



Potential Tax Changes Under a Biden Presidency

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Speakers



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Agenda

- Overview of Biden tax plan
- Corporate and business tax proposals
- Individual tax proposals
- Estate & gift tax proposals
- Tax planning implications
- Overview of political landscape and closing remarks
- Questions



Overview of Biden's Tax Plan & Vision

- The fate of Tax Cuts and Jobs Act (TCJA) was on the ballot
- Tax changes woven into his four priorities:
 - COVID-19
 - Economic Recovery
 - Racial Equity
 - Climate Change
- At a high level, Biden campaigned on making large corporations and wealthy individuals contribute “their fair share”
- Joe Biden’s plan would raise tax revenue by \$3.3 trillion
- A few caveats and words of caution

A black and white photograph of the United States Capitol dome in Washington, D.C., with the American flag flying in the foreground on the left side.

Biden's Tax Plan

Highlights of Proposals for Business Taxes

- Raise corporate tax rate to 28%
 - Currently 21% as set by the Tax Cuts and Jobs Act
 - Was 35% prior to TCJA
- Eliminate Section 199A Deduction for high-income earners
 - Deduction of up to 20% of pass through income enacted by TCJA
 - Top marginal tax rate on most pass-through business income would increase to 39.6% compared to 29.6% under the TCJA
- “New” Alternative Minimum Tax
 - Corporate AMT was repealed as part of TCJA
 - New AMT would be 15% tax on GAAP net income for companies whose GAAP net income exceed \$100 million
- Foreign tax reporting
 - Doubles rate of Global Intangible Low Tax Income (“GILTI”) tax to 21%
 - Impose 10% surtax on income earned from offshoring production
 - Establish a “Made in America” tax credit
- Close “loopholes” for oil & gas, real estate industries

Highlights of Proposals for Individual Taxes



- Tax rate changes for those with income above 400k
- Expand existing tax credits and introduce new tax credits
- Payroll tax changes
- Modify estate and gift tax exclusions and rates

General Rate and Deduction Changes

- Restore top rate on ordinary income to 39.6%
 - Currently 37% as set by the Tax Cuts and Jobs Act
- For income above \$1MM, capital gains rate = ordinary rate
 - Currently, LT capital gains and qualified dividends are taxed at 20% in the highest tax bracket (before net investment income tax)
- Changes to itemized deductions
 - Reinstate the Pease limitation
 - Cap benefit of itemized deductions at a 28% rate
 - Remove \$10,000 cap on SALT deduction

Credits – Child Tax Credit

Current:

- Taxpayer can credit \$2,000 for each qualifying child under the age of 17
- This amount is reduced by 5% of AGI greater than \$200,000 (single) and \$400,000 (joint)
- If credit exceeds overall tax liability, partially refundable

Proposal:

- Increase credit to \$3,000 for children ages 6-17 and \$3,600 for children below age 6
- Fully refundable credit
- These changes would be applied to 2021 and going forward as a temporary change "as long as economic conditions require"

Credits – Child and Dependent Care Tax Credit

Current:

- Nonrefundable credit for 20-35% of cost of work-related care
- Limit is \$3,000 per child/dependent and \$6,000 for two or more
- This is phased down when income exceeds \$43,000

Proposal:

- Increase the maximum credit to \$8,000 per child/dependent and \$16,000 for two or more, cover up to 50% of child care costs
- Make credit refundable
- This will be phased out when household income is between \$125,000 and \$400,000

Additional Expanded and New Credits

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- A close-up photograph of two hands in business suits and white shirts shaking hands. The hands are positioned in the center-left of the slide, with one hand reaching over the other. The background is dark and out of focus.
- Earned Income Tax Credit
 - Family Caregiving Incentives
 - First Time Homebuyer Tax Credit
 - Renter's Credit

Payroll Tax Changes

Current:

- Social Security tax is 12.4% and split between employer and employee on first \$137,700. Income above this threshold is not taxed for SS. Self-employed individuals pay the full 12.4%.

Proposal:

- Biden plans to expand this tax to apply to wages and self-employed earnings greater than \$400,000, creating a “donut hole” between \$137,700 and \$400,000



Estate & Gift Tax Proposals

- Has not released a formal proposal to address the estate, gift and generation-skipping transfer tax, but has made his positions clear at times throughout the campaign
- Proposals include a top tax rate of 45% and an exemption of \$3.5M per individual
- Repeal of “step-up” in basis for inherited assets
- Would raise revenues by \$280B for 2021-2030

Planning Considerations

- Accelerate income and defer deductions?
- Evaluate realizing capital gains and/or Roth conversions
- Consider making lifetime taxable gifts in order to use up current estate and gift tax exemption?
- Repeal of “step-up” in basis for inherited assets



The New Political Landscape

Where Were We Before The Election?

- House of Representatives (218 seats needed for majority)
 - 232 Democrats
 - 198 Republicans
 - 1 Libertarian
 - 5 Vacant Seats
- The Democrats gained 41 seats in the House during the 2018 mid-term elections
 - Took control of chamber for the first time since 2011
 - Representative Nancy Pelosi became Speaker of the House again

House of Representatives Election Results

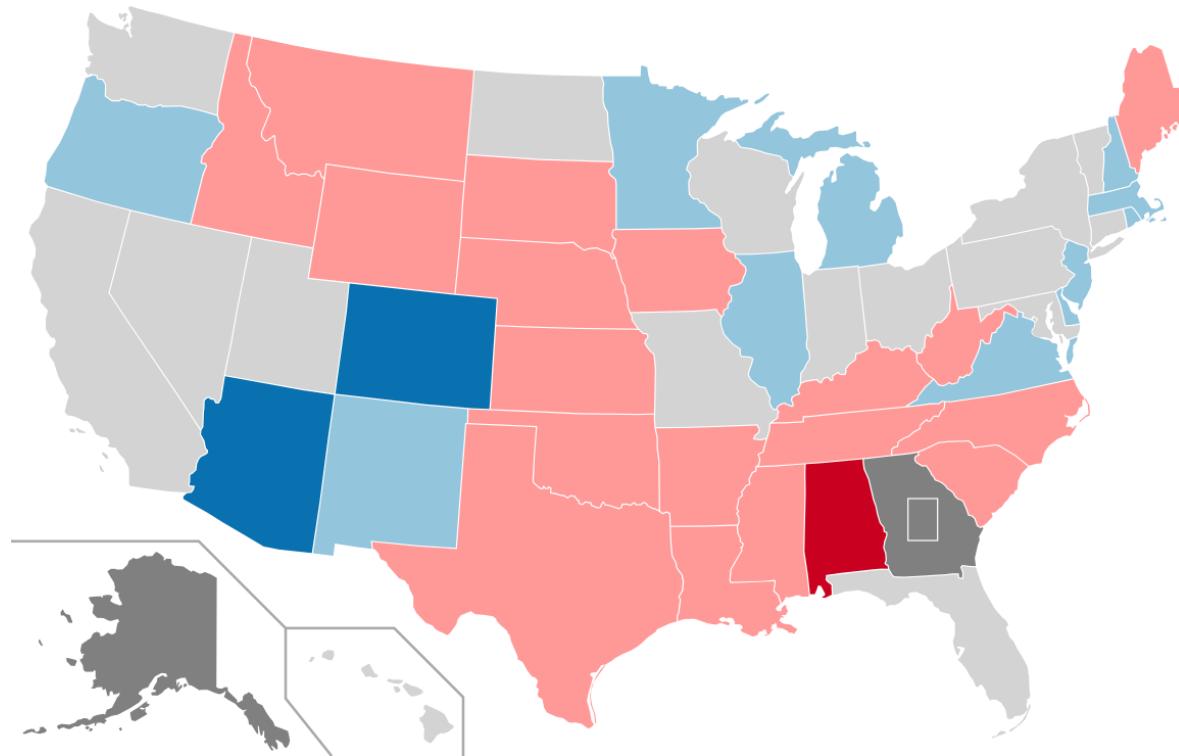
- As of 11/18/20 the results were:
 - 221 Democrats
 - 209 Republicans
 - 5 races not called
- Democrats lost a net of least 8 seats
- Democrats will maintain control of the House with a slimmer majority

Where Were We Before The Election?

- United States Senate (50* seats needed for majority)
 - 53 Republicans
 - 45 Democrats
 - 2 Independents who caucus with the Democrats
- Senator Mitch McConnell (K-KY) was the majority leader
- Senator Chuck Schumer (D-NY) was the minority leader

United States Senate Election Results

- Democrats had a net pick up of at least 1 seat
 - 50 Republicans
 - 48 Democrats (including 2 independents)
 - 2 separate run-off elections in Georgia



Key Dates

- **December 8th** – Deadline for states resolve election disputes and certify their slate of presidential electors
- **December 14th** – Electors meet and vote for President and Vice President
- **January 3rd** – New Congress is sworn in
- **January 5th** – Two run-off elections in Georgia
- **January 6th** – Joint session of Congress convenes to count votes of electors
- **January 20th** – Inauguration Day

What to Watch For

- Georgia, Georgia, Georgia
 - Both run-off elections will be held on January 5th
 - If Democrats win both races, they will control the Senate
 - If Republicans win at least one race, they will control the Senate
- Signals about who is the “real” Joe Biden?
- Biden’s nominee for Secretary of the Treasury
- The Biden-McConnell relationship
 - They served together in the Senate for 20+ years
 - Biden was the Obama administration’s main liaison to Congress
- Will Pelosi’s last term as Speaker change things?
- Intra-party wrangling – race for 2022 and 2024 is underway
 - Progressives vs. moderates on the Democratic side
 - Conservatives vs. moderates on the Republican side

What to Watch For

- COVID, COVID, COVID
 - Biden said this will be his first priority upon taking office
 - Possible new stimulus bill
 - How soon will the pandemic be over?
- Where are taxes on Biden's to do list?

What Will (Probably) Happen

- IRS will issue or update new interpretation/guidance on the tax code
 - Tax Cuts and Jobs Act required a lot of administrative work to implement certain sections of the new law
 - The IRS can change this guidance to become less taxpayer-friendly
 - May pick up Obama administration efforts to restrict use of certain estate planning techniques
- If Republicans win at least one of the Georgia run-offs:
 - Large tax bills not likely to make it through Congress
 - Any limited tax law changes would likely be included in a COVID stimulus bill
 - “SECURE ACT 2.0” possible
- If Democrats win both of the Georgia run-offs
 - Large new tax law possible due to budget reconciliation mechanism
 - It will depend on Biden Administration’s priorities
 - Could lead to a lot of intraparty wrangling

Questions

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