☐ Create subsidies for clean energy and environmental concerns such as carbon capture and sequestration
- ☐ Retain excess business loss rules
- ☐ Limit gain deferral for like-kind exchanges to \$500,000
- ☐ International tax reforms to disincentivize offshoring



Targets on the Table – Individuals

- ☐ Payroll tax reforms for high-earners
- ☐ Increase top income tax rate to 39.6%
- ☐ Assess capital gains tax at ordinary income rates for income over \$1M
- ☐ Limit itemized deductions for higher-income individuals
- ☐ Phase out the 20% “qualified business income” deduction for individuals making more than \$400,000
- ☐ Expand credits for families with young children
- ☐ Create renters’ credit for lower-income renters
- ☐ Expand ACA premium tax credits



Targets on the Table – Estates, Gifts, & Trusts

- ❑ Eliminate step-up in basis; assess capital gains tax at death for gains over \$1M
 - ❑ Proposal provides exemptions for donated property and farm property
- ❑ No official administration proposals yet, but also expect –
 - ❑ Reduced estate tax exemptions
 - ❑ Reduced gift tax exemptions
 - ❑ Trust reforms



Agricultural Exemption

- In a USDA Fact Sheet, the Biden Administration indicated that the taxation of capital gains at death would be deferred for family farms, as long as the family continues to operate the farm.
 - Many details still missing.
- One possible structure of the exemption is the similar special family business valuation under Code § 2032A
 - Section 2032A is exceedingly complicated
 - Contains a maximum valuation reduction – limited benefit for medium and large-sized operations
 - Requires the property to be used for a qualified purpose – the owner must be “at risk” in the operation
 - Property must pass to a qualified heir who uses the land for a qualified purpose
 - Recapture tax assessed if qualified use ends during the 10 years following decedent’s death.
- Possible alternatives

Current Estate Tax Law

- **2017 Tax Reform doubled the estate, gift, and generation skipping transfer (GST) tax exemption to \$10 M exemption adjusted for inflation**
 - 2021 Unified Exemption is \$11.7 M per Person
 - Sunsets in 2026 to \$5 M adjusted for inflation
- **Tax Policy Center estimates**
 - 4,100 Estate Tax Returns to be filed, of which only 1,900 will be taxable
 - Less than 0.1% of the 2.8 million who died in 2020 owe estate tax
 - 2020 estate taxes will generate \$16 billion of tax revenue

Use it, lose it, or die with it

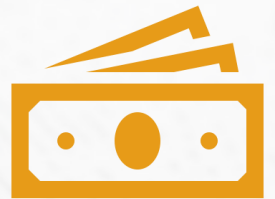
- ✓ If you don't plan on dying in the next 5 years or before the law changes, then use it!
- ✓ IRS regulations prevent "Claw-back" of gift tax on "bonus exemption" used under current law
- ✓ Risk of law changes being retroactive to January 1, 2021



	Current Law		\$3.5M Exemption & 45% Rate	
	2021	2026	2021	2026
Net Worth*	10,000,000	13,380,000	10,000,000	13,380,000
Exemption (Married)**	(23,400,000)	(12,860,000)	(7,000,000)	(7,000,000)
Taxable Estate	-	520,000	3,000,000	6,380,000
Estate tax liability	40%	-	45%	1,350,000
		141,200		2,871,000

*Assumes 6% annual growth of Net Worth

**Assumes 2% annual inflation in current law exemption



Great Time to Review Existing Plans

Excellent opportunity to review your current estate plans

- Should be reviewing these plans every 3-5 years
- Significant changes in tax law or potential changes, changes in family dynamics, retirement, and business changes are all “triggering” events where a review makes sense (who hasn’t had something like this happen this year!?)



Opportunities - What to Look For

- **Impact to traditional A/B trust structures**
- **Making gifts to existing or new irrevocable trusts, including generation-skipping trusts**
- **Leveraging gifts to support the funding of life insurance or existing sales to trusts and**
- **Pairing gifts with philanthropy (such as a charitable lead trust....works really well in a low interest rate environment)**

Considerations

- Wait and see – might be too late
- Get started now
 - What are the implications of these potential changes to me personally and my planning?
- Calculator and self-assessment tool
- K-Coe Estate Plan Review/Design



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