



## **2020 Presidential Election Impact on Tax Policy**

The upcoming presidential election could hold long-term implications for tax reform, no matter which candidate wins. While neither campaign has released a detailed tax plan on the campaign trail, former Vice President Biden has proposed high-level policies familiar of the Obama era, and an abrupt departure from the Tax Cuts and Jobs Act (TCJA) measures put into place in 2017. The broad changes Vice President Biden has projected would include increasing taxes for higher income individuals and certain businesses in an effort to use the increased tax revenues to provide targeted relief for lower and moderate-income individuals and fund incentives for domestic manufacturing and increased infrastructure spending. This approach redistributes the tax burden by calling for higher taxes on realized income (from wages and capital gains) and on the value of an individual's estate at death.

In contrast, President Trump proposes to make permanent the 2017 individual TJCA tax reform provisions that are set to expire after 2025. This includes proposing additional tax cuts for middle income individuals and businesses while potentially lowering the current 21 percent corporate income tax rate. In addition, he plans to make permanent the temporary provision addressing estates and passthrough entities.

This article provides a high-level discussion of the two candidates' proposals and compares where they stand on certain key tax issues. That said, it is important to note that any major modifications or changes to current tax law will likely require unified control of Congress and the White House, so the Senate and House races are also critical in the determination of future tax policy. The timing of any tax law changes will also be impacted by the state of the economy in January and the status of further COVID relief, as well as the priorities of other matters such as healthcare and immigration, particularly if Vice President Biden wins the election.

### **Individual/Estate Taxation**

Generally, Vice President Biden's proposals include tax increases for higher income individuals and large estates while providing tax credits and other taxpayer favorable ideas for lower income individuals. President Trump's proposals largely keep the TJCA in place with the goal of making many of its provisions permanent, but he has also floated the idea of a new ten percent middle income tax cut. Of note, both Trump and Vice President Biden have proposed eliminating carried interest. The Trump administration has not released details on how this could be achieved, but one possibility would be consolidating the current 22 percent and 24 percent income brackets into a 15 percent tax bracket.

For more specific rates and how the candidates' proposals differ from current law, see below:

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A Limited Liability Partnership of Certified Public Accountants & Consultants

Riverwood 200 3300 Riverwood Parkway Suite 700 Atlanta, GA 30339 **phone** 770.396.2200 **fax** 770.390.0394

[www.btcpa.net](http://www.btcpa.net)



Proposal	Current Law	President Trump	Vice President Biden
Individual Rates	Seven rate brackets (10%, 12%, 22%, 24%, 32%, 35%, and 37%)	Make permanent TCJA individual tax rate cuts set to expire after 2025	Restore pre-TCJA tax rates for income above \$400,000 (including an increase in the highest rate to 39.6%)
Proposal	Current Law	President Trump	Vice President Biden
Capital Gain/Qualified Dividend Rates (Individuals)	Maximum 20 percent rate for long-term capital gains and qualified dividends	Reduce top rate from 20 percent to 15 percent and index capital gains to inflation	Tax capital gains and dividends as ordinary income for individuals with income above \$1 million and tax unrealized capital gains at death
Individual Standard Deduction	\$12,400 single/\$24,800 joint	Make TJCA changes permanent	No change
Individual Itemized Deductions	No overall limitation on itemized deductions. Deduction for state and local sales, income and property taxes capped at \$10,000	Make TJCA changes permanent	Restore Pease limitation on itemized deductions for individuals with income above \$400,000. Limit tax benefit of itemized deductions to 28 percent



Other Credits	Available credits may include child and dependent care credits, education credits, child tax credit and earned income tax credit	Create tax credit for individuals and businesses who donate to organizations that provide education freedom scholarships for non-public education	Create family caregiver credit. Extend ETIC to workers age 65 and older without qualifying children. Exclude student loan forgiveness from taxable income. Enhance childcare credit, create new homeowner, renter and renovation tax credits
Estate Tax	Maximum 40 percent tax rate (\$11,580,000 exemption for 2020). Value of property included in gross estate is FMV on the decedent's date of death. Step up in basis to FMV	Make TJCA changes permanent	Reduce estate tax exemption to \$3.5 million and increase maximum tax rate to 45 percent. Tax unrealized capital gains at death
Proposal	Current Law	President Trump	Vice President Biden
Payroll Tax	12.4 percent Social Security tax applies to annually adjusted wage base limit. Current limit is \$137,700 in 2020	Make permanent the deferral of the 6.2 percent employee share of Social Security tax on workers earning less than \$104,000 annual from September 1 through December 31, 2020	Apply Social Security payroll tax to income above \$400,000



Retirement Plans	Elective deferral to 401(k) plans (\$19,500 limit for 2020). IRA contributions (\$6,000 limit for 2020) subject to income limitations	No change	Increase preference for middle-income taxpayers' contributions to 401(k) and IRAs
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### Business Entity Taxation

In addition to the proposed changes discussed below, Vice President Biden proposes ending subsidies for fossil fuels, restoring the full electric vehicle tax credit and introducing other credits and deductions to incentivize both residential and commercial energy efficiency. In addition, he proposes to end TCJA incentives for multinational corporations, including the implementation of a clawback provision to require a return of public investments and tax incentives when a company closes employment locations within the US and sends jobs overseas. Currently, Vice President Biden does not propose the elimination of measures included within the TJCA to broaden the corporate tax base, which include limitations on deductibility of interest, modifications to the net operating loss rules, amortization of R&E expenditures in 2022 and the repeal of the domestic production activities deduction.

President Trump's proposed business incentives include making 100 percent bonus depreciation, 20 percent qualified business income deduction for pass through entities becoming permanent, offering incentives to companies that relocate operations to the US and create American jobs, further expanding opportunity zones and creating additional payroll tax incentives. Conversely, Vice President Biden wishes to expand the new markets tax credit, provide tax incentives for manufacturing drugs and other critical products within the US, offer tax breaks for small businesses who introduce retirement plans and give tax credits to businesses to offset the cost of building child care facilities in places of employment.

More details on proposed business taxation policies vs. current policies are below:

Proposal	Current Law	President Trump	Vice President Biden
Corporate Tax Rates	21 percent rate for tax years beginning after 12/31/2017	No change, but potential to lower rate to 20 percent	Increase corporate income tax rate to 28 percent with a 15 percent minimum book tax on companies reporting more than \$100 million book income in



			the US but who have paid zero US federal income taxes in that tax year
Pass-through Entities	20 percent qualified business income deduction permanent for non-wage portion of pass-through income (subject to limitations)	Make permanent TCJA pass-through business provisions	Phase out 20 percent deduction (provides for limitations for income above \$400,000)
Anti-US Base Erosion	US shareholders of controlled foreign corporations subject to US tax on GILTI inclusion	No change	Increase minimum tax on profits earned by foreign subsidiaries of US companies from 10.5 percent to 21 percent (i.e. elimination of GILTI deduction)

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As highlighted above, much could change in the next week. In the event of a Vice President Biden victory and a switch in the Senate from Republican to Democrat, there could be significant alterations to US tax policy across the board. Now more than ever, it is important to consider tax planning opportunities that could maximize your position for the current tax year and beyond. Many taxpayers have been focused on executing gifts before year end to secure the benefit of the current gifting limits in anticipation that this could be lowered in the future. Similarly, some business owners are thinking more seriously about selling their company sooner than later to take advantage of current capital gain rates. Your tax advisor can help guide you to make the right decisions now rather than later, and we advise clients not to wait to take action.

Bennett Thrasher will continue to monitor developments with the current candidates' tax proposals and will communicate any significant changes that will impact our clients. For further questions or guidance regarding tax planning, please contact your BT tax advisor by calling 770.396.2200.