

# Post-election impact and year-end planning

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**Bill Cass, CFP®, CPWA®**

Director, Wealth Management Programs

**Chris Hennessey**

Lawyer and C.P.A.

Member, Putnam Business Advisory Group

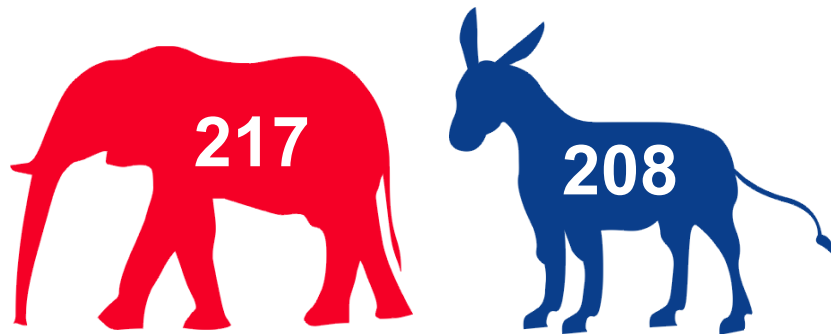
Professor Emeritus of Law, Babson College

# Topics for today

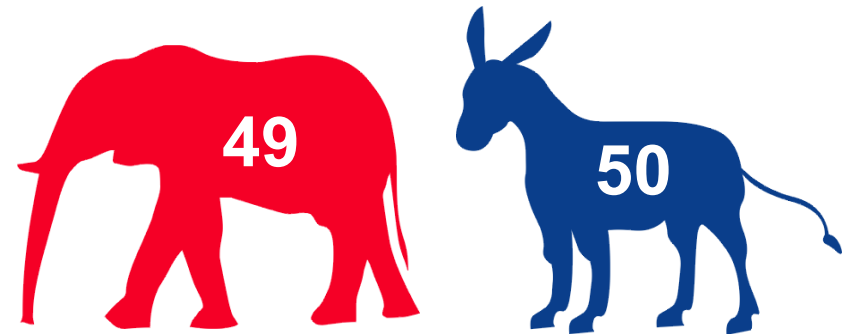
- Mid-term election recap
- Washington policy areas we're monitoring
- Year-end planning ideas to engage clients

# Where does Congress stand right now?

**House\***



**Senate\*\***



\* RealClearPolitics (11/16/22)

\*\* Run-off election for GA Senate seat occurring on 12/6/22

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# Near-term policy areas we're monitoring

- Bipartisan retirement legislation
  - House SECURE 2.0 bill and Senate EARN Act
- Next steps on proposed Treasury regulations impacting inherited retirement accounts
  - No RMDs for 2021 and 2022 per IRS Notice 2022-53
- What's the future for student loan forgiveness?
- Deadline to fund federal government – Dec 16<sup>th</sup>
  - Will extending the debt ceiling be part of the discussions?

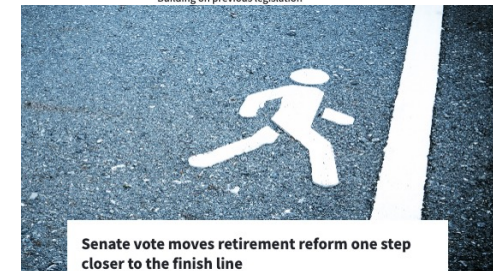


## More clarity on Secure 2.0 retirement bill

May 19, 2021 | Bill Cass, CFP®, CPWA®

A new bipartisan retirement bill recently cleared a critical hurdle when it was passed unanimously by the House Ways & Means Committee on May 5. The action creates a path for the bill, Securing a Strong Retirement Act of 2021 (also referred to as "Secure 2.0"), to be considered by the full House at some point.

### Building on previous legislation



## Senate vote moves retirement reform one step closer to the finish line

July 13, 2022 | Bill Cass, CFP®, CPWA®

In late June, the Senate Finance Committee unanimously passed the **Enhancing American Retirement Now (EARN) Act**, taking an important next step in advancing changes to retirement plans and accounts.

The vote advances the proposal closer to reconciling the Senate version with the bipartisan **SECURE 2.0 Act** that passed the House in March. The EARN Act is expected to be combined with the **Rise & Shine Act**, which also passed recently through another key Senate committee.

The combined bill would need to be reconciled with the House bill before a vote by both chambers.

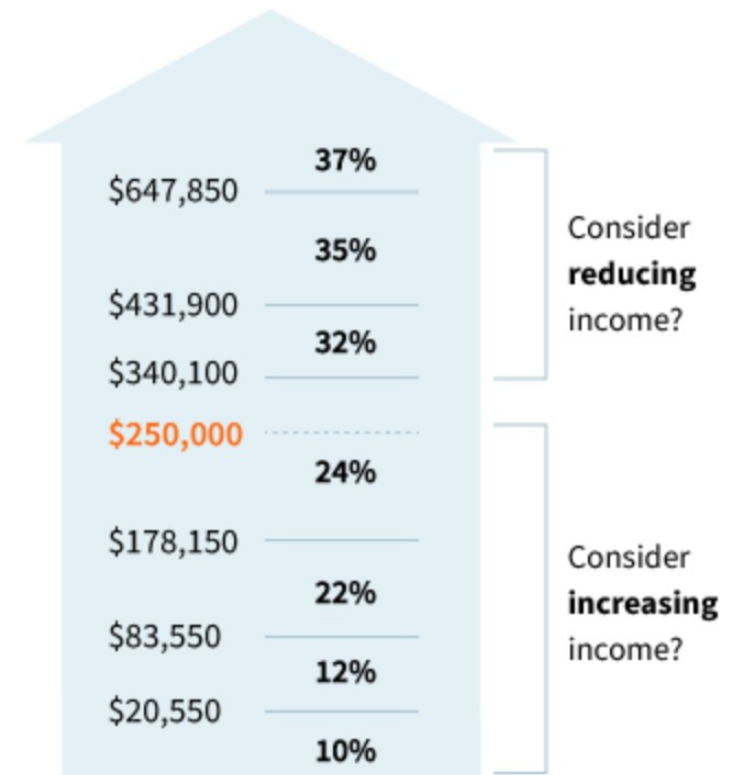
While much of the recently introduced EARN Act mirrors the SECURE 2.0 bill, there are some key differences.

# Manage the timing of income, deductions, and losses

- Key first step – get income projections from your clients
- Does a Roth conversion make sense before the end of the year?
  - Benefit of converting to a Roth in a down market
  - Project income to determine marginal tax bracket and how much “room” there is until creeping to next bracket
  - Be aware of important income thresholds
    - 3.8% surtax applies at \$200k/\$250k
    - Medicare Part B/D premiums (2 year look-back)
    - Taxation of Social Security benefits
    - FAFSA (“base year” for calculating aid is two years prior)

## 2022 income tax brackets

(married couple filing a joint tax return)



# Manage timing of income, deductions, and losses (cont.)

- Should retired clients consider taking more than the RMD?
  - Or, should clients withdraw from IRA before age 72?
- Opportunities to reduce income – HSA or retirement account contribution?
- Tax loss harvesting including mutual fund swaps
- Tax-smart charitable giving
  - QCDs for those over age 70 ½
  - Lumping charitable gifts using a DAF

# Roth conversions can hedge the risk of higher taxes in the future

	2022		PROJECTED
	\$647,850	37%	
		35%	\$518,333
	\$431,900		39.6%
		32%	\$458,839
	\$340,100		35%
		24%	\$256,910
	\$250,000		33%
		22%	\$168,540
	\$178,150		28%
		12%	\$83,550
	\$83,550		25%
		10%	\$20,550
	\$20,550		15%
			10%

3.8%  
surtax  
applies

Based on 2022 tax brackets for married couples filing a joint tax return. Projected example is based on tax brackets in place prior to the Tax Cuts and Jobs Act (TCJA) adjusted for inflation through 2022. Current tax brackets are scheduled to expire at the end of 2025 with pre-TCJA tax brackets applying, adjusted for inflation. Note that other tax items are scheduled to change after the sunset provision activates in 2025, including (for example) personal exemptions returning, lower standard deduction, less restrictions on itemized deductions, and lower exemptions applying for Alternative Minimum (AMT) tax purposes.

# Address the 10-year rule on inherited retirement accounts

## Account owners

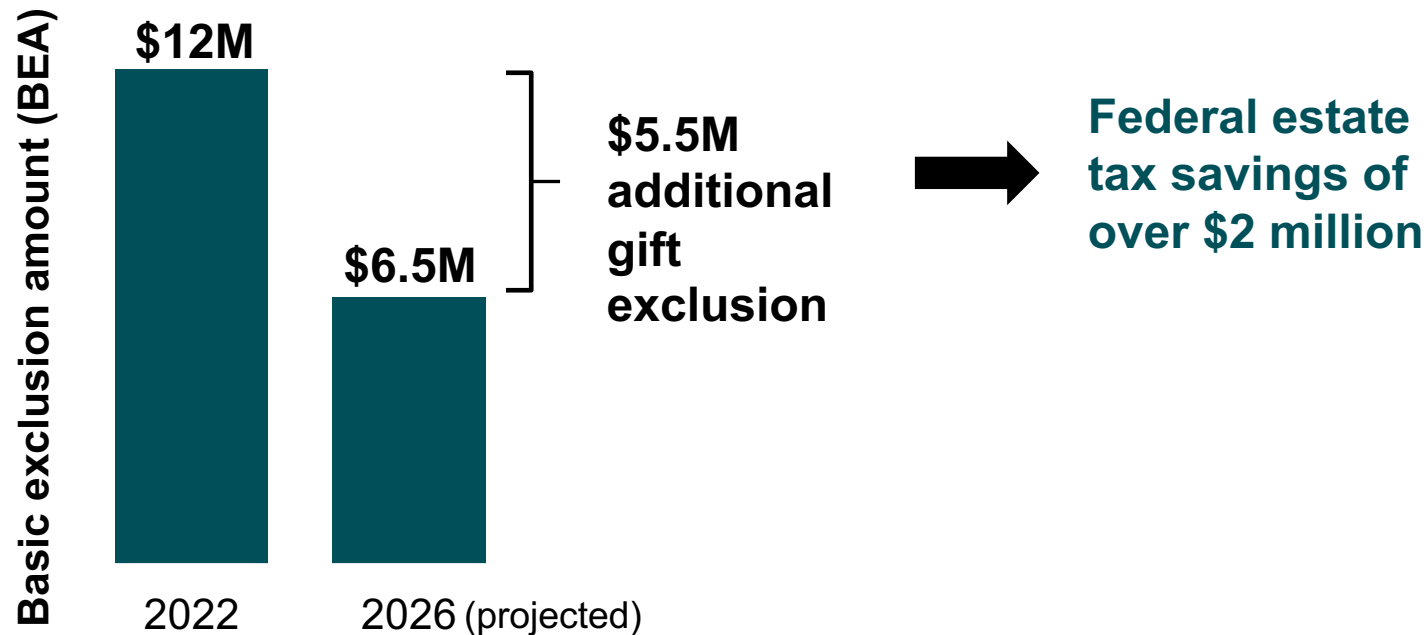
- Review and evaluate beneficiary designations
  - Leave IRA to lower-income heirs
  - Review trust arrangements
- Spend down IRA while living
- Roth conversions
- Charitable considerations
  - QCD, CRT as stretch “proxy”
- Permanent life insurance as a means to leave a tax-free legacy

## Heirs

- Tax-efficient timing of distributions over the 10-year period
- If inheriting Roth, wait until the end of the 10<sup>th</sup> year to distribute



# Consider large gifts before the end of 2025?




Assumes an estate tax rate of 40%. For 2022 the Basic Exclusion Amount (BEA) is \$12,060,000. The 2026 projected figure of \$6.5 million is based on the sunset provision effective at the end of 2025, which will reduce the BEA to \$5 million adjusted for inflation. On 11/23/18, the Treasury Department issued proposed regulations (REG-106706-18) stating that, upon sunset of the federal estate gift and estate tax provisions under the TCJA in 2026, there would be no "claw-back" provision applied on large gifts made during the temporary increase in the exclusion amount. On April 26, 2022 the Treasury Department issued proposed regulations that would apply a clawback on certain gifts (GRATs, QPRTs) where the donor has reserved a way of accessing the funds directly in the future.

# Key conversations for business owners

- Net operating loss (NOL) carry-forward and Roth conversion opportunity
- SALT workaround option
- Retirement plan review / upgrade

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## Apply a net operating loss to a Roth IRA conversion

**What is a net operating loss (NOL)?**  
A net operating loss (NOL) may occur during a tax year in which business deductions exceed income, resulting in negative income. Historically, taxpayers could apply this NOL deduction to prior tax returns, at least two years prior, and in some cases as many as five years. This was referred to as an NOL "carryback." Alternatively, the taxpayer could apply the loss to future tax returns for a maximum of 20 years. This was referred to as an NOL "carryforward."

**NOLs and small businesses**  
Small-business owners who operate as pass-through entities may take advantage of an NOL. In the case of a sole proprietor, business income and expenses are reported on Schedule C, which is used to calculate net business profit or loss. This figure is then carried over to the taxpayer's 1040 form and combined with other income (spousal income, unearned income from investments, etc.) Generally, if the business loss being reported on Schedule C exceeds all other income reported on the 1040, an NOL deduction may be available, depending on the circumstances.

**Tax reform introduces changes to NOLs**  
The Tax Cuts and Jobs Act (TCJA) introduced major changes to the tax treatment of NOLs.

- Beginning in 2018, taxpayers are no longer able to carry back NOLs, but instead may carry forward NOLs for an unlimited number of years
- Taxpayers are allowed to deduct NOLs only up to 80% of taxable income in that year
- New limits are imposed on deducting "excess business losses"

\*The TCJA introduces a limitation on "excess business losses," meaning business owners are restricted from deducting business losses in excess of \$250,000 per taxpayer (individual) or \$500,000 (married couples filing a joint return). Business losses above this limit must be carried forward to the following tax year. This new limit and other changes related to NOLs apply to businesses other than C corporations from 2018 through 2025.

**Important CARES Act update:** A net operating loss (NOL) arising in a tax year beginning in 2018, 2019, or 2020 can be carried back a maximum of five years and applied to prior tax returns. Tax law changes in 2017 disallowed the carry-back of NOLs. The provision also temporarily removes the taxable income limitation to allow an NOL to fully offset income, and suspends limits on "excess business losses" for individuals and pass-through business entities. Prior to this change from the CARES Act, taxpayers were limited to applying an NOL against 80% of taxable income. The 80% restriction and limit on "excess business losses" will apply again beginning in 2021.

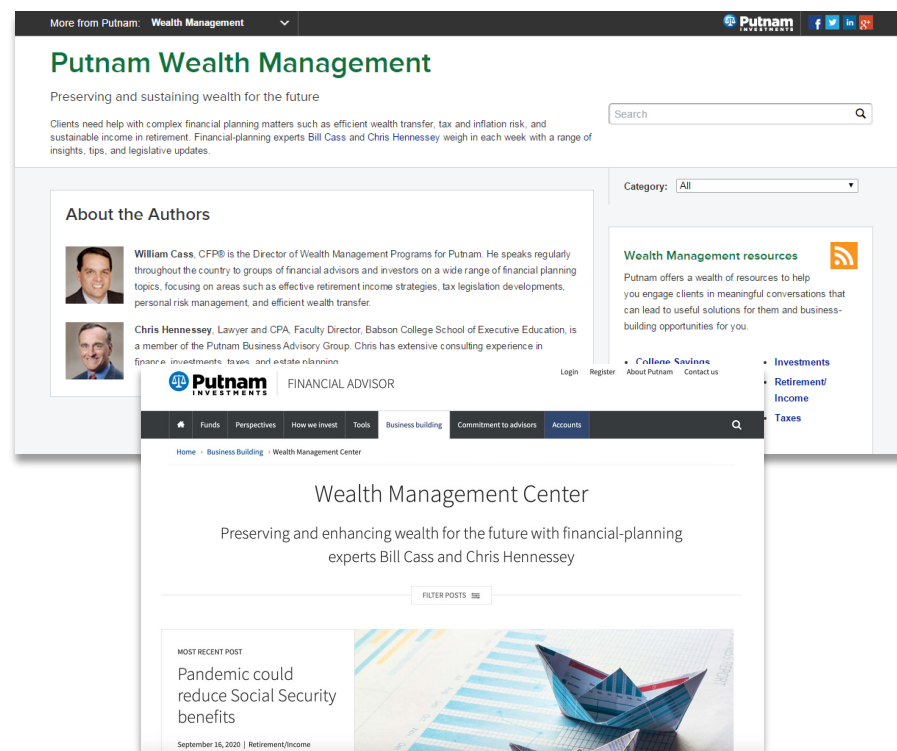
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# Look for opportunities to engage other family members during the holidays

- As family members gather during the holidays, this presents an opportunity for advisors to deepen or develop relationships
- Make sure key documents are in place
  - For example, are healthcare directives and proxies — especially for older children before they head back to college — in place?
- Family meetings, zoom calls, or social events?
- Do clients have a “road map” document for family members that outlines wishes, lists account details, passwords, etc.
- Fund Roth accounts for younger family members
- Holiday gift giving in 529 plans

# Resources designed to help you engage clients and prospects

- Client seminar and investor education pieces on the tax landscape and planning ideas
- Wealth Management Center blog articles and resources
  - [Putnamwealthmanagement.com](https://putnamwealthmanagement.com)
- Video commentary and podcasts



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Chris Hennessey, Lawyer and C.P.A., is Professor Emeritus of Law at Babson College and member of the Putnam Investments Business Advisory Group. His opinions do not necessarily reflect those of Putnam Investments.

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