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The Results Are In: Where Do We Go From Here?

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Where Do We Go From Here?

- Current Tax Law
- Potential Tax Law Changes
- Estate Planning Strategies



Current Tax Law: The Tax Cuts and Jobs Act

- Signed into law on December 22, 2017
- Effective beginning in 2018
- Most individual reform provisions will sunset in 2025
- Most business tax reform measures are permanent

Current Tax Law: Tax Brackets

Single Individuals	
Amount of Income	Tax Rate
Not over \$9,950	10%
Over \$9,950 but not over \$40,525	12%
Over \$40,525 but not over \$86,375	22%
Over \$86,375 but not over \$164,925	24%
Over \$164,925 but not over \$209,425	32%
Over \$209,425 but not over \$523,600	35%
Over \$523,600	37%



Current Tax Law: Tax Brackets

Married Individuals Filing Jointly	
Amount of Income	Tax Rate
Not over \$19,900	10%
Over \$19,900 but not over \$81,050	12%
Over \$81,050 but not over \$172,750	22%
Over \$172,750 but not over \$329,850	24%
Over \$329,850 but not over \$418,850	32%
Over \$418,850 but not over \$628,300	35%
Over \$628,300	37%

Current Tax Law: Long Term Capital Gains

Single Individuals	
Amount of Income	Tax Rate
Not over \$40,400	0%
Over \$40,400 but not over \$445,800	15%
Over \$445,800	20%

Married Individuals Filing Jointly	
Amount of Income	Tax Rate
Not over \$80,800	0%
Over \$80,800 but not over \$501,600	15%
Over \$501,600	20%

Current Tax Law: Individual Income Tax

- Standard Deduction
 - Single Individuals: \$12,550
 - Married Individuals Filing Jointly: \$25,100
- SALT Deduction Limitation
 - \$10,000
 - State workarounds

Current Tax Law: Business Income Tax

- Corporate Tax Rate
- Section 199A Deduction

Current Tax Law: Estate and Trust Income Tax

Income Tax Rates	
Amount of Income	Tax Rate
Not over \$2,650	10%
Over \$2,650 but not over \$9,550	24%
Over \$9,550 but not over \$13,050	35%
Over \$13,050	37%

Capital Gains Rates	
Amount of Income	Tax Rate
Not over \$2,700	0%
Over \$2,700 but not over \$13,250	15%
Over \$13,250	20%

Current Tax Law: Estate and Trust Income Tax

- Miscellaneous Itemized Deductions
 - Temporarily suspended for individuals
 - Suspension does not apply to estates and trusts
- Excess Deductions
 - Deductions retain the same character as in the estate or trust

Current Tax Law: Estate and Gift Tax

- Current Top Tax Rate: 40%
- 2021 Lifetime Exemption: \$11,700,000
 - Reduction on January 1, 2026
- Gift Tax Annual Exclusion: \$15,000

Current Tax Law: GST Tax

- Current Tax Rate: 40%
- 2021 Exemption: \$11,700,000

Current Tax Law: Miscellaneous Thoughts

- Inflation Adjustments
- Applicable Federal Rates
- 7520 Rate

Current Tax Law: The SECURE Act

- Later required minimum distributions
- Age limit for contributions to traditional IRAs repealed
- Distributions for beneficiaries
 - Non-designated beneficiaries
 - Designated beneficiaries
 - Eligible designated beneficiaries



Current Tax Law: The CARES Act

- Stimulus Payments!
- RMDs Suspended for 2020
- Charitable Deduction:
 - \$300 Above-the-Line Deduction
 - Contribution limitations lifted
- Coronavirus-Related Distributions

Potential Changes: President Biden's Tax Policy

- “. . . require corporations and the wealthiest Americans to finally pay their fair share.”
- No increases for income below \$400,000
- Will target wealthy and business classes



Potential Changes: President Biden's Tax Policy

- Income Tax Hikes
 - Increase top rate to 39.6%
 - No capital gains rate for income greater than \$1,000,000
 - Tax unrealized gains at death
 - Limit itemized deductions for taxpayers with income exceeding \$400,000
 - Introduce phase-out for the pass-through deduction for income over \$400,000



Potential Changes: President Biden's Tax Policy

- Income Tax Benefits
 - Expand child and dependent care credit
 - Expand child tax credit
 - Create refundable credit for first-time home buyers

Potential Changes: President Biden's Tax Policy

- Business Income Tax
 - Increase top corporate rate to 28%
 - Require minimum 15% tax on book income
 - Create incentives for certain “critical” products
 - Create a tax credit for construction of child care center
 - Introduce tax penalty for certain price increases by pharmaceutical companies



Potential Changes: President Biden's Tax Policy

- Transfer Taxes
 - No defined strategy
 - Revert back to 2009?
 - \$3,500,000 Exemption
 - 45% tax rate

Potential Changes: Other Proposals

- For the 99.8 Percent Act (Sanders)
 - Increases highest estate tax rate to 77%
 - Reduces exemption to \$3,500,000
 - Introduces basis consistency reporting requirement for gifts
 - Limits discounts for business interests
 - Imposes restrictions on GRATs



Potential Changes: Other Proposals

- Sanders Wealth Tax
 - Would cut wealth of billionaires in half in 15 years
 - 1% tax at \$32 million of wealth – 8% over \$10 billion
- Warren Wealth Tax
 - 2% annual tax on net worth between \$50 million and \$1 billion
 - 6% annual tax on net worth above \$1 billion
 - 40% exit tax



Potential Changes: Miscellaneous

- Regulatory Changes
- Likelihood of Changes
- Retroactivity of new tax law

Planning Techniques: Basic Elements

- Utilize discounts
- Transfer appreciating property
- Create grantor trusts
- Use formula clauses



Planning Techniques: Traditional Strategies

- Outright gifts
 - Simple
 - Lack of control

Planning Techniques: Traditional Strategies

- Spousal Lifetime Access Trusts
 - Have my cake and eat it too?!
 - Retention of indirect benefit
 - Benefits
 - Risks
 - Reciprocal trust doctrine
 - Divorce

Planning Techniques: Traditional Strategies

- Generation Skipping Trusts
 - Benefits
 - Utilize exemption
 - Shelter assets from subsequent transfer taxes
 - Risks

Planning Techniques: Risk Mitigation Strategies

- GRATs
 - Estate freeze technique
 - Great in low-rate environment
 - Benefits
 - Minimal Risks

Planning Techniques: Risk Mitigation Strategies

- Sale to IDGT
 - Estate freeze technique
 - Combine with allocation of GST Exemption
 - Benefits
 - Risk



Planning Techniques: Risk Mitigation Strategies

- Intra-Family Loans
 - Low AFRs
 - Short-term: 0.12%
 - Mid-term: 0.56%
 - Long-term: 1.46%
 - Uses
 - Source of investment funds
 - Mortgage substitute



Planning Techniques: Risk Mitigation Strategies

- Lifetime QTIP Trusts
 - Clients who wish to make gifts now
 - Delay use of exemption
- Disclaimer
 - Delay use of exemption
 - Requires exercise of disclaimer by beneficiary



Questions?

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Thank you!

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