



## Winter 2016 Bulletin

### THINGS TO COME? A LOOK AT TRUMP'S TAX PROPOSALS

Beginning Jan. 20, 2017, the Republican Party will be in control of both houses of the U.S. Congress as well as the Presidency. On November 9, the day after the election, House Ways and Means Committee Chairman Kevin Brady (R-TX) and Senate Majority Leader Mitch McConnell (R-KY) indicated that they want to address tax reform early in the next session of Congress. This bulletin presents some of the recent tax proposals from both President-elect Donald Trump and House Republicans.

President-elect Trump's proposals. As of Nov. 10, 2016, President-elect Trump's Tax Plan website lists the following proposals:

1. For individual taxpayers:
  - Tax rates and breakpoints for Married-Joint filers would be:
    - (i) Less than \$75,000: 12%
    - (ii) More than \$75,000 but less than \$225,000: 25%
    - (iii) More than \$225,000: 33%;
  - Brackets for single filers would be a ½ of these amounts;
  - Low-income Americans would have an effective income tax rate of 0;
  - The existing capital gains rate structure (maximum rate of 20%) would be maintained, with tax brackets shown above;
  - Carried interest would be taxed as ordinary income;
  - The Affordable Care Act would be repealed; as part of this repeal, the 3.8% tax on investment income would be repealed;
  - The alternative minimum tax (AMT) would be repealed;

- The standard deduction for joint filers would increase to \$30,000, and the standard deduction for single filers would be \$15,000;
- Personal exemptions would be eliminated;
- Head-of-household filing status would be eliminated;
- Itemized deductions would be capped at \$200,000 for Married-Joint filers and \$100,000 for Single filers;
- The estate tax would be repealed, but capital gains on property held until death and valued over \$10 million would be subject to tax, with an exemption for small businesses and family farms. To prevent abuse, contributions of appreciated assets into a private charity established by the decedent or the decedent's relatives would be disallowed;

The Trump website makes no mention of the gift tax.

- There would be the following child care and elder care rules:
  - (i) An above-the-line deduction for children under age 13, that would be capped at state average for age of child, and for eldercare for a dependent. The exclusion would not be available to taxpayers with total income over \$500,000 for Married-Joint or \$250,000 for Single;
  - (ii) Rebates for childcare expenses to certain low-income taxpayers through the Earned Income Tax Credit (EITC). The rebate would be equal to 7.65% of remaining eligible childcare expenses, subject to a cap. This rebate would be available to married joint filers earning \$62,400 (\$31,200 for single taxpayers) or less;



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(iii) All taxpayers would be able to establish Dependent Care Savings Accounts (DCSAs) for the benefit of specific individuals, including unborn children. Total annual contributions to a DCSA would be limited to \$2,000 per year from all sources. The government would provide a 50% match on parental contributions of up to \$1,000 per year for these households.

2. For corporate taxpayers:
  - The corporate tax rate would decrease from 35% to 15%;
  - The corporate AMT would be eliminated;
  - There would be a deemed repatriation of corporate profits held offshore at a one-time tax rate of 10%;
  - "Most corporate tax expenditures", except for the research and development credit, would be eliminated;
  - Firms engaged in manufacturing in the U.S. could elect to expense capital investment and lose the deductibility of corporate interest expense. An election once made could only be revoked within the first three years of election; and
  - The annual cap for the corporate tax credit for on-site childcare would be increased to \$500,000 per year (up from \$150,000), and the recapture period would be reduced to five years (down from ten years).

#### **The House Republican's "A Better Way" plan.**

On June 24, House Republicans released an installment of their "A Better Way: Our Vision for a Confident America" that contained a number of tax reform proposals. At that time,

the Republicans announced that the document ("blueprint") was meant to serve as the basis of tax reform legislation which will be "ready for legislative action in 2017". It reflects several months of deliberation by the Tax Reform Tax Force, led by Chairman Brady.

On June 22, House Republicans had released another installment of their "A Better Way: Our Vision for a Confident America"; this installment contained a number of health care reform proposals.

On November 9, both Chairman Brady and Speaker of the House Paul Ryan (R-WI) mentioned the blueprint as being addressed by Congress, in concert with Mr. Trump, at the beginning of the next session of Congress.

1. Among its tax provisions regarding individuals, the blueprint would:
  - Reduce both the top rate (to 33%) and the number of brackets (to three);
  - Provide for reduced and progressive tax rates on capital gains, dividends and interest income;
  - Eliminate the AMT;
  - Consolidate a number of existing family tax benefits into a larger standard deduction and a larger child and dependent tax credit;
  - Continue the EITC, but look for ways to improve it;
  - Simplify tax benefits for higher education;
  - Eliminate all itemized deductions except the mortgage interest deduction and charitable contribution deduction;
  - Continue current tax incentives for retirement savings; and



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- Repeal the estate and generation-skipping transfer taxes.

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2. Corporate tax provisions in the blueprint include:

- Creating a new business rate for small businesses that are organized as sole proprietorships or pass-through entities instead of taxing them at individual rates;
- Reducing the corporate tax rate to 20%;
- Providing for immediate expensing of the cost of business investments;
- Allowing interest expense to be deducted only against interest income, with any net interest expense carried forward and allowed as a deduction against net interest income in future years (with special rules that will apply for financial services companies);
- Allowing net operating losses (NOLs) to be carried forward indefinitely and increased by an interest factor, and eliminating NOL carrybacks;
- Retaining the research credit (but evaluating options to make it more effective);
- Generally eliminating certain (but unspecified) special interest deductions and credits;
- Shifting to a territorial tax system;
- Moving "toward a consumption-based tax approach";
- Providing a 100% exemption for dividends from foreign subsidiaries; and

- Generally simplifying international tax rules, including elimination of most of the subpart F rules.

3. The blueprint suggests a number of IRS reforms, including provisions to:

- "Streamline" the agency and center it on three major units: one for families and individuals; one for business; and a new "small claims court" unit that would be independent of IRS and designed to allow routine disputes to be resolved more quickly;
- Reform IRS leadership so that it is headed by an Administrator, appointed by the President with the consent and advice of the Senate for a single 3-year term;
- Have a "Service First" mission; and
- Commit to taxpayer assistance.

4. The health care reform proposals would:

- Repeal the Affordable Care Act;
- Make the following changes to health savings accounts (HSAs): (i) allow spouses to make catch-up contributions to the same HSA account; (ii) allow qualified medical expenses incurred before HSA-qualified coverage begins to be reimbursed from an HSA account as long as the account is established within 60 days; (iii) set the maximum contribution to an HSA at the maximum combined and allowed annual deductible and out-of-pocket expense limits; and (iv) expand accessibility for HSAs to certain groups (e.g., those who receive services through the Indian Health Service and TRICARE).



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- Allow certain purchasing platforms, like private exchanges, to expand. The plan would encourage the use of direct or "defined contribution" methods, such as health reimbursement accounts (HRAs).
- Encourage the portability of health insurance. Everyone would have access to financial support for an insurance plan chosen by the individual, which could be taken with them job-to-job, to non-work environments and into retirement years. For those who do not have access to job-based coverage, Medicare, or Medicaid, the proposal would provide an advanceable, refundable tax credit. The portable payment would be increased as the recipient aged.

the workings of the 115th Congress that will begin its work in January-including whether the Republicans will attempt to pass tax legislation in the Senate under the legislative process called "reconciliation" which only requires a simple majority, or will, instead, allow the Senate filibuster rules to apply to the tax legislation. Similarly, we are probably pretty far from understanding the push and pull between Congressional leaders and President-elect Trump. Thus, even given the large overlap between the proposal of the House Republicans and Mr. Trump's proposal, we probably have a long way to go in predicting a lot of the specifics of 2017 tax legislation; however, some significant 2017 tax legislation and some significant health care reform legislation seem quite likely.

#### **Comparing the Trump and House proposals.**

Both the Trump and House Republicans proposals would repeal the Affordable Care Act, significantly lower tax rates on both individuals and businesses, eliminate the AMT, eliminate estate taxes, lessen the relevance of itemized deductions, eliminate certain business credits and deductions, and tighten the rules on business interest deductions.

Trump places great emphasis on new child and elder care tax breaks and the House Republicans do not. The House Republicans consider many changes to existing tax rules that Trump doesn't mention. While the House Republicans' plan contains, and previous proposals by Trump contained, a special tax rate for businesses that operate as pass-through entities, the current Trump website has no such proposal.

**Things to come?** Given the newness of the election and its surprise results, we are probably pretty far from understanding the dynamics of