

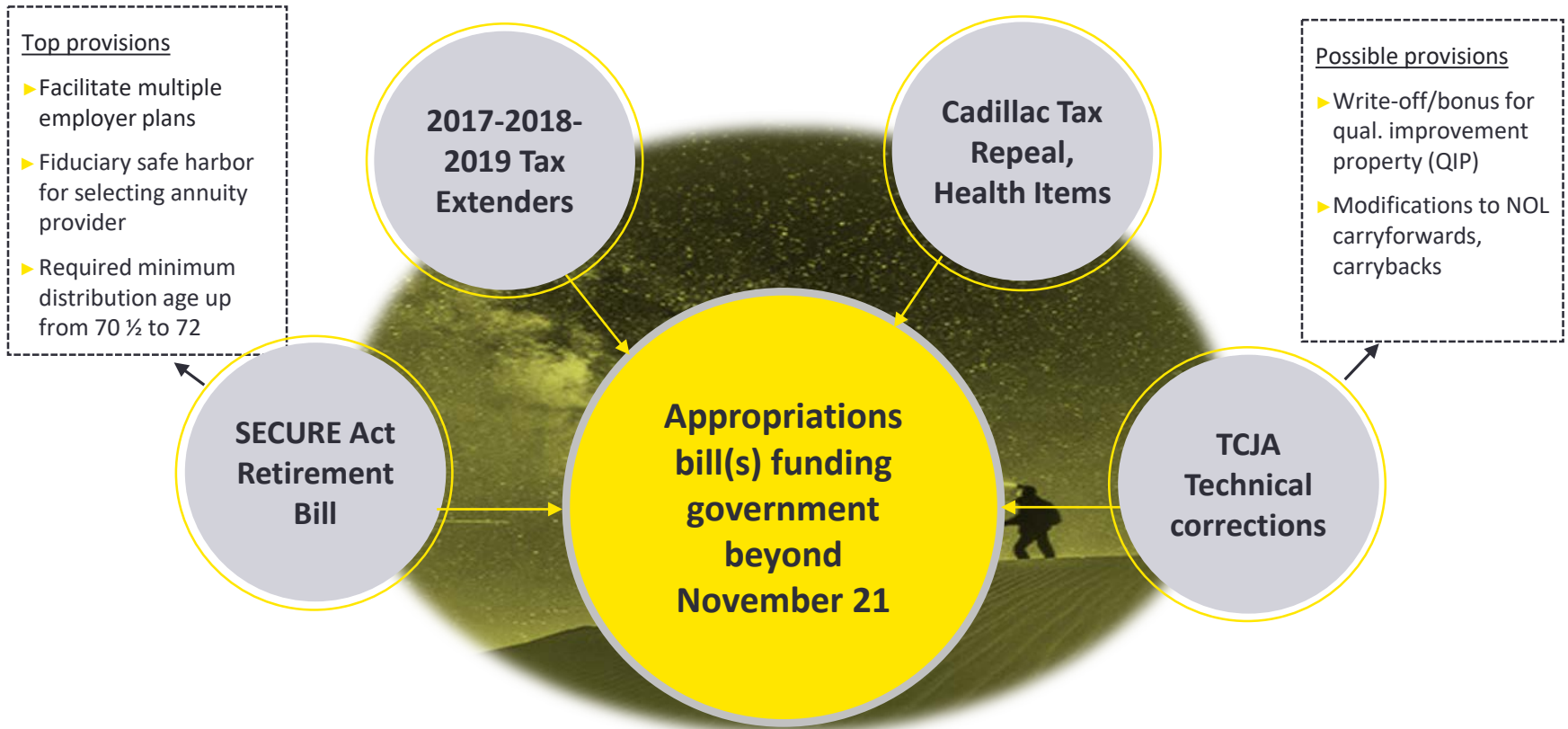
# Tax legislative & policy update

Washington Council Ernst & Young  
October 2019



Building a better  
working world

# Universe of items in play for end-of-year spending bill



## Other business

- ▶ U.S.-Mexico-Canada Agreement (USMCA) may get House vote prior to Thanksgiving
- ▶ Lower Rx drug price packages being advanced by tax-writing committees
- ▶ Infrastructure investment stuck for now, but highway bill to move (September 2020 deadline)

# Key dates

2019 | 2020

Additional CR(s) may go until (1) just before Christmas; (2) into early 2020; (3) through fiscal 2020

## November 21

- Expiration of:
  - **Government funding**
  - Flood insurance
  - Ex-Im bank
  - TANF

## December 31

- Expiration of:
  - CFC look-through
  - WOTC, NMTC
  - TCJA alcohol items
  - FMLA credit
  - Device tax, insurer fee suspensions



## Pre-Thanksgiving

- Target for House USMCA vote

## November 20

- 5<sup>th</sup> Democratic debate (Georgia)

## February 3

- Democratic primaries, caucuses begin (Iowa)

## July 13-16

- Democratic National Convention (Milwaukee)

## August 24-27

- Republican National Convention (Charlotte)

## November 3

- Election Day

## Early November

- OECD to publish consultation document on Pillar 2

## November 21-22

- OECD public consultation on Pillar 1

## June

- OECD target for reaching political agreement on BEPS 2.0

# “It’s the economy ....”

## No recession in two years before re- election bid

Recession	President (Year)	Re-election?
No	Obama (2012)	Yes
No	Bush43 (2004)	Yes
No	Clinton (1996)	Yes
No	Reagan (1984)	Yes
No	Nixon (1972)	Yes
No	LBJ (1964)	Yes
No	Ike (1956)	Yes
No	Truman (1948)	Yes
No	FDR (1944)	Yes
No	FDR (1940)	Yes
No	FDR (1936)	Yes
No	Wilson (1916)	Yes

## Recession in two years before bid

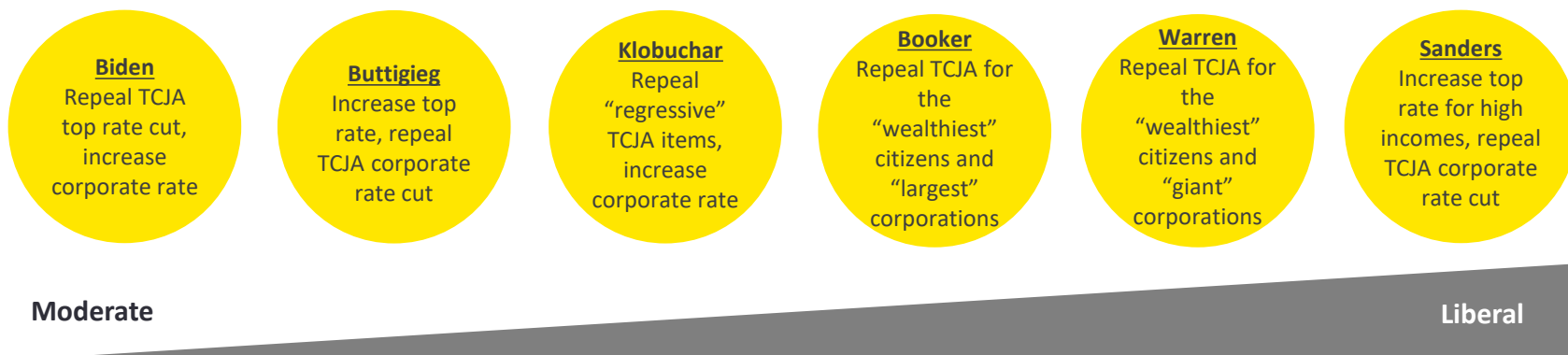
Recession	President (Year)	Re-election?
Yes	Bush41 (1992)	No
Yes	Carter (1980)	No
Yes	Ford (1976)	No
Yes	Hoover (1932)	No
Yes	Coolidge (1924)*	Yes
Yes	Taft (1912)	No

\*Coolidge was not technically running for re-election as president as he had come to the presidency after the death of President Harding in 1923

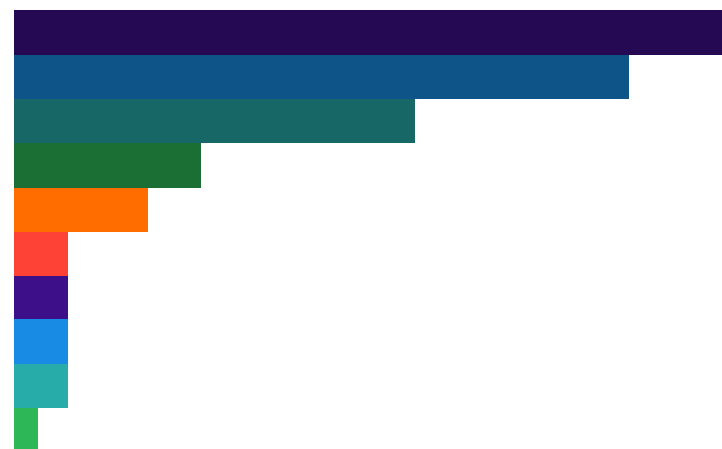
Source: Adrian Gray, AGC Research, and Mehlman Castagnetti

# Democratic presidential race

- Candidates span the political spectrum, from moderate to liberal
- 2017 tax law & distribution of benefits is a focus, but only 2 call for its full repeal (Harris, Castro)
- Significant policy discussion on issues outside of the TCJA like wealth taxes, capital gains



<b>Joe Biden</b> (Former VP 2009-2017, DE Senator)	27%
<b>Elizabeth Warren (D-MA)</b> (Senator since 2013)	23%
<b>Bernie Sanders (I-VT)</b> (Senator since 2007)	15%
<b>Pete Buttigieg</b> (South Bend, IN mayor since 2012)	7%
<b>Kamala Harris (D-CA)</b> (Senator since 2017)	5%
<b>Andrew Yang</b> (Tech entrepreneur)	2%
<b>Beto O'Rourke</b> (TX congressman 2013-2019)	2%
<b>Amy Klobuchar (D-MN)</b> (Senator since 2007)	2%
<b>Cory Booker (D-NJ)</b> (Senator since 2013)	1%
<b>Julian Castro</b> (HUD Secretary 2014-17)	<1%



National polling average compiled by New York Times 10/24/2019

# Post-2020 election outlook for tax policy

## If

*Democrats win the presidency in 2020 and/or control of both the House and Senate, they will pursue tax increases for the wealthy and corporations to pay for other priorities like education, child care, and health care.*

### Main categories of tax proposals among Democratic presidential candidates

#### Wealth tax

- ▶ **X% tax on net worth above income threshold**
  - ▶ Warren: 2-3%
  - ▶ Sanders: 1-8%
- ▶ **Estate tax increase**
  - ▶ Warren: top rate of 75%
  - ▶ Sanders: top rate of 77%
- ▶ **End stepped-up basis**
  - ▶ Biden, Sanders, O'Rourke

#### Business tax

- ▶ **Corporate rate increase**
  - ▶ Sanders, Buttigieg: 35%
  - ▶ Biden, O'Rourke: 28%
  - ▶ Klobuchar: 25%
- ▶ **Corporate surtax**
  - ▶ Warren: 7% on book income >\$100m
- ▶ **Transactions tax on stock and bond trades, derivatives transactions**
  - ▶ Sanders
- ▶ **Eliminate TCJA reduced rates on certain foreign-earned income**
  - ▶ Sanders, Klobuchar

#### Individual tax

- ▶ **Top rate increase**
  - ▶ Biden, O'Rourke: 39%+
- ▶ **End lower capital gains rate**
  - ▶ Biden: for incomes >\$1m
  - ▶ Sanders: for top 1%
- ▶ **Itemized deduction cap**
  - ▶ Biden: limit to 28% the value of itemized deductions for "wealthiest"

*However...*

- ▶ Tax changes will take time to be developed, won't likely be effective until 2022

# Expiration dates of various tax provisions

**The 2017 tax law was not bipartisan, includes temporary provisions, and will be re-visited**

- ▶ TCJA rate reductions for individuals, small businesses expire after 2025
- ▶ 100% expensing is phased down after 2022
- ▶ 30% business interest deduction cap calculated on EBITDA through 2021, EBIT after

Provision	2019	2020	2021	2022	2023	2024	2025	2026	2027
Individual rate cuts	In effect	In effect	In effect	In effect	In effect	In effect	In effect	Not in effect	Not in effect
Individual AMT exemption amount	In effect	In effect	In effect	In effect	In effect	In effect	In effect	Not in effect	Not in effect
20% pass-through deduction	In effect	In effect	In effect	In effect	In effect	In effect	In effect	Not in effect	Not in effect
Estate tax doubled exemption	In effect	In effect	In effect	In effect	In effect	In effect	In effect	Not in effect	Not in effect
\$10,000 State and local deduction	In effect	In effect	In effect	In effect	In effect	In effect	In effect	Not in effect	Not in effect
21% corporate rate	In effect	In effect	In effect	In effect	In effect	In effect	In effect	In effect	In effect
Corporate AMT repeal	In effect	In effect	In effect	In effect	In effect	In effect	In effect	In effect	In effect
100% expensing – effective 9/27/17	In effect	In effect	In effect	In effect	(Phased down in 20% increments after 2022)	(Phased down in 20% increments after 2022)	(Phased down in 20% increments after 2022)	(Phased down in 20% increments after 2022)	(Phased down in 20% increments after 2022)
Interest deduction 30% of EBITDA	In effect	In effect	In effect	(EBIT after 2021)	(EBIT after 2021)	(EBIT after 2021)	(EBIT after 2021)	(EBIT after 2021)	(EBIT after 2021)
Amortization of R&D expense	In effect	In effect	In effect	In effect	In effect	In effect	In effect	In effect	In effect
Alcohol tax modernization	In effect	In effect	In effect	In effect	In effect	In effect	In effect	In effect	In effect
Medical deduction 7.5%/AGI floor	(10% beginning in 2019)	(10% beginning in 2019)	(10% beginning in 2019)	(10% beginning in 2019)	(10% beginning in 2019)	(10% beginning in 2019)	(10% beginning in 2019)	(10% beginning in 2019)	(10% beginning in 2019)
More than two dozen extenders	In effect	In effect	In effect	In effect	In effect	In effect	In effect	In effect	In effect
Other extenders: CFC look-through, NMTC, WOTC + FMLA credit	In effect	In effect	In effect	In effect	In effect	In effect	In effect	In effect	In effect

ACA taxes – Current law	2018	2019	2020	2021	2022
Cadillac tax	In effect	In effect	In effect	In effect	In effect
Device tax	In effect	In effect	In effect	In effect	In effect
HIT	In effect	In effect	In effect	In effect	In effect

- In effect
- Not in effect



# BEPS 2.0: Addressing the tax challenges of the digitalization of the economy

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- ▶ Current OECD project is broader than digital and bigger than BEPS:
  - ▶ Impact not limited to digital businesses or digital business models
  - ▶ Objective to change fundamental aspects of long-standing international tax architecture applicable to cross-border business activity
- ▶ Two parallel elements:
  - ▶ Pillar 1 — revisions to existing profit allocation and nexus rules to allocate more taxing rights to market countries
  - ▶ Pillar 2 — establishing new global minimum tax rules to ensure that all business income is subject to at least an agreed minimum level of tax
- ▶ Aggressive timeline: target of achieving agreement on new rules in 2020
- ▶ Significant political momentum driving project forward: in individual countries and in both G20 and G7
- ▶ Broad participation: 134 jurisdictions working together on equal footing through Inclusive Framework

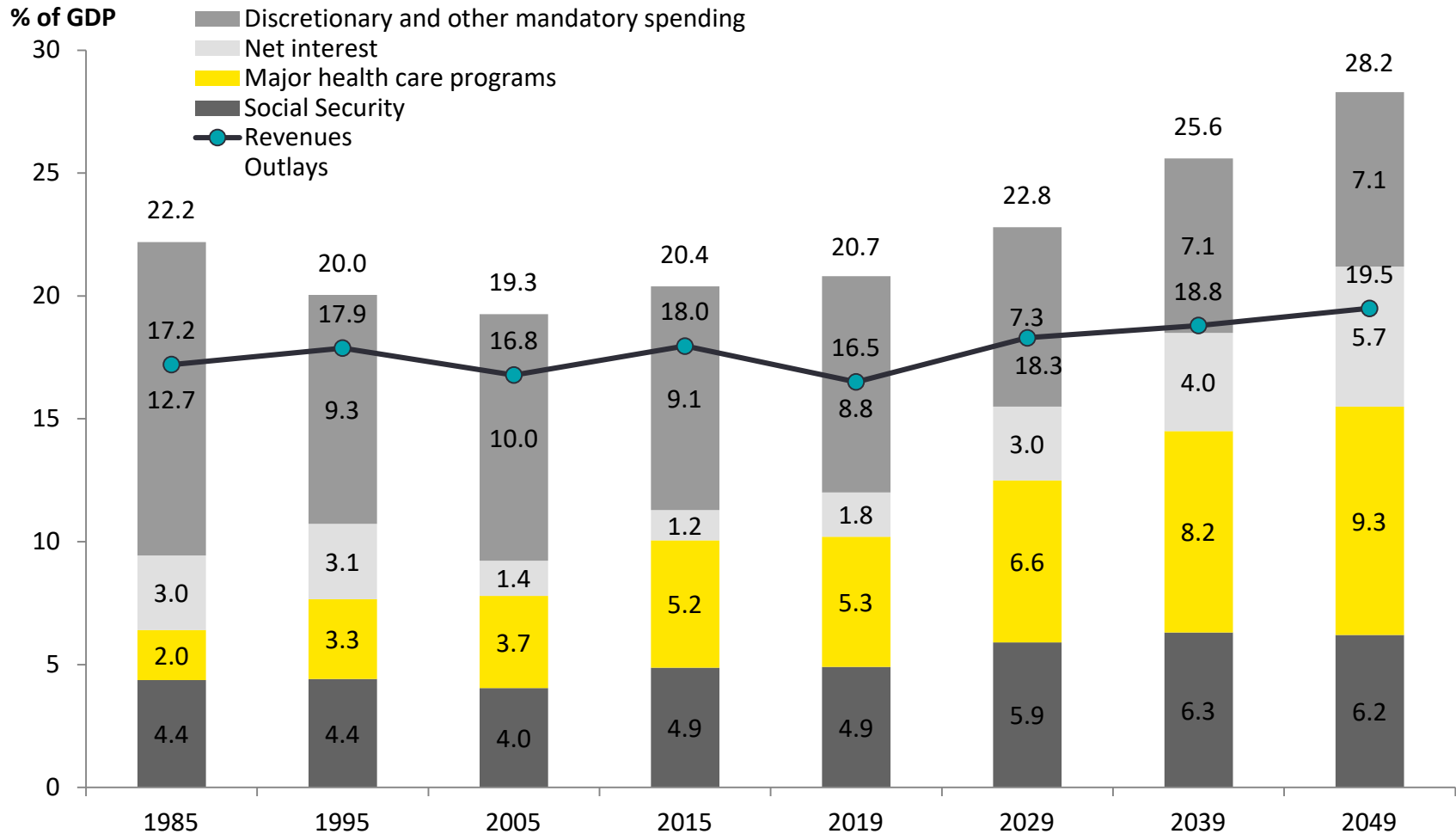


## BEPS 2.0: Next steps

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- ▶ Proposal for unified approach under Pillar 1 released as a consultation document
  - ▶ Written comments due November 12
  - ▶ Public consultation to be held on November 21-22
- ▶ Consultation document on Pillar 2 on the horizon
  - ▶ Expected to be released in November
  - ▶ Public consultation expected to be held in December
- ▶ Aiming for agreement on high-level conceptual architecture by January 2020
- ▶ Work then to focus on technical details
- ▶ With objective of full agreement on detailed rules in 2020

# Federal spending compared to revenue level, extended baseline (current law)



Source: Congressional Budget Office (CBO) Historical Budget Data, April 2018; CBO, *Long-Term Budget Outlook* Extended Baseline, June 2019

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