Tax policy update

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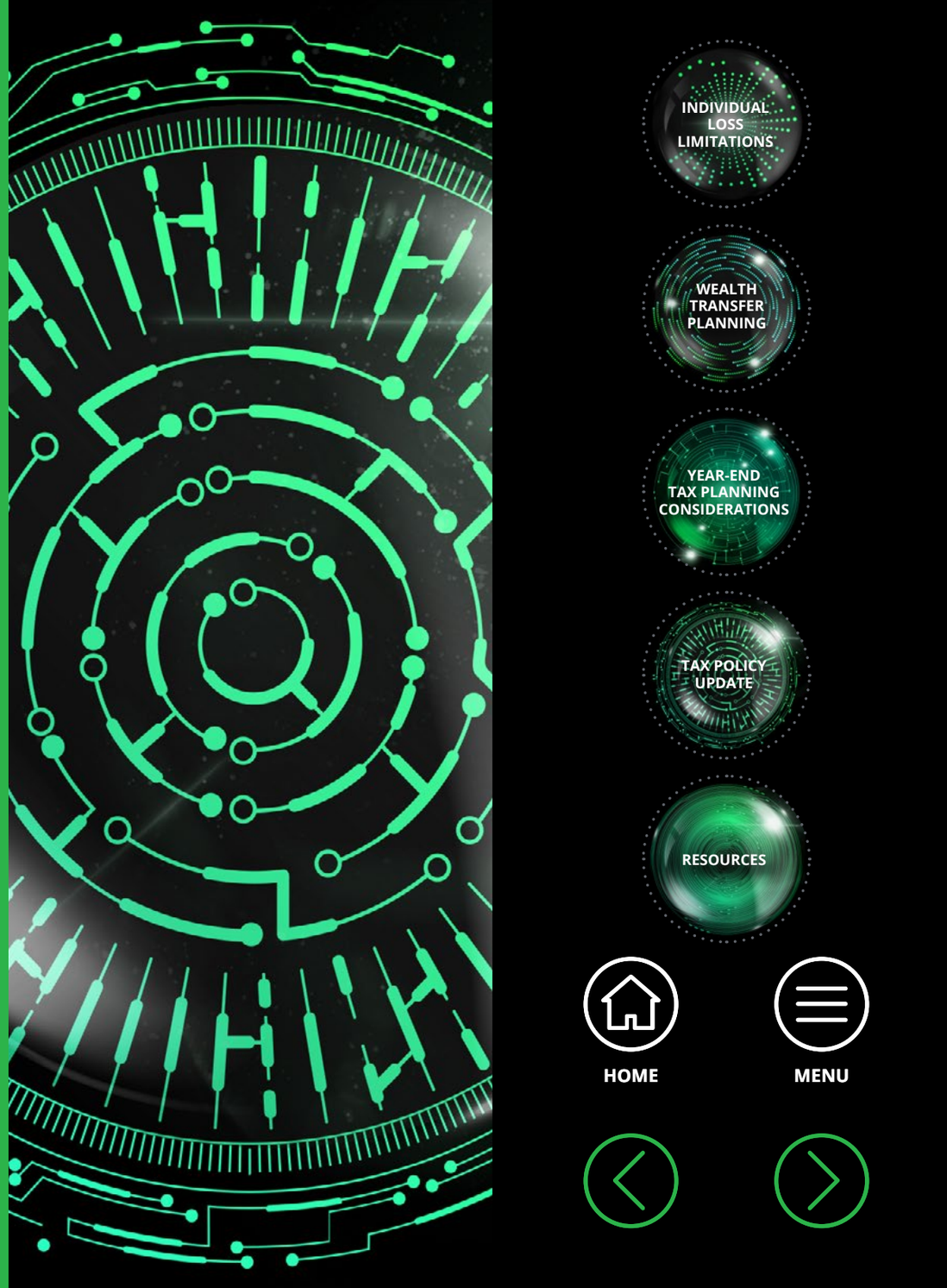
Deloitte's Tax Policy group provides cutting-edge news, information, and analysis to help you stay on top of the latest developments in Congress and guide you through the legislative maze. Its email news service, ***Tax News & Views***, provides a convenient way to keep up with "the big picture."



Tax policy decisions ahead: Divided government, divided attention

After last year's midterm elections ushered in a new era of divided government, with Democrats in control of the House of Representatives and Republicans in charge of the Senate and the White House, the conventional wisdom was that any talk of sweeping changes to the tax code from either party would serve largely as talking points for the 2020 elections and that any near-term action on the tax policy front in Congress would be limited to more narrowly focused legislation that had the potential to attract bipartisan support.

But with just a few weeks left in 2019, the House and Senate are still addressing several tax priorities that various lawmakers and outside stakeholders hope will be addressed this year, such as:

- The future of temporary tax "extenders" provisions that expired in 2017 and 2018 or are set to expire at the end of this year;
- Further suspensions of certain taxes enacted as part of the Patient Protection and Affordable Care Act, which are slated to come into force next year;
- Technical corrections to the 2017 Tax Act; and
- Senate action on the SECURE Act (H.R. 1994)—a bipartisan, House-passed retirement security measure that also would address unintended consequences of a change to the so-called "kiddie tax" that was included in the 2017 Tax Act.

Progress on these agenda items has been stymied by a number of political policy debates including partisan disagreements over whether the budgetary cost of the tax extenders should be offset; a separate debate among Democrats as to whether they should work with Republicans to fix technical glitches in the GOP-drafted 2017 Tax Act and if so, at what price; and efforts by a few disparate Senate Republicans to block expedited passage of the SECURE Act because they want to strike certain provisions from the House-passed bill, such as pension funding relief for certain financially challenged community newspapers, or add others in, such as a 2017 Tax Act technical correction that would clarify the depreciation rules for qualified improvement property.

These seemingly intractable differences have led many observers to conclude that the underlying tax proposals are unlikely to advance through Congress on their own and will instead have to be attached to a larger, "must-pass" legislative package, such as a government funding bill. But that path is proving to be more difficult to navigate than lawmakers might have imagined. The House and Senate did not complete work on the 12 spending bills needed to fund government agencies with the start of fiscal year 2020 on October 1 and instead approved a short-term continuing resolution in late September that keeps the government open (at fiscal year 2019 funding levels) through November 21.

In *theory*, then, that means the next possible opportunity for lawmakers to move tax legislation may be in late November when the continuing resolution is set to expire. But in addition to tax and spending legislation, Congress already faces a crowded agenda that could include such diverse and potentially divisive issues as trade, gun safety and regulation, prescription drug pricing, judicial nominations in the Senate, and proceedings in the House related to a formal impeachment inquiry against President Trump that has been authorized by Speaker Nancy Pelosi, D-CA. These competing claims for lawmakers' time and attention have the potential to drag out work on appropriations and may require additional stop-gap spending bills to keep the government open. And each delay in finalizing a fiscal year 2020 spending package likewise could mean a delay in wrapping up an agreement on tax legislation.

For continuing updates on the federal tax policy outlook, read *Tax News & Views* from Deloitte Tax LLP's Tax Policy Group.