Advanced Markets

Election year 2020

Impact on taxes, life and financial planning

The primaries are over, and the party conventions have occurred. For many, the positions of the candidates have never been more clearly drawn.

- For the Republicans, businessman and President, Donald J. Trump, and Vice President, Mike Pence, former governor of Indiana, are running on a platform of pro-growth, reduced taxes for all (including both the middle class and the wealthiest Americans), less regulation and government involvement with a free market economy and "America First". The Trump presidency, which prides itself on a booming economic environment and a strong sense of U.S. patriotism, has been challenged with the pandemic and social unrest.
- For the Democrats, former Vice President Joseph P. (Joe) Biden and running mate, Vice Presidential candidate US Senator from California, Kamala Harris represent a stark contrast. The Biden platform is a return to the pre-Trump tax regime which featured higher tax rates on the wealthy, lower estate tax exemption thresholds, increased taxes on capital gains and dividends and significant earned-income tax credits for the poor, elderly, infirmed and caregivers.

Currently, the House is controlled by Democrats and the Senate is controlled by Republicans. If that changes, the new dynamic could play a major role in the shaping of future policies.

Current tax policy

The Trump administration has been extremely active with income tax legislation.

The Tax Cuts and Jobs Act of 2017 (TCJA)

- Lowered the top income tax rate to 37%.
- Changed the standard deduction to a $12,000 per person, $24,000 for married filing jointly (MFJ) and indexed them for inflation.
- Raised the estate tax exclusion amount above $10,000,000 per person. In 2020, it is $11,580,000 (as indexed for inflation).
- Slashed itemized deductions by the imposition of a SALT cap of $10,000 for state and local taxes.

Parts of the TCJA are set to expire at the end of 2025. For more on the TCJA, see this Equitable eNotice.

A key initiative of a new Trump presidency will be to make the TCJA permanent, while Biden has indicated a desire to repeal large portions of the TCJA.

Most of the significant tax breaks under TCJA went to businesses including:

- Cutting the corporate tax rate to 21%.
- Adding an up to 20% exclusion from income for flow through companies known as QBI, or qualified business income, with some income limitations.

For more on this 20% exclusion, see this Equitable eNotice.

Setting Up Every Community for Retirement Enhancement (SECURE) Act:

- Expanded the ability for employers to offer qualified retirement plans, but also paid for that expansion by moving the required beginning date for minimum required distributions (RMD) to age 72, adopting new longevity tables and imposing a 10-year payout on most non-spousal beneficiaries.
- Only "eligible designated beneficiaries EDBs," such as persons suffering disabilities, long-term care illnesses, minor children until they reached the age of majority or persons within 10 years of age of the plan participant were allowed to use their single life expectancy.

For more on the SECURE Act changes see the Equitable eNotice.

Coronavirus, Aid and Relief (CARES) Act of 2020, followed by the Payroll Protection Program (PPP) and Health Care Enhancement Act (HCEA) of 2020 and the Pension Protection Program Flexibility Act (PPPFA) of 2020:

- Attempted to interject liquidity (of close to $3 trillion dollars) into an economy that had been ravaged and shut down by the Coronavirus pandemic.
- Waived required minimum distributions for 2020.
- Permitted Coronavirus-related distributions (CRDs) of up to $100,000 from existing defined contribution plans (including 401(k) plans and individual retirement arrangements).
- Delayed payroll tax collection until 2021.
- Delayed funding of qualified plans, including defined benefit plans delayed until 2021.
- Provided stimulus checks.
- Enhanced unemployment benefits, including adding unemployment benefits for sole proprietors and so-called gig workers.
- Uncapped net operating loss carry forwards and backs.

The PPP forgivable loan program was emptied twice, as was the Economic Injury Disaster Loans (EIDL) (30 year non forgiven loan program). However,loan forgiveness, or lack thereof, will become a rallying cry for many small business owners who felt that they were misled by the Small Business Administration (SBA) as to the tax consequences of the loans used to shore up their businesses.

Current tax brackets for Individuals in 2020

In 2020, the income limits for all tax brackets, and all filers will be adjusted for inflation. The top marginal income tax rate of 37% will hit taxpayers with taxable income of $518,400 and higher for single filers and $622,050 and higher for married couples filing jointly.

Current tax brackets (Individuals 2020)

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Rate	Single individuals, taxable income over	Married individuals filing joint returns, taxable income over	Heads of households, taxable income over
10%	$0	$0	$0
12%	$9,875	$19,750	$14,100
22%	$40,125	$80,250	$53,700
24%	$85,525	$171,050	$85,500
32%	$163,300	$326,600	$163,300
35%	$207,350	$414,700	$207,350
37%	$518,400	$622,050	$518,400

Capital gains and dividends

	Single individuals, taxable income over	Married individuals filing joint returns, taxable income over	Heads of households, taxable income over
0%	$0	$0	$0
15%	$40,000	$80,000	$53,600
20%	$441,450	$496,600	$469,050

Net income tax threshold is $250,000 add 3.8%.

Source: Internal Revenue Service

Trump administration 2020 and beyond

A top priority of a new Trump presidency will be to make the TCJA permanent.

Middle class tax cuts

On numerous occasions, the Trump administration has called for a middle-class tax cut. This would likely be in the form of increasing threshold amounts. For example, the 24% bracket for single persons begins at $40,125 and $80,250 for those married filing jointly. These amounts could increase to $45,000 and $90,000, perhaps.

Index capital gains for inflation

A favorite Trump proposal is the indexing of basis for inflation as a means to reduce capital gain taxes. Here is how it would work.

- Today, a person buys a stock at $1.00 per share, holds the stock for 5 years, and sells it for $2.00. $1.00 of capital gain would be taxed at a bracket that could be as high as 23.8% (the capital gain rate plus the net investment income rates) if the individual had income of $441,450. The tax paid assuming the maximum capital gain bracket would be 23.8% or approximately 24 cents of tax for an after-tax capital gain of 76 cents.
- Under the inflation adjusted scenario, the same stock would be purchased for $1.00 and sold 5 years later for $2.00. However, assuming a 2% annual inflation rate over 5 years, the cost basis in the stock would rise from $1.00 to $1.10, making only 90 cents subject to the maximum capital gains rate. Assuming no change in the tax rates themselves (other than the indexing), the tax would be 21 cents for a net after-tax capital gain of 79 cents.

Healthcare

The Trump administration seeks to eliminate the Patient Protection and Affordable Care Act (ObamaCare) and replacement it with a lower cost “TrumpCare” and most likely eliminate the 3.8% net investment income tax as well.

The Biden platform

Unlike some of his opponents in the Democratic primaries (e.g., Elizabeth Warren and Bernie Sanders), Biden has not pushed for a “wealth tax.” That doesn’t mean he is opposed to taxing the wealthy more heavily. For instance, to help close the income gap, he has suggested:

- Restoring the highest personal income rate to 39.6% (it was lowered to 37% by the TCJA).
- Capping itemized deductions for the wealthiest Americans at 28% of adjusted gross income.
- Limiting “like-kind exchanges” by real estate investors.
- Phasing-out the 20% deduction for qualified business income for upper-income taxpayers.

Biden has indicated he won’t raise taxes for anyone making less than $400,000, though. He has also proposed eliminating the step-up in basis for inherited capital assets, which means more taxes on wealth passed to heirs, and ending favorable tax rates on capital gains for anyone making over $1,000,000.

On the federal estate and gift tax front, look for the federal estate tax exemption to be reduced back to pretax reform levels; perhaps $3,500,000, which has been a long-stated Democratic position.

The Biden-Sanders Unity Task Force was created in the spring when Biden became the nominee. The Task Force published a comprehensive set of recommendations that purport to serve as the planks of the Democratic party platform should Biden win the Presidency. These recommendations represent an attempt to forge a new social and economic contract with the American people – a contract whose objectives are to:

- Create millions of new jobs and promote shared prosperity.
- Close racial gaps in income and wealth.
- Guarantee the right to join or form a union.
- Raise wages and ensure equal pay for women and paid family leave for all.
- Safeguard a secure and dignified retirement.

The Democrats will likely also seek to secure universal health care, with the goal of providing all Americans with access to quality healthcare and affordable prescription drugs.

Healthcare

Biden is in favor of:

- Expanding availability of the Affordable Care Act marketplace, even outside the normal enrollment system, to make it easier for people to buy coverage.
- Medicare eligibility at 60, instead of the current 65 years of age.
- A “platinum level” public healthcare plan with low fees and no deductibles.
- Automatic enrollment for low-income people in the public healthcare system at no cost to them.
- Free testing, vaccination and treatment for COVID-19.

Planning opportunities

Currently, there are exceptional “once-in-a-lifetime” opportunities that exist for long-term planning. The combination of historically low interest rates and high lifetime gift and estate tax exemption rates offer a wealth of opportunities. The large gift opportunities and planning techniques enhanced by today’s environment include:

- Planning with discounted property techniques, such as Grantor Retained Annuity Trusts (GRATs)
- Charitable Lead Trusts
- Sales to Defective Grantor Trusts
- Private and Commercial Financing
- Collateral Assignment Split Dollar

In the business context, it might make sense to review any loans currently in place between a business and either owners or key employees. Additionally, a variety of executive benefit approaches might make sense in this low interest rate environment.

Even if your clients are not concerned about estate taxes today, they may be in the future. Therefore, some of these techniques might make sense to explore now, ahead of any potential changes.

All this could easily change in the next year, based on the election results but also driven by federal and state deficits, inflation and their effects on interest rates.

Possible scenarios

Scenario 1

A clear-cut Republican victory (i.e. Trump-Pence re-elected with a Republican sweep of the House and Senate) would most likely mean lower personal, payroll, income, capital gains, estate, gift and generation skipping taxes, less governmental regulations, little individual and non-employer based healthcare at the federal level, potentially continued stock market growth and a strong America First agenda. It will also likely mean completion of the border wall and high federal deficits if GDP growth projections are not met.

Scenario 2

A clear-cut Democratic victory (i.e.: Biden-Harris elected coupled with a Democratic House and Senate) would most likely mean higher personal, payroll, income, capital gains, estate, gift and generation skipping, corporate taxes, greater governmental regulations, stronger “Biden Care” or modifications to the Affordable Care Act, elements of the Green New Deal, and potentially lower federal deficits. Interest rates could rise sharply as government spending on healthcare, unemployment and criminal reform could require significantly more treasury and Federal Reserve involvement. Lower GDP growth projections may be the norm. Stock market growth could be slower if government bond rates and yields increase.
If Biden-Harris wins, the current estate and gift tax applicable exclusion amount of $11,580,000 with a rate of 40% will likely be significantly changed, potentially exposing many more families to estate taxes.

If power is split between Republicans and Democrats as exists currently - President (R), Senate (R), House (D) or President (D), Senate (R), House (D) - look for higher taxes overall as the Democratic-led House will look for ways to reduce the close to $300 trillion deficit generated by the CARES ACT of 2020 and related bills.

For either party:

- Inflation may be an issue for ANY incoming President as the Coronavirus pandemic has wiped out many small businesses, resulting in less price competition.
- Most businesses that utilized the PPP and other governmental programs to stay in business will have to recoup over two quarters of lost profits.
- Interest rates may rise slightly as they are at or near an all-time low.

Why life insurance makes sense now

With higher income taxes, concepts such as life insurance as a retirement supplement should be considered as an alternative income tax-free retirement investment. Tax deferred vehicles such as annuities will also likely become more popular with a potentially increasing income tax burden.

With today's historically low interest rates, high exemptions and the strong potential for political change and increased taxes, today might be the time to discuss planning – even ahead of the November results. We do know the Treasury has indicated that they'll honor gifts made today even if the lifetime exemption and tax rates change in the future, something known as "No Clawback." Equitable offers valuable resources to support client-conversations:

- Planning in a Low Interest Rate Environment
- Funding Options for High Net Worth Clients
- eNotice on the Clawback
- Using the Section 7702 Tax Wrapper Offered by Life Insurance to Enhance Retirement Income

Conclusion

The differences between the two Presidential candidates are significant. The direction of the country, after November, will not only be dependent on who wins the Presidency, the House of Representatives and the Senate, but ultimately on the state of the world economy, the status of the COVID-19 pandemic and vaccine developments. The following chart summarizes the current law and the candidates' positions.

Individual Taxes

Current Law	Donald Trump	Joe Biden
Seven tax brackets TCJA 2017 applicable to tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026. 10%, 12%, 22%, 24%, 35% and 37% **Top Brackets** - 37%$ starts at $518,400 Single, $622,050 MFJ 35% starts at $207,300 Single, $414,700 MFJ	Considering 10% middle class tax cut. Extend 2017 TCJA provisions past 2025	Increase top rate to 39.6%. Taxpayers making more than $400,000 would see taxes increase. Return to Obama/Clinton marginal levels.
Capital Gains, Dividends and Related Taxes		
0, 15%, 20% - Rates for Capital Gains 0% - 10% - 12% brackets, 15% 12% to 37%, 20% $441,450 Single, $496,600 MFJ 3.8% Net Investment Income Tax for amounts of $200,000 Single, $250,000 MFJ Taxpayers may elect to defer recognition of, from certain sales or exchanges of property and avoid recognition of future appreciation related to, capital gain by investing the gain in a qualified opportunity property fund (QOF).	Index capital to Inflation.	Ordinary Income Tax Rates for Income over $1,000,000 39.6%. Reform Opportunity Zones and Opportunity Property Funds- NFPs must create a plan for new jobs in the area, reviewed by the Department of Treasury for clear social and economic impact with detailed reporting and community impact statement.
Wealth, Estate, Gift and Generation Skipping Tax		
No taxation on accumulation of wealth; IRS is required to assess the net worth of the wealthiest Americans when they pass away, to calculate estate tax liability. Exemption amount $11.58 million (for 2020 and index through 2025). Will revert to the prior $5 million Unified Estate Exclusion (as indexed) starting 2026. Most assets transferred at death get a basis step-up to fair market value for the recipient	No wealth tax. Unified Estate Tax Exclusion at $11,580,000 per person, 40% on excess, Stepped up cost basis, no capital gain.	Capital gains tax on amounts over $1,000,000, no stepped up basis. Estate tax exclusion limit as low as $3,500,000, Rate as high as 70%. Expand EITC to older workers. Expand dependent care credit to $8,000.

Source: Bloomberg Tax & Accounting *Trump, Biden Tax Plan Comparison*

Current Law	Donald Trump	Joe Biden
Earned Income Tax Credit		
The earned income tax credit (EITC) is a refundable personal credit available for any eligible individual who has a qualifying child for the tax years or any other eligible individual without children who satisfies certain conditions. A taxpayer may claim a $2,000 credit with respect to each qualifying child of the taxpayer and $500 for nonqualifying children and other dependents. The credit is phased out at higher incomes. A portion of the credit is refundable.	Fiscal Year 2021 Budget would extend 2017 TCJA provisions past 2025 and would require a valid Social Security Number for work in order to claim certain tax credits.	Families will get back as a tax credit as much as half of their spending on childcare for children under age 13, up to a total of $8,000 for one child or $16,000 for two or more children. The tax credit will be refundable and will explore ways to make it advanced. The full 50% reimbursement will be available to families making less than $125,000 a year. All families making between $125,000 and $400,000 will receive a partial credit ensuring that in no case will they get less than they are eligible for today.
State and Local Taxes (SALT) Cap		
Taxpayers are allowed to take eligible deductions and credits against their income tax liability. The itemized deduction for State and Local Taxes (SALT) are capped at $10,000.	Would be retained.	Cap itemized deductions at 28%. Plan would restore the Pease exemption limitations for incomes above $400,000 and end the SALT cap.
Transaction Tax		
There is no tax on entering into a financial transaction such as buying or selling. There is no tax on entering into a financial transaction such as buying or selling; Stocks, bonds and/or derivatives.	No plan.	Supports but no details.
Carried Interest		
Income that flows to the general partner of a private investment fund, known as carried interest, is taxed at lower capital gains rates. A three-year holding period requirement for long-term capital gain and loss for certain service based partnership interests.	Eliminates carried interest.	Also eliminates carried interest.

Source: Bloomberg Tax & Accounting *Trump, Biden Tax Plan Comparison*

Current Law	Donald Trump	Joe Biden
Employment/Social Security Tax		
Payroll tax applied on worker's wages up to $137,700 for 2020. FICA tax of 12.4% split between employer and employee. Most workers can contribute and get preferential tax treatment on up to $19,500 annually in a 401(k) account (extra $6,500 if age 50 or higher) in 2020. Highly paid executives can contribute a limited amount in certain tax advantaged plans.	Would waive payroll taxes through the election to boost economy amidst Covid-19 pandemic.	End employers intentionally misclassifying their employees as independent contractors to avoid paying employment taxes. Would lift social security taxable wage base cap on high earners (taxpayers making more than $400,000). Would raise the Social Security wage base and tax distributions of flow throughs equal to wage base inclusion (indexed for inflation). Would create an "automatic 401(k)" for workers without access to pension or 401(k) plans.
Retirement Incentives		
Eligible employees can contribute a portion of their salary to a qualified retirement plan (401(k), 403(b), 457, etc.) it is not included income until withdrawn. Penalties apply for early withdrawal prior to age 59 1/2. Not all employers offer qualified retirement plans. Minimum distributions required when taxpayer turns 72.	Extend the 2017 TCJA and 2019 Secure Act provisions to encourage retirement incentives and hardship withdrawals.	Would extend hardship withdrawals for survivors of domestic violence or sexual assault and allow penalty-free distributions for such persons. Would equalize the tax benefits of defined contribution plans across the income scale. Allow caregivers to make "catch-up" contributions to retirement accounts, even if they're not earning income in the formal labor market. Offer tax credits to small businesses to offset much of the cost of starting or maintaining retirement plans.
Health Care and LTC		
Tax credits are available to lower income taxpayers to help pay premiums for purchasing health insurance in an Exchange under the Affordable Care Act (ACA). Long-term care insurance premiums are eligible medical care expenses for purposes of the medical deduction.	Would repeal the Affordable Care Act. The TCJA effectively repealed the individual mandate by setting the penalty for not having health care at $0.	Would eliminate the 400% income cap on tax credit eligibility for the premium tax credit. Base tax credits on Gold plan (not Silver) Levels. Would impose a tax penalty on drug manufacturers that increase the costs of their brand, biotech, or abusively priced generic over the general inflation rate. Terminate pharmaceutical corporations' tax deduction for advertisement spending.

Source: Bloomberg Tax & Accounting *Trump, Biden Tax Plan Comparison*

Current Law	Donald Trump	Joe Biden
Qualified Business Income Deduction		
Taxpayers other than C corporations generally are allowed to deduct 20% of qualified business income (QBI) from Sole Proprietorship, a partnership, S corporation, as well as 20% of qualified REIT dividends and qualified publicly traded partnership income.	No change.	End special qualifying rules, including those for real estate investors. Limit deduction to taxpayers making $400,000 and under.
Alternative Minimum Tax		
Currently: Permanently repealed for C Corporations; repealed for individual taxpayers (with certain limitations) through December 31, 2025.	No change.	Raise rate to 28% with 15% minimum book tax on companies reporting more than $100 million in the US but paid $0 or negative federal income taxes. Credit for foreign taxes paid and carryovers allowed. Would reverse TCJA provisions overwhelmingly benefiting corporations. No position on individual AMT.
Corporate Tax Rates		
Currently 21%	No change.	Raise rate to 28% with 15% minimum book tax on companies reporting more than $100 million in the US but paid $0 or negative federal income taxes. Credit for foreign taxes paid and carryovers allowed. Would reverse TCJA provisions overwhelmingly benefiting corporations.
Depreciation		
Taxpayers can take a depreciation deduction as a mechanism for recovering the capital invested in an asset. Eligible property can be expensed entirely in the first-year placed in service.	Fiscal Year 2021 Budget would extend 2017 TCJA provisions past 2025.	Would reverse TCJA provisions overwhelmingly benefiting corporations.

Source: Bloomberg Tax & Accounting *Trump, Biden Tax Plan Comparison*

Current Law	Donald Trump	Joe Biden
Fossil Fuels and Carbon Tax		
Several deductions and other incentives appear in the I.R.C. for businesses to invest in fossil fuels. The primary incentive is a deduction for intangible drilling costs paid or incurred by operators of oil and gas wells. Depletion allowed for minerals and oil and gas extraction. The US does not have a tax on fuels that emit greenhouse gases.	Supports tax breaks for fossil fuels. Pro coal agenda.	Supports the tax. Wants to end fossil fuel subsidies (e.g.: deductions for drilling wells, depletion of oil and gas deposits and domestic manufacturing.
Renewable Energy		
Taxpayers are allowed an investment tax credit for certain investments in renewable energy, such as solar and wind. A tax credit exists for biodiesel and renewable diesel a fuel during the tax year.	No specific plan but favors fossil fuel energy benefit.	Restore the full electric-vehicle tax credit; reinstate tax credits for residential energy efficiency; expand tax deductions for energy retrofits, smart metering systems, and other emissions-reducing investments in commercial buildings; reinstate the Solar Investment Tax Credit (ITC); tax benefits for carbon capture, use and storage.

Source: Bloomberg Tax & Accounting *Trump, Biden Tax Plan Comparison*

If you have any questions, contact your Financial Professional.

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