

Election Day is Coming – Will Major Tax Changes Follow?



B. Wade Bowen
wbowen@mwlaw.com
(870) 938.6254

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Less than 100 days remain until Election Day, and much is uncertain as to which Party will control the White House and Congress in 2021. A Republican-controlled Congress and White House enacted the Tax Cuts and Jobs Act of 2017 (“TCJA”), which some have called the most significant tax reform legislation since 1986. The Act was passed on party lines; not one Democratic Member of Congress voted in support.

What, then, might be passed if presumptive Democratic nominee Joe Biden is elected and Democrats hold a majority in both chambers of Congress? Biden’s campaign has rolled out several proposals on tax changes. This article highlights some of those proposals that, if passed, might have the broadest impact as far as the number of taxpayers affected.

Individual Taxes

- Top individual income tax rate increase to 39.6%;
- Increase in capital gains tax to 39.6% for taxpayers with over \$1 million in income;
- Expansion of the Earned Income Tax Credit for older Americans;
- Expansion of the dependent care credit;
- Student loans cancelled on a tax-free basis after borrowers have made payments based upon their income for 20 years;
- Creation of a new first time homebuyer’s tax credit for up to \$15,000, and reenact renter’s tax credit;
- Application of payroll tax to income over \$400,000.

Business Taxes

- Increase corporate tax rate to 28%;
- Implement 15% tax on companies reporting \$100 million but paying no federal income taxes;
- Reversal of TCJA provisions on depreciation benefitting corporations;
- Imposition of rules limiting TCJA’s Qualified Business Income deduction;
- Major modifications to Qualified Opportunity Zone and Fund rules to incentivize investment in low-income areas.

Estate Taxes

- Elimination of basis step up in assets passing to heirs at death

Interestingly, Biden’s proposals with respect to estate taxes do not call for a reduction in the estate and gift tax exemption amount, which is at an all-time high after passage of TCJA. Nonetheless, many estate planning practitioners anticipate Congressional efforts to reduce the current exemption amount before sunset in 2025 should Democrats gain control of the Senate and hold their majority in the House.

Of course, these are only proposals, and any changes would require Congressional approval. Nothing is set in stone. But, the outcome of the elections could bring major changes to the tax landscape.