

2016 Post Election Tax Law Update

2016 Post-Election Tax Update

The recent presidential election increased the likelihood of a significant change in the tax law. During the campaign, President elect Donald Trump outlined a number of tax proposals. Also, it is possible that during the remaining "Lame Duck" session, Congress may make some tax law changes before President Obama leaves office. Below we highlight some of these proposals and possible changes.

Campaign Proposals

During the campaign, Trump proposed reducing the number of individual income tax rates; lowering the individual income tax rates for most taxpayers; lowering the corporate tax rate; and repealing the Affordable Care Act ("ACA") (including, presumably, the ACA's tax related provisions). In his campaign materials, Trump highlighted several goals of tax reform:

- tax relief for middle class Americans;
- simplify the Tax Code;
- grow the American economy; and
- do not increase the budget deficit.

Trump also identified during the campaign a number of tax related proposals that he intends to pursue during his first 100 days in office.

- **The Middle Class Tax Relief and Simplification Act.** According to Trump, the legislation would provide middle class families with two children a 35% tax cut and lower the "business tax rate" from 35% to 15%.
- **Affordable Childcare and Eldercare Act.** A proposal described by Trump during the campaign that would allow individuals to deduct childcare and elder care from their taxes, incentivize employers to provide on site childcare, and create tax free savings accounts for children and elderly dependents.
- **Repeal and Replace the ACA.** During the campaign, Trump promised to fully repeal the ACA. Recent comments by Trump suggest that some provisions of the ACA may survive (g., preventing the denial of insurance coverage for those with a preexisting condition and allowing children to remain on their parents'

POSTED:

Nov 16, 2016

RELATED PRACTICES:

[Tax](#)

<https://www.reinhartlaw.com/practices/tax>

RELATED PEOPLE:

[Michael G. Goller](#)

<https://www.reinhartlaw.com/people/michael-goller>

health plan until age 26).

Individual Income Taxes

The last change to the individual income tax rates was in the American Taxpayer Relief Act of 2012 ("ATRA"), which raised the top individual income tax rate. Under ATRA, the current individual income tax rates are 10%, 15%, 25%, 28%, 33%, 35%, and 39.6%. During the campaign, Trump proposed a new rate structure of 12%, 25% and 33%:

- Current rates of 10% and 15% would be 12% under new rate structure.
- Current rates of 25% and 28% would be 25% under new rate structure.
- Current rates of 33%, 35% and 39.6% would be 33% under new rate structure.

This rate structure mirrors one proposed by House Republicans earlier this year. During the campaign, Trump did not detail the precise income levels within which each bracket percentage would fall. Rather, he generally estimated that for joint returns there would be a 12% rate on income up to \$75,000; a 25% rate for income between \$75,000 and \$225,000; and 33% on income more than \$225,000 (brackets for single filers will be half those dollar amounts) and "low income Americans" would have a 0% rate.

Closely related to the individual income tax rates are the capital gains and dividend tax rates. The current capital gains rate structure, imposed based upon income tax brackets, would presumably be realigned to fit within Trump's proposed percent income tax bracket levels.

AMT

Trump proposed during the campaign to repeal the alternative minimum tax ("AMT"). The last time that Congress visited the AMT, lawmakers voted to retain the tax but to provide for inflation adjusted exemption amounts.

Business Tax Proposals

During the campaign, Trump highlighted small businesses, the corporate tax rate and some international proposals.

For small businesses, Trump has proposed a doubling of the Code section 179 small business expensing election to \$1 million. Trump has also proposed the immediate deduction of all new investments in a business.



The current corporate tax rate is 35%. Trump has proposed a reduction in the corporate tax rate to 15%. He also proposed sharing that rate with owners of "pass through" entities (sole proprietorships, partnerships and S corporations), but only for profits that are put back into the business.

Based on campaign materials, a one time reduced rate would also be available to encourage companies to repatriate earnings of foreign subsidiaries that are held offshore. Many more details about these corporate and international tax proposals are expected.

Estate and Gift Tax

During the campaign, Trump proposed to repeal the federal estate and gift tax. The unified federal estate and gift tax currently starts for estates valued at \$5.49 million for 2017 (essentially \$10.98 million for married individuals); Trump, however, also proposed a "carryover basis" rule for inherited stock and other assets from estates of more than \$10 million. This additional proposal has already been criticized by some Republican members of Congress, while some Democrats have raised repeal of the federal estate tax as a nonstarter.

Other Proposed Changes

Other proposals made by Trump during the campaign would limit itemized deductions, eliminate the head of household filing status and eliminate all personal exemptions. Trump also has called for increasing the standard deduction. Under Trump's plan, the standard deduction would increase to \$15,000 for single individuals and \$30,000 for married couples filing jointly. In contrast, the 2017 standard deduction amounts under current law are \$6,350 and \$12,700, respectively, as adjusted for inflation

Possible new family oriented tax breaks were discussed by Trump during the campaign. These include the creation of dependent care savings accounts, changes to earned income tax credit, and enhanced deductions for child care and eldercare.

The ACA

The ACA created a number of new taxes that impact individuals and businesses. These taxes range from an excise tax on medical devices to taxes on high dollar



health insurance plans. The ACA also created the net investment income ("NII") tax and the Additional Medicare Tax, both of which generally impact higher income taxpayers. The ACA also made significant changes to the medical expense deduction and other rules that affect individuals. For individuals and employers, the ACA created new mandates to carry or offer insurance, or otherwise pay a penalty.

Trump made repeal of the ACA one of the centerpieces of his campaign. During the campaign, Trump said he would call a special session of Congress to repeal the ACA. Lawmakers could vote to repeal the entire ACA or just parts of the law.

Year-End Issues

Congress is meeting for a "Lame Duck" session during which it is expected to take up tax legislation. Exactly what tax legislation Congress will consider before year end remains to be seen. Possible "hot" issues include the following:

- Legislation to renew some expiring tax extenders, especially energy extenders.
- Legislation to fund the federal government, including the IRS, through the end of the 2017 fiscal year.
- Legislation to enhance retirement savings for individuals.

Conclusion

The information available now about Trump's tax proposals is based largely on statements by him during the campaign and campaign materials. Trump will take office January 20, 2017. Between now and then, more details about his tax proposals may become available. Please contact [Michael Goller](#) or any [Reinhart tax attorney](#) if you have any questions.

These materials provide general information which does not constitute legal or tax advice and should not be relied upon as such. Particular facts or future developments in the law may affect the topic(s) addressed within these materials. Always consult with a lawyer about your particular circumstances before acting on any information presented in these materials because it may not be applicable to you or your situation. Providing these materials to you does not create an attorney/client relationship. You should not provide confidential information to us until Reinhart agrees to represent you.