Highlights

- Trump Win Could Mean Broad Changes to U.S. Tax System
- Narrow Margins in Congress Could Make Legislation Difficult
- TCJA Sunset Looming

Inside

Tax Briefing | 2024 Post-Election Tax Policy Update

Trump's Victory Could Produce Significant Tax Policy Changes; Control of Congress Still Unknown

On November 5, 2024, Republican Donald Trump won the 2024 U.S. Presidential Election and will be the 47th President of the United States. Trump's return to the White House after four years could mean significant changes throughout the U.S. legal and regulatory framework, and the impact on tax policy is no exception. Trump's first term in office saw the passage of the Tax Cuts and Jobs Act of 2017 (TCJA), the single most significant change to the Internal Revenue Code in more than three decades, and on the campaign trail, Trump has promised more changes to the tax system.

President-elect Trump's efforts will be impacted by the makeup of the next Congress. The GOP will have control of the Senate when Trump takes office. At the time of publication, which party will control the House is still uncertain. Since the 2022 mid-term election, the GOP has had control of the chamber by a very slim margin. What Trump is able to get through, and how quickly, will be impacted by the House results.

> **COMMENT.** *It's worth noting that during the first half of Trump's first term, the GOP had complete control of Congress, and it was not always smooth sailing, as the GOP majority was much more fractured between representatives who followed a more traditionally conservative philosophy and those more loyal to Trump's*

> *policies. In the eight years since, much of the party has moved more towards Trump, so if the GOP holds onto the House, Trump's agenda could see a much easier road to legislative approval.*

"Now is the time to look forward to see how policy, specifically tax policy, will be impacted by the return of Trump to the White House"

With the results of the presidential election now in hand, and the makeup of Congress to be known soon, now is the time to look forward to see how policy, specifically tax policy, will be impacted by the return of Trump to the White House.

> **COMMENT.** *This briefing is based on President-elect Trump's statements and proposals on taxes and tax policy during the campaign. Trump's tax-related proposals may change after he assumes office.*

BROAD TAX POLICIES

Before getting into details about specific policies proposed by President-elect Trump, it would be beneficial to discuss some broadly applicable items.

Tax Cuts and Jobs Act

As mentioned above, the TCJA was the crowning tax achievement of the first Trump administration. The legislation permanently lowered the corporate tax rate and temporarily lowered individual tax rates. The Act also temporarily enhanced the child tax credit, the medical expense deduction, bonus depreciation, small business expensing, and more. One of the reasons much of the Act was temporary was due to the use of the reconciliation process to pass the law, as Senate rules imposed strict budgetary limitations in order to avoid the sixty-vote requirement to circumvent a filibuster. Most of the temporary provisions are no longer applicable after the 2025 tax year.

Throughout the campaign, Trump has proposed making the TCJA permanent. This overarching proposal will be a recurring theme in this Briefing, as many basic policy proposals will hinge on some sort of extension of the TCJA.

> **COMMENT.** *Making the TCJA permanent will run into the same roadblocks that necessitated the sunset of many provisions in 2017, mostly the budget rules in the Senate. Of course, it is possible that the Senate rules could be changed in order to accommodate permanent passage, but many longtime Senators, including current Minority Leader Mitch McConnell, have long opposed chipping away at these rules and preserving the filibuster. Indeed, after the election, McConnell celebrated Trump's win and the GOP's control of the Senate as meaning that those rules would be retained.*

Tariffs

During the campaign, Trump proposed, on numerous occasions, imposing high tariffs on imports. These tariffs are largely based on non-tax considerations, primarily meant to protect American producers and manufacturers from lower-cost imports, but he also lauded the revenue effects of tariffs. He mentioned, for instance, using the revenue from tariffs to pay for the increasing cost of child care.

Trump has proposed tariff rates of 10% to 20% on most imported goods, but 60% on goods imported from China and 100% on automobiles manufactured in Mexico and shipped into the U.S. for sale. He proposed up to 300% tariffs, or even higher, on certain goods.

Towards the end of the campaign, Trump also discussed the possibility of repealing the income tax and shifting to tariffs as the primary source of government revenue.

> **COMMENT.** *It is not clear that this proposal really works mathematically. Many economists believe that even across-the-board tariffs approaching 100% would not equal the amount of income raised through individual and corporate income taxes. Additionally, tariffs generally have the problem of diminishing returns, as the higher cost of goods resulting from a tariff on imports would result in a reduction of imported goods, and lower revenue from tariffs.*

COMMENT. *It is not clear how these two overarching policies align. Obviously, an extension of the TCJA would be meaningless if the income tax was repealed, and vice versa.*

INDIVIDUAL TAXATION

Income Tax Rates

Under current law, there are seven tax brackets: 10, 12, 22, 24, 32, 35, and 37 percent, which are applicable from 2018 through 2025 under TCJA. After 2025, without legislative intervention, the brackets will revert to those in effect in years prior to 2018: 10, 15, 25, 28, 33, 35, and 39.6 percent.

Trump proposed to make the provisions of the TCJA permanent, which would include the current tax brackets.

Taxation of Tips

Under current law, tip income received by restaurant and hospitality workers is subject to income and employment tax just like wage income.

Trump has long proposed eliminating tax on tips.

COMMENT. *It is not clear which taxes Trump is proposing to eliminate, if it would include just the income tax on tips, or employment taxes as well (and, whether the eliminated employment taxes would be for just the employee's share of those taxes, the employer's share, or both). If it is all taxes on tip income, this could have the unintended consequence of employers shifting tip-earning employees to a model of paying them only the minimum wage, with a larger propotion of income coming from now tax-free tips. While this would be a benefit to both the employer and employee (assuming that tax-free tip income can balance out with the reduced taxable income), it would reduce revenues for Social Security and Medicare in addition to general Treasury revenues.*

Overtime Income

Under current law, overtime income is taxed no differently from regular income. During the campaign, Trump proposed making overtime income untaxable.

COMMENT. *It is not clear how this proposal would work. It would require additional reporting by employers, and clear definition of what constitutes overtime income (such as in the case of a person working two jobs). As with eliminating the tax on tips, it would greatly reduce tax revenue.*

Social Security Income

Under current law, Social Security benefits are subject to lower tax rates as long as total income (taking into account all types of income, including Social Security benefits) is not in excess of certain statutory amounts.

Trump has proposed eliminating the taxation of Social Security benefits.

COMMENT. *Again, this would result in a significant reduction in revenues for the government. It is estimated that up to 40% of Social Security recipients pay some sort of income tax of Social Security income. Some economists believe the elimintation of tax on Social Security benefits would underfund the Social Security program itself and cause it, within ten years, to run out of the money it needs to pay full benefits.*

INDIVIDUAL TAX INCENTIVES

Child Tax Incentives

Under current law, set to expire after 2025, the child tax credit is equal to $2,000 per qualifying child and phases out for taxpayers with modified adjusted gross incomes in excess of $200,000 ($400,000 for joint filers). A portion of the $2,000 is refundable and taxpayers can claim the credit even if they do not have a tax liability. The portion of the credit that is refundable is adjusted annually for inflation ($1,800 for 2025). After 2025, barring further action by Congress, the pre-TCJA amounts will apply again, with a lower credit amount ($1,000), lower phaseout thresholds, and a lower refundable portion.

The Trump campaign did not have a specific proposal relating to the child tax credit, but he does support the permanent extension of TCJA, which would lock in the $2,000 credit amount, the inflation adjusted refundable portion, and the higher phaseout thresholds. Vice President-elect J.D. Vance did support an increase in the credit amount to $5,000, but it does not appear that the Trump campaign endorsed that proposal.

Housing

Under current law, there are no widely applicable tax incentives for the purchase of a home. Previously, certain first-time homebuyers were eligible for credits that were made available in response to the 2008 financial crisis, but these credits are no longer applicable.

Trump did not release any specific proposals relating to tax incentives for housing, although the Republican party platform proposals released after the GOP National Convention in July does propose tax incentives for first-time homebuyers, indicating a possible proposal to resurrect the first-time homebuyer credit.

State and Local Tax Deduction

The TCJA capped the deduction for state and local taxes at $10,000 for joint and individual filers. This cap was widely decried by lawmakers from several higher tax states. Those states made several attempts to create workarounds for residents to still claim deductions in excess of the cap, but the IRS shut down many of the attempts. The only workaround that has stuck involves using a passthrough entity to pay the taxes, but the workaround isn't something that a middle-income taxpayer can really utilize, and only a handful of states have made it available.

The elimination or increase of the SALT cap has been supported by a number of Democtratic and Republican lawmakers in these higher tax states. During the campaign, Trump did voice support for increasing the cap, but it is not among any of his formal policy proposals.
Under the TCJA, the $10,000 cap does not apply after 2025.

Electric-Vehicle Credit

During the campaign, Trump said, informally, that he would consider eliminating the electric-vehicle tax credit. Under current law, a maximum credit of $7,500 is available for certain electric vehicles placed in service after 2022. Vice President-elect Vance has taken a stronger stand against the electric-vehicle credit than Trump has, and Vance introduced a Senate bill in 2023 that would have ended the credit.

ESTATE TAX

The TCJA doubles the exclusion amount applicable to estate, gift, and generation-skipping transfer tax. For 2025, this results in an inflation-adjusted exclusion of $13.99 million. Without extension of the TCJA, this exclusion amount will be halved (subject to inflation adjustment) for transfers occurring after 2025. In the runup to passage of the TCJA, the outright elimination of the tax was proposed, and has long been supported by factions of the GOP, but in the end, the increase in the exclusion amount was adopted (likely due to the revenue effects of total repeal).

Trump proposed to make the provisions of the TCJA permanent, which would include the doubled exclusion amount, but has not made any specific proposals relating to estate and gift taxes.

CORPORATE TAXATION

Under current law, the corporate tax rate is 21 percent. Prior to passage of the TCJA, corporations were taxed progressively based on income amounts, with a maximum applicable rate of 35%. Unlike most of the changes in the TCJA, the lower corporate tax rate was made permanent. Trump has suggested at times to lower the income tax rate on corporations to 15% or 20%. He has specifically noted that a 15% rate could apply to foreign-based corporations who relocate to the U.S.

INTERNATIONAL TAXATION

TCJA Rules for International Taxation

Changes to the Internal Revenue Code by the TCJA relating to the taxation of foreign activity of U.S. businesses, as well as foreign businesses, were designed with the goal of making U.S. businesses more competitive while also protecting domestic jobs. Many of these provisions, like the base-erosion and anti-abuse tax, the increased deduction for foreign-derived intangible income, and the increased deduction for global intangible low-taxed income, are all set to see the applicable rates increase and deductions decrease after 2025, but the provisions themselves do not expire like much of the TCJA provisions.

Trump proposed to make the provisions of the TCJA permanent, which would include these provisions in their current form.

Taxation of Foreign Businesses

The taxation of foreign businesses takes on many forms in the Internal Revenue Code, but most of this is the taxation of U.S. connected income, with a handful of industry-specific tariffs.

As discussed above, a broad expansion of tariffs emerged as a key pillar to Trump's overall tax plan. While no specifics of how these tariffs would work have been released, the party platform indicates that "baseline Tariffs on Foreign-made goods..." would ultimately result in a reduction of taxes on American individuals and businesses.

INFLATION REDUCTION ACT OF 2022

In 2022, the Inflation Reduction Act of 2022 was signed into law. The legislation provided significant new incentives for green energy. Many of those provisions were paid for through anticipated gains in closing the tax gap (the amount of revenue the government should be collecting over the amount it is actually collecting) by improving IRS enforcement.

While Trump has not issued any direct policy proposals on the increased funding for the IRS, many GOP lawmakers have, and "defunding" the IRS has been a part of a handful of proposed bills from GOP leadership. For his part, Trump has voiced displeasure with many of the green energy incentives that were part of the Act (such as the electric vehicle credit discussed above), and proposals to eliminate them are expected to be part of any tax legislation as budget offsets (though it isn't clear if Trump would eliminate the IRS funding proposals with them).

TAX LEGISLATION ON THE HORIZON

The next Congress should have a busy schedule, with many issues needing to be addressed and various policy proposals to legislate. Tax legislation will have to be among the issues the new Congress takes up. With the pending sunset of the TCJA, lawmakers are going to have to address the law before the end of 2025.

If the GOP holds the House in addition to taking control of the Senate, it is possible that the new Congress could move quickly on extending TCJA. However, in 2017, the GOP came in with control of both chambers of Congress (with a significantly larger House majority than we will see in 2025) and the White House, as well as a pretty well developed tax proposal, and it still took almost a year to pass TCJA. As a result, quick action on the impending sunset of TCJA could take more time than many predict, especially if there are going to be significant changes and not just a straight extension. If the House ends up coming under Democratic control, action on TCJA would likely drag on until the end of 2025, or beyond (similar to the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the early 2010s).

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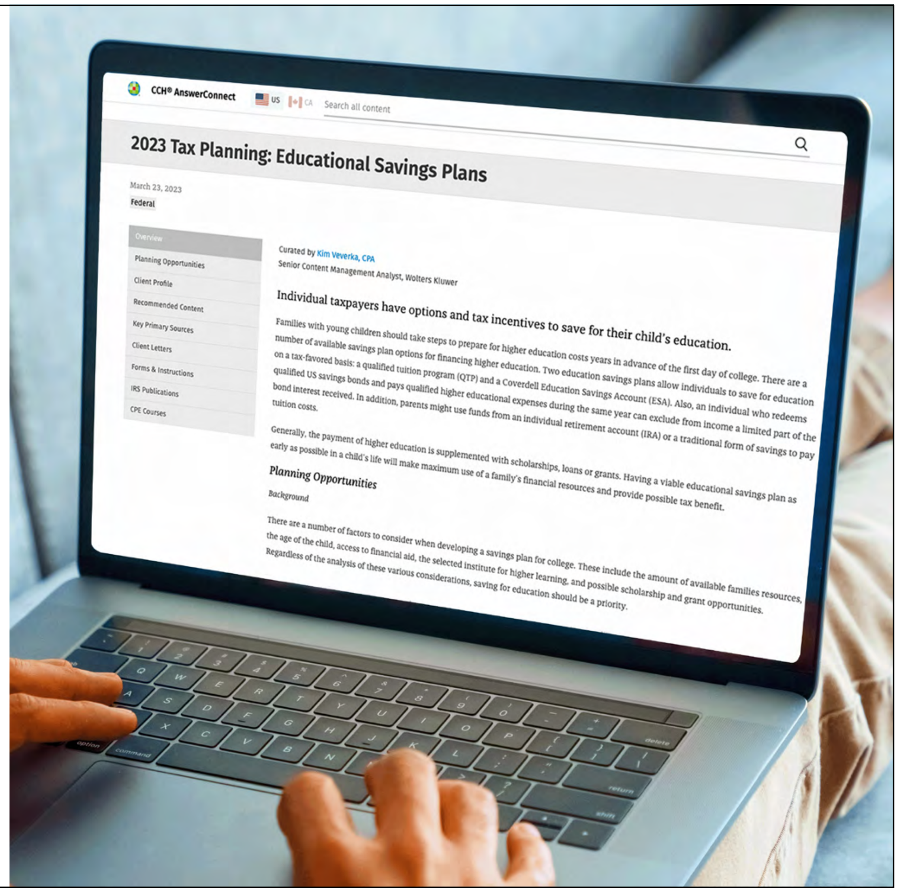

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