

## Client Alert

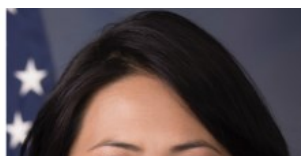
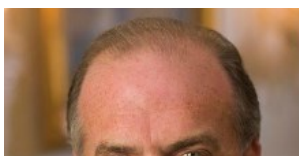
*Brownstein Client Alert*, February 12, 2019

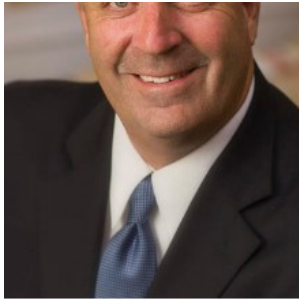
### IN THIS ISSUE

- Meet the Members
  - Rep. Dan Kildee (D-MI-05)
  - Rep. Stephanie Murphy (D-FL-07)
  - Rep. Brad Schneider (D-IL-10)
- Sullivan's Picks
- Legislative Lowdown
  - Trump Touches on Tax In SOTU
  - Hear Me Out
  - Pass on the SALT
  - 'Till We Meet Again
  - EV: Go Home
  - Progressive Tax Plans On Fleek
- RegWatch
  - The Right to Underwrite?
- 1111 Constitution Avenue
  - Deal or No Deal
  - Tax Refunds Dip
- 2020 Vision
  - Learn it Up
  - Bloomberg and Schultz Face Off With Warren
- At a Glance
- Brownstein Bookshelf
- Regulation Station—All Aboard

### MEET THE MEMBERS

If you've been following along every week, you have already met the new House Ways and Means Committee Republicans. In this week's installment of Meet the Members, we would like to introduce you to three new Democratic committee members: Reps. Brad Schneider (D-IL), Stephanie Murphy (D-FL) and Dan Kildee (D-MI).

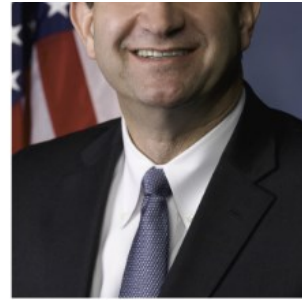




Rep. Dan Kildee



Rep. Stephanie Murphy



Rep. Brad Schneider

**Rep. Dan Kildee (D-MI-05).** Kildee has represented Flint, Michigan since his election in 2012 where his uncle, Dale Kildee, previously held the seat. In the House, Kildee has focused on urban development and extending unemployment insurance. Additionally, he secured \$100 million in funding to restore vacant properties in Michigan and \$170 million in water infrastructure improvements for Flint. Kildee voted against the Tax Cuts and Jobs Act. He has cosponsored 54 tax bills, and has introduced two tax bills. Kildee is the Democrats' Chief Deputy Whip, and he is a co-founder of the Congressional Freethought Caucus and a member of the Afterschool Caucus. Kildee began his career in public service as a member of the Flint Board of Education at the age of 18 and later served as Genesee County Commissioner and Treasurer. In 2009, he co-founded The Center for Community Progress, which helps to revitalize abandoned properties.

**Rep. Stephanie Murphy (D-FL-07).** Murphy is serving her second term representing Florida's 7th district. In the House, she has focused on funding gun violence research and making it easier for small businesses to obtain loans. Murphy voted against the Tax Cuts and Jobs Act. She has not introduced any tax legislation, but she has cosponsored 16 tax bills. Murphy is a member of the Blue Dog and New Democrat Coalitions and the Problem Solvers, Climate Solutions, and LGBT Equality Caucuses. Prior to serving in Congress, Murphy was a businesswoman and a college professor. She also served as a national security specialist in the Office of the U.S. Secretary of Defense. She received numerous awards for her distinguished service, including the Secretary of Defense Medal for Exceptional Civilian Service. Murphy worked on a range of security issues from counterterrorism to foreign military relations to strategic planning for the Department. Prior to her career in public service, Murphy was a strategy consultant at Deloitte.

**Rep. Brad Schneider (D-IL-10).** Schneider is serving his third term representing Illinois's 10th district. During his tenure, Schneider has attempted to pass legislation that encourages economic growth, ensures quality education for children, and raises the standard of living. Schneider voted against the Tax Cuts and Jobs Act. He has cosponsored 32 tax-related bills and has introduced five tax bills, including the *Human Trafficking Survivor Tax Relief Act* in January. He is a member of the Blue Dog and New Democrat Coalitions and the LGBT Equality, Problem Solvers, and Tech Accountability Caucuses. Prior to serving in Congress, Schneider spent more than 20 years in business and management consulting.

## SULLIVAN'S PICKS

1. **'Til We Meet Again** – Get our fresh take on the latest developments with tax extenders, and if there is still an opportunity for them to jump onto this weekend's appropriations deliberations.
2. **Hear Me Out** – Enjoy a quick summary of last week's House Ways and Means Committee hearings that will be instrumental in the forthcoming policy debates. Contact us if you are interested in full hearing report

coverage.

3. **2020 Vision** – With Sens. Amy Klobuchar (D-MN) and Elizabeth Warren (D-MA) formally entering the presidential race this weekend, we analyze snippets of their recent tax proposals.

## LEGISLATIVE LOWDOWN

**Trump Touches on Tax In SOTU.** While President Trump was light on tax talk during his State of the Union address, he took a victory lap for enacting the *Tax Cuts and Jobs Act*, emphasizing its impact on middle-class families and tying it to a strong economy, with unemployment at an all-time low. While the president did not promise a new tax bill, there may be congressional action on specific issues, such as further middle-class tax relief.

President Trump also briefly discussed infrastructure issues during his speech. Given that the issue seems to be a major bipartisan priority, he was expected to cover it more extensively. The president simply called for bipartisan infrastructure legislation, but did not offer any details on what such a package would include or potential payfors. A blank slate, though, may make it easier for lawmakers to negotiate a deal.

[Click here to read Brownstein's analysis of the State of the Union.](#)

**Hear Me Out.** Several hearings last week in the House Ways and Means Committee offered the first glimpse into lawmakers' tax policy priorities for the 116th Congress. On Wednesday, the full committee met to hear testimony from witnesses on retirement savings proposals in the 116th Congress, an issue of possible bipartisan cooperation. The committee members were largely united in their concerns about social security solvency, expanding access to employer-sponsored retirement savings plans, and addressing specific challenges that vulnerable groups (including racial and ethnic minorities, women, and low-income individuals) face in contributing to and accessing social security benefits. Rep. Ron Kind (D-WI) officially announced the reintroduction of the *Retirement Enhancement and Savings Act* (RESA), which he co-sponsored with Rep. Mike Kelly (R-PA). There were also a number of bipartisan calls to pass this and the *Family Savings Act*.

On Thursday, the Ways and Means Subcommittee on Oversight held a hearing exploring the prospect of mandating the release of President Trump's tax returns. The hearing was partisan as expected, as the panel debated whether Ways and Means Committee Chair, Rep. Richard Neal (D-MA), has the statutory authority to examine the president's tax returns. Republicans have criticized the move. Before the hearing, Ways and Means Ranking Member Kevin Brady (R-TX) and Rep. Mike Kelly (R-PA) sent Chair Neal a letter saying the investigations could establish a dangerous precedent. They urged Neal to proceed with caution, and wrote that requiring the public release of confidential tax returns will threaten "the privacy rights of all taxpayers," and could be easily misused in the future to gain confidential documents from any elected official or federal employee.

**Pass on the SALT.** President Trump told reporters from the Stamford Advocate that he was "open" to potential changes to a cap that the *Tax Cuts and Jobs Act* placed on the deductibility of state and local taxes (SALT). The SALT cap limits the amount of state and local taxes that taxpayers can deduct each year on their federal returns to \$10,000. However, a spokesperson for Senate Finance Committee Chair Chuck Grassley (R-IA) quickly said the committee will not revisit the SALT cap, which most directly affects high tax areas in California, Connecticut, New Jersey, and New York.

**'Til We Meet Again.** Lawmakers have decided not to include the renewal of expired tax extenders in the must-

pass spending bill Congress is currently negotiating. Last week, Senate Finance Committee Chair Chuck Grassley (R-IA) and Ranking Member Ron Wyden (D-OR) expressed their joint support for reviving tax extenders. However, since both House Republicans and Democrats did not view extenders as a priority, the senators have tabled the issue. Sen. Grassley said he is open to finding another vehicle for the extenders though he is not sure what the next legislative vehicle will be. This means taxpayers will not be able to claim these tax breaks this filing season and Congress will likely have to do a multiyear retroactive extension when it addresses the issue.

**EV: Go Home.** This week, Sen. John Barrasso (R-WY) and Rep. Jason Smith (R-MO) introduced legislation that would end federal electric vehicle (EV) tax credits. Sen. Barrasso said that the subsidies put in place were meant to foster an emerging market, but now disproportionately benefit wealthy drivers. He cited a statistic that eight out of 10 EV tax credits go to households with at least \$100,000 in income. Drivers that use diesel-powered cars pay a gas tax on every gallon they pump, he said, while EV drivers essentially get paid to drive their cars. The bill would also place a highway user fee on EV drivers as a possible step to replenishing the Highway Trust Fund, which will likely run out of money by 2021 if Congress does not take action.

**Progressive Tax Plans On Fleek.** It's what's trending – Democratic progressive tax plans. Sen. Brian Schatz (D-HI) is the most recent senator to announce a tax proposal. The plan would tax financial trades, which in most cases tax a certain percentage of the price of a security trade. This would discourage high frequency trading and generate revenue for progressive policies. The senator's office has yet to release specifics on this plan. Sens. Kirsten Gillibrand (D-NY) and Bernie Sanders (I-VT), 2020 hopefuls, have also backed proposals like this one to levy a tax on financial trades. The proposal also comes on the heels of Sen. Elizabeth Warren's (D-MA) wealth tax and subsequent presidential campaign launch. At this time, Sen. Schatz has not vocalized an interest in challenging President Trump in 2020.

## **REGWATCH**

**The Right to Underwrite?** The Consumer Financial Protection Bureau (CFPB) announced that it plans to eliminate certain underwriting standards for payday or small-dollar loans set to take effect later this year. On Feb. 6, the CFPB released a proposed rule stating that payday, auto title, and certain installment lenders would not have to determine a borrower's ability to repay the high-interest rate on short-term loans. This proposed rule would negate October 2017 regulations that were finalized under former CFPB Director Richard Cordray. The CFPB justified its actions on the grounds that there is insufficient evidence and legal support for mandating that payday lenders determine a borrower's ability to repay a loan and still meet other expenses. The original rules set in place by Cordray were in response to an agency report that consumers are often harmed by the high interest rates on small dollar loans.

## **1111 CONSTITUTION AVENUE**

**Deal or No Deal.** On Feb. 5, Sen. Rob Portman (R-OH) said he thinks that a bipartisan deal can be reached on legislation to revamp the Internal Revenue Service (IRS). Last December, the House passed an IRS

overhaul bill. However, the Senate did not act before the end of the year, largely due to top Democrats' refusal to act on any tax legislation. This year, despite Sen. Portman's enthusiasm, issues like private debt collection may stall negotiations. Sen. Grassley, the new chair of the Senate Finance Committee, is a strong supporter of the IRS private debt collection program, a controversial issue for several House Democrats.

The Senate Finance Committee has not yet announced a hearing on IRS reform, but Sen. Portman hopes that the committee will hold one soon. On the House side, the Brownstein tax policy team has picked up chatter that the House may reintroduce legislation on IRS restructuring in April.

**Tax Refunds Dip.** The IRS released a report stating that the average tax refund was 8.4 percent smaller during the first week of filing season when compared to the average refund during the same period last year. The statistics for the first week of the 2019 filing season also saw a drop in returns received and processed by the IRS. Though the report offers only a small glimpse into a filing season that lasts until April 15 for most taxpayers, it is being watched carefully. This is the first tax filing season under the newly revamped tax code, after the passage of the *Tax Cuts and Jobs Act*. Smaller refunds may present a political problem for the GOP, even though the smaller refunds are a result of larger weekly paychecks for most taxpayers.

## 2020 VISION

**Learn it Up.** Senator Amy Klobuchar (D-MN) joined nearly a dozen Democrats as she announced her plans to enter the 2020 presidential race. The senator also reintroduced legislation to expand the eligible uses of the 529 tax advantaged education savings program, offering an early glimpse into her campaign's policy priorities. The legislation would allow distributions from 529 plans to be used for expenses related to training or credentialing programs approved by states. Distributions from these plans can already be used to pay for qualified higher education expenses, such as college, university, vocational school, or other post-secondary educational institutions.

**Bloomberg and Schultz Face Off With Warren.** Senator Elizabeth Warren's (D-MA) announcement of plans for a wealth tax is facing criticism from – you guessed it – the wealthy. During a swing through critical primary state, New Hampshire, former New York City Mayor Michael Bloomberg called Sen. Warren's tax "probably unconstitutional" linking the ideology to Venezuela's crumbling socialist economy. Bloomberg's statement comes after former Starbucks CEO Howard Schultz called Warren's plans "ridiculous." Schultz most recently floated the idea of running for president as an independent. Sen. Warren dismissively responded to criticism by calling attention to Schultz's status as a billionaire and his use of personal money to run his presidential campaign.

## AT A GLANCE

- **Two Times the Charm.** Tax lawyer Michael Desmond's nomination to the position of Internal Revenue Service Chief Counsel was, for the second time since President Trump's election, advanced through the Senate Finance Committee this week. Sen. Bob Menendez (D-NJ) had previously blocked Desmond's

nomination from advancing out of the Senate with unanimous consent, citing concerns with the IRS' lack of correspondence on issues related to their proposed rulemaking on the \$10,000 SALT-cap created by the *Tax Cuts and Jobs Act*.

- **Take 'em to Tax Court.** President Trump re-nominated four individuals for 15-year appointments to the U.S. Tax Court last Wednesday. The nominees include: Travis Greaves, Mark Van Dyke Holmes, Courtney Dunbar Jones, and Emin Toro.

**BROWNSTEIN BOOKSHELF**

- In case you missed it: here is our tax and infrastructure analysis on last week's State of the Union address.
- Brownstein's Travis Norton weighs in on whether Republicans will protect big banks from the House Financial Services Committee.
- Want more State of the Union analysis? Read Nadeam Elshami's conversation with NPR's Mary Louise Kelly.

**REGULATION STATION—ALL ABOARD**

**INTERNATIONAL**

Regulation	Latest Action	Regulation Link	Comment Countdown	Brownstein Commentary
<b>Sec. 965 Transition Tax</b>	Feb. 5, 2019	84 FR 1838	Deadline Passed Oct. 9	<b>Final Regulations</b>
<b>Certain Hybrid Arrangements</b>	Dec. 28, 2018	REG-104352-18	14 Days	
<b>BEAT (Sec. 59A)</b>	Dec. 21, 2018	REG-104259-18	7 Days	
<b>Foreign Tax Credit</b>	Dec. 7, 2018	REG-105600-18	Deadline Passed Feb. 5	
<b>Sec. 956</b>	Nov. 5, 2018	REG-114540-18	Deadline Passed Dec. 5	
<b>GILTI</b>	Oct. 10, 2018	REG-104390-18	Deadline Passed Nov. 26	
<b>GILTI</b>	Sept. 13, 2018	Rev. Proc. 2018-48	N/A	

**199A**

Regulation	Latest Action	Regulation Link	Comment Countdown	Brownstein Commentary
<b>Qualified Business</b>				

<b>Income Deduction (Sec. 199A)</b>	Feb. 8, 2018	REG-134652-18	56 Days	
<b>Qualified Business Income Deduction (Sec. 199A)</b>	Feb. 8, 2019	84 FR 2952	Deadline Passed Oct. 1	<b>Final Regulations</b>
<b>W-2 Wages for Qualified Business Income Deduction (Sec. 199A)</b>	Jan. 18, 2019	Rev. Proc. 2019-11	N/A	
<b>Trade or Business Safe Harbor: Rental Real Estate (Sec. 199A)</b>	Jan. 18, 2019	Notice 2019-07	N/A	

## DOMESTIC BUSINESS

Regulation	Latest Action	Regulation Link	Comment Countdown	Brownstein Commentary
<b>Interest Expense Deduction</b>	Dec. 28, 2018	REG-106089-18	14 Days	
<b>Opportunity Zones</b>	Oct. 29, 2018	REG-115420-18	Deadline Passed Dec. 28	
<b>Debt-Equity Documentation (Sec. 385)</b>	Sept. 24, 2018	REG-130244-17	Deadline Passed Dec. 24	
<b>Full Expensing</b>	Aug. 3, 2018	REG-104397-18	Deadline Passed Oct. 9	
<b>Carried Interest</b>	March 1, 2018	Notice 2018-18	N/A	

## EXEMPT ORGANIZATIONS

Regulation	Latest Action	Regulation Link	Comment Countdown	Brownstein Commentary
<b>Excise Tax on Executive Compensation</b>	December 31, 2018	Notice 2019-09	N/A	
<b>UBIT</b>	December 10, 2018	Notice 2018-99	N/A	
<b>Higher Education Excise Tax</b>	June 8, 2018	Notice 2018-55	Deadline Passed Sept. 6	

OTHER

Regulation	Latest Action	Regulation Link	Comment Countdown	Brownstein Commentary
Estate and Gift Taxes	Nov. 23, 2018	REG-106706-18	9 Days	
SALT	Aug. 27, 2018	REG-112176-18	Deadline Passed Oct. 11	Washington Update
Education Savings	July 30, 2018	Notice 2018-58	N/A	Washington Update
Health Savings Accounts	March 5, 2018	Rev. Proc. 2018-18 Rev. Proc. 2018-27	N/A	