TAX PLANNING IN AN ELECTION YEAR

HOW TO SPOT ISSUES AND EVALUATE OPPORTUNITIES

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Today’s presenters

Jim Alex
Principal
National Tax Go-To-Market Leader

Carol Warley
Partner
Washington National Tax

Tommy Wright
Partner
Private Client Services

Andy Swanson
Partner
Private Client Services
<table>
<thead>
<tr>
<th>Topic</th>
<th>Timing</th>
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<tbody>
<tr>
<td>Tax Planning: Possible storm clouds ahead</td>
<td>20 min</td>
</tr>
<tr>
<td>Details of the Biden tax plan</td>
<td>35 min</td>
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TAX PLANNING
POSSIBLE STORM CLOUDS AHEAD
TAX PLANNING:
POSSIBLE STORM CLOUDS AHEAD
Federal tax policy: 2020 four phases

01 Tax reform implementation
02 COVID-19 and CARES implementation
03 Return to tax reform
04 Election and movement into 2021
Two major storm clouds may effect taxes and tax planning

• Federal elections (November 2020)
  • Presidential
  • Congressional
    • All of the House of Representatives
    • One-third of the Senate

• Fiscal response to COVID-19
  • Federal (domestic)
  • International
  • State and local
Post-election: Federal tax policy?

Regardless of which scenario plays out, it is likely corporate and individual tax rates will increase.

Scenario 1
Dem swing House, Senate and White House

Scenario 2
Republican swing House, Senate and White House

Scenario 3
Mixed
<table>
<thead>
<tr>
<th>High level policy comparison</th>
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<tbody>
<tr>
<td><strong>Trump</strong></td>
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<tr>
<td>TCJA Provisions</td>
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<tr>
<td>Itemized Deductions</td>
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<tr>
<td>Tax Rates</td>
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<tr>
<td>Tax Credits and Other Incentives</td>
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<tr>
<td>Payroll Taxes</td>
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<td>Estate and Gift Tax</td>
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*High level overview based upon written and oral communication from the candidates and their representatives*
DETAILS OF BIDEN TAX PLAN
When tax laws change, the most important part of planning is projecting the potential outcome.
## Increasing tax rates

<table>
<thead>
<tr>
<th>Topic</th>
<th>Proposal</th>
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</thead>
<tbody>
<tr>
<td>Income tax rates</td>
<td>Restore top rate at 39.6% for income over $400,000</td>
</tr>
<tr>
<td>Capital gains and qualified dividends</td>
<td>Taxed at ordinary rates for income over $1 million</td>
</tr>
<tr>
<td>Qualified Business Income Deduction</td>
<td>Phased out for taxable income over $400,000</td>
</tr>
<tr>
<td>Social Security Tax</td>
<td>Social Security tax on earnings above $400,000 with no cap; creates SS tax “gap” from present $137,700 to $400,000</td>
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</tbody>
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Planning opportunities

Businesses Accelerate Income
- Accounting Methods Review
- Elect out of Bonus Depreciation
- On the verge of selling maybe now is the time

Individual Accelerate Income
- Trigger gain in carried interests
- Roth Conversion
- Exercise Stock Options
- Make an IRC section 83(b) election on restricted property

Business Decelerate Income
- Accounting Methods Review
- Take Bonus Depreciation

Individual Decelerate Income
- Deferred Comp Plans
## Itemized Deductions

<table>
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<tr>
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<tr>
<td>Pease Limitation</td>
<td>3% cutback of itemized deductions</td>
</tr>
<tr>
<td>28% benefit limit</td>
<td>Benefit of itemized deductions is limited to 28% in higher tax brackets</td>
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</tbody>
</table>
Planning for Itemized Deductions

• Defer payment of state and local taxes
• Timing of Charitable Contributions
  • Potentially accelerate for high ordinary income taxpayers
  • Potentially decelerate for low ordinary income taxpayers
Altered Decision Making Process

• Qualified Opportunity Zones
• Rebalancing of real estate portfolios
• Exclusion of gain for small business stock
• Entity choice
• Employment tax planning
Biden’s tax proposals – estate and gift tax

<table>
<thead>
<tr>
<th>Current</th>
<th>Proposal</th>
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<tr>
<td>Estate, gift and generation-skipping transfer (GST) tax exemptions are $11.58 in 2020, indexed; scheduled to sunset after 2025 and revert to pre-2018 level</td>
<td>Estate tax exemption - reduce to the “norm”, perhaps a $3.5M exemption</td>
</tr>
<tr>
<td>Estate, gift and GST tax rates are 40%</td>
<td>T/B/A</td>
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<tr>
<td>Basis adjusted to fair market value for assets acquired from a decedent.</td>
<td>Repealed in favor of carryover basis</td>
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<tr>
<td></td>
<td>• Will there be a spousal exception?</td>
</tr>
<tr>
<td></td>
<td>• Will there actually be a capital gains tax due at death (vs. “just” a carryover basis)?</td>
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<tr>
<td>Valuation discounts and other wealth transfer tools widely available</td>
<td>Based on prior proposals, valuation discounts curtailed, changes to grantor trusts, GRATs, etc.</td>
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</table>

* Written proposal only includes repeal of carryover basis.
## Planning Opportunities

### Use of estate, gift and generation-skipping exemptions
- Use it or lose it - sunset at the end of 2025; or potential legislation sooner than that.
- Make outright gifts or gifts in trust; including a gift to a trust for a spouse with caution.

### Basis planning
- Adjustment of basis to fair market value at death.
- Capital gains triggered at death.
- Sell assets to trigger capital gains to get a basis adjustment.

### Availability of grantor trust status and related planning techniques
- Use of short term grantor retained annuity trusts and sales to freeze the estate tax valuation.
- Grantor’s payment of income tax not a gift.
- Valuation discounts.

### Charitable Trusts
- Charitable remainder trusts.
- Charitable lead trusts.
When tax laws change, the most important part of planning is projecting the potential outcome.