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CAPITAL JOURNAL DAYBREAK

## An Early Barometer on Tax Reform Emerges: The Estate Tax

Amid many sticking points on an overhaul of the tax code, the parties disagree vehemently on the estate tax

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*Good morning. Here's Joshua Jamerson's morning take, and a summary of the top news. Contact Josh at [Joshua.Jamerson@wsj.com](mailto:Joshua.Jamerson@wsj.com) and follow him @joshjame. Click here to get the Capital Journal Daybreak newsletter delivered to your inbox.*

**Democrats Come Out Swinging on Repeal of the Estate Tax.** Democrats and Republicans often don't see eye-to-eye on the nation's tax code, but they have perhaps the most fundamental disagreement over the estate tax. So any proposal to drastically alter the estate tax stands to obliterate the already-slim chances of a bipartisan overhaul effort, and the issue has become the first major disagreement Democrats and the White House have had on tax reform since Congress returned from recess.

A large majority of the Senate Democratic caucus — 45 of the 48 members — is opposed to any tax cut for the wealthy. Senate Minority Leader **Chuck Schumer** said yesterday that this is how his colleagues would categorize President **Donald Trump's** call in recent days to repeal the tax: a duty on the transfer of wealth as it passes to heirs after death.

If Senate Democrats prove to be as opposed to repealing the tax as Mr. Schumer has suggested, that would leave Mr. Trump and Congressional Republicans with two obvious paths as the dynamics are set up today: abandon the idea of a repeal of the tax (and possibly gain some concessions from Democrats in doing so) or try to get it through Congress by passing a tax bill under the same process the Republicans tried to use to repeal parts of Obamacare. That process, known as reconciliation, is a procedural shortcut that would allow for legislation to be passed with a simple majority rather than the 60 votes typically needed.

To be sure, Republicans including Senate Majority Leader **Mitch McConnell** have long assumed they'd need to go with a simple majority vote. And aspects of tax reform, such as what to do with the income tax rate for the wealthiest Americans as well how low to bring the corporate tax rate, could emerge as bigger sticking points as more concrete tax plans are presented. But the estate tax debate emerges as the White House is angling for some Democratic support, in part as a cushion against the challenges of using the reconciliation process in a Senate divided 52-48, write **Kate Davidson and Richard Rubin**.

The reignited debate over the estate tax means the prospects of a bipartisan deal are as low as they've ever been, says Michael Graetz, a professor of tax law at Columbia

University and author of “Death by a Thousand Cuts: The Fight over Taxing Inherited Wealth.”

“It was only Donald Trump’s agreement on the debt ceiling that opened any hint that this would be a bipartisan deal,” Mr. Graetz said in an interview. “Repealing the estate tax is not something that seems to get the American people riled up. The polling gives the Republicans plenty of running room to repeal it.” But the White House has taken stock of the delicate balance of power in the Senate.

“We also learned this summer [in health care] that keeping 50 of 52 Republicans is not something that’s reliable,” Marc Short, the White House legislative director, said at a breakfast hosted by the Christian Science Monitor Tuesday. “We don’t feel like we can assume we can get tax reform done strictly on a partisan basis, so it’s wise for us, not just from a policy perspective, but from a vote count perspective to try to reach out and earn the support of Democrats as well.” Mr. Graetz noted that the tax “applies to the very small number of the richest people who die each year,” and that “most of the wealth of most of those people is portfolio investment and securities, stocks and bonds.”

One potential negotiating point to watch for, Mr. Graetz said, is if Republicans look to do away with the estate tax but keep the federal deduction for state and local taxes, which lets individuals subtract their home-state levies from their federal taxable income. It’s a big tax break skewed toward Democratic-controlled, high-tax blue states. “Because [Mr. Schumer] is from New York, he has many constituents who would like to keep that deduction,” he said. “So he might be willing to keep the estate tax in exchange.” Here’s what is going on today: