TAX ALERT

IMPACT OF A BIDEN PRESIDENCY ON **INDIVIDUAL TAX PLANNING**

The tax and economic policies of the 2020 presidential candidates, and their respective parties, are of historical importance. Tax policy is a core driver of consumer behavior and the winning candidate will determine the course for getting the economy back on track following the downturn triggered by the COVID-19 pandemic.

With a Biden victory all but certain, individuals must pay close attention to how his campaign's proposed policies will affect their total tax liability and be prepared to make any changes or updates, in some cases, during the weeks ending the 2020 tax year.

Dustin Grizzle
Tax Partner
DGrizzle@mgocpa.com
+1 (561) 300-2533

Sanjay Agarwal
Tax Practice Leader
SAgarwal@mgocpa.com
+1 (408) 418-4001

2020 Prospective Results Overview

Biden Victory | Democratic Senate Majority
Biden Victory | 50/50 Senate Split

In the case of a 50/50 split in the Senate, the tie-breaking vote goes to the Vice President, giving de facto Senate leadership to the party in the White House.

The Biden campaign's proposed tax plan focuses on rolling back tax breaks and "loopholes" for corporations and high-net-worth individuals, specifically related to changes made in the 2017 Tax Cuts and Jobs Act (TCJA). Biden also proposed a number of significant tax breaks and stimulus efforts targeted at spurring growth in historically-disadvantaged communities and the renewable energy sector, while simultaneously rolling back fossil fuel industry subsidies.

Economic Stimulus

In the case of a Biden/Democratic win, it seems unlikely that an out-going President Trump will be motivated to support a new COVID-19 economic stimulus plan before leaving office. On the other hand, an incoming President Biden will likely immediately push for stimulus upon taking office, and will be successful with control over the Senate.

Biden Victory | Republican Senate Majority

Any outcome that has White House and Senate leadership at loggerheads will likely result in the blocking of any major economic and tax policy changes. With Senate Majority Leader Mitch McConnell's re-election, there is little reason to suspect he'll alter his long-standing obstructionist stance against Democrat-sponsored and supported bills.

Tax Planning Considerations

Proposed Change to Estate Taxes

Maximizing lifetime estate exclusion. There are numerous ways to accomplish this while maintaining some control over the assets (SLATs and 678 trusts).

Adjust long term planning for gifts that cannot be completed by year end by utilizing traditional estate planning (GRATs, CLATS, and IDGT).

Decant grantor trusts into non-grantor trusts.

Proposed Elimination of Preferential Rate for Capital Gains

Consider strategies to accelerate capital gain income, including:

Electing out of installment sales.

Not completing in-process 1031 transactions.

Selling appreciated property that is not intended to be held long term.

Proposed 39% Marginal Rate for Income Over $400,000

Defer Loss Harvesting.

Exercise NSOs and consider 83b election when appropriate.

Convert to a Roth IRA and accelerate tax.

Accelerate Charitable Giving and Consider Donor Advised Funds

CARES act allows for charitable contributions up to 100% of AGI in 2020. AMT implications are still important to consider.

Social Security Tax Expansion

Reorganize or elect to be taxed as a C-Corporation:

- C-corporation owners with $400,000 -$1,000,000 of income could have an effective rate on dividends of 45.1%
- C-corporation owners with greater than $1,000,000 of income could have an effective rate on dividends of 51.9%

Executive Compensation:

- Incentive Stock Options (ISOs) – No FICA tax on option spread
- Non-Qualified Stock Options (NQSOs) – FICA tax on option spread is delayed until exercise
- Deferred Compensation – There may be timing benefits down the road

Final Thoughts

A Democrat-led White House and Congress has the most drastic potential impact on immediate tax planning. However, pressure to create a COVID-19 relief bill will likely be the priority for the in-coming administration, pushing any substantive tax reform to an effective date after 2022. Even so, understanding proposed changes and early planning are recommended to minimize any negative impact stemming from tax reform.

Individual Tax Policy

	Current Policy	Biden Policy
Individual Tax Rates	Top marginal rate is 37% for income over $518,400 for individuals and $622,050 for married filing jointly.	Restore the 39.6% top rate for taxable income above $400,000.
Individual Tax Credits	Individuals can claim a maximum of $2,000 Child Tax Credit (CTC), and a $500 dependent credit. Individuals may claim a maximum dependent care credit of $600 or $1,200 for two or more children. CTC to revert to $1,000 12/31/25.	Expand the CTC to $3,000 for children age 17 and under and offer a $600 bonus for children age 6 and under. It would also be fully refundable. Increase the child and dependent care tax credit to $8,000 and $16,000 for two or more children.
Itemized Deductions	$12,400 standard deduction for single/ married filing separately and $24,800 for married filing jointly. Personal exemption and most individual deductions suspended. SALT deduction capped at $10,000. To expire 12/31/25.	Enact a provision that would cap the tax benefit of itemized deductions at 28% of AGI. SALT Cap: House of Representatives has passed legislation to repeal, and Senate has pledged to repeal if under Democratic control.
Estate Taxes	Estate tax exemption for 2020 is $11,580,000. Transfers of appreciated property at death get a step-up in basis. Exemption is set to expire 12/31/25.	Return the estate tax to 2009 levels. Eliminate the step-up in basis on inherited assets, and eliminate the step-up at death provision for inherited property.