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Trump's Election Expected to Usher in Sweeping Tax Law Changes

Now that Donald Trump has been elected President of the United States and Republicans have retained control of both the House and the Senate, an overhaul of the U.S. tax code next year has been made more probable, with sweeping changes for individuals and businesses.

In June of this year, House Republicans released a tax reform "blueprint" which they intend to develop into a legislative proposal. Trump's plan and the blueprint have some, but not all, important areas in common.

The results of the election may impact year-end 2016 tax planning due to last-minute provisions which may be quickly passed by the "lame-duck" Congress, as well as those likely to be passed by the new Congress in early 2017.

Below, we have highlighted some of the Trump proposals you should consider.

Individual Taxation

• The highest (39.6 percent) tax bracket would be slashed and four brackets eliminated altogether, reducing rates on ordinary income to 12, 25 and 33 percent, respectively.

INDIVIDUAL INCOME TAX RATES			
Current Rates	Trump/GOP Rates	Joint Filers: Blueprint	Single Filers: Blueprint
10%/15%	0%/12%	up to $75,300	up to $37,650
25% & 28%	25%	up to $231,450	up to $190,150
33%, 35% & 39.6%	33%	above $231,450	above $190,150

• The amount of itemized deductions that can be claimed would be capped: $100K for single filers and $200K for married couples filing jointly. Also the deduction for personal exemptions would be eliminated as would the "Head of Household" filing status.

• The Alternative Minimum Tax will be permanently eliminated.

• The 3.8 percent net investment income (or Medicaid) tax would be repealed.

• Carried interest would be taxed as ordinary income.

• New deductions would be added for child and dependent care expenses, in addition to increases in the earned income tax credit (EITC) for working parents who wouldn't otherwise qualify for the deduction.

• Both the Trump Plan and the House Republican Blueprint would repeal the estate tax (current tax rate 40 percent after a $5.45 million exemption).

• However, only under the Trump Plan does it appear that if a decedent owned appreciated property at death, any appreciation in excess of $10 million would be subject to a capital gains tax (current maximum tax rate 20 percent). The purpose of the $10 million threshold would be to exempt small businesses and family farms from the capital gains tax.

• Neither the Trump Plan nor the House Republican Blueprint address any accompanying gift tax or generation skipping tax changes.

• As a result, although both the Trump Plan and the House Republican Blueprint favor estate tax repeal, much uncertainty continues to exist concerning precisely what changes will ultimately be enacted into law and their effective dates.

Business Taxation

• The corporate income tax rate would be slashed from its current rate of 35 percent and could go as low as 15 percent.
• Small business pass-through entities (sole proprietors, partnerships, and S corporations) would be able to elect to be taxed at a flat rate of 15 percent on their pass-through income retained within the business, rather than being taxed to the owners under regular income tax rates. A second level of tax may apply on distributions to owners.
• The annual cap on the popular Section 179 expensing would increase from $500K to $1 million.
• Businesses with an on-site daycare facility will see the annual cap for the business tax credit rise, and the recapture period reduced.
• Manufacturers may elect to deduct the cost of all their capital investments, but will no longer be allowed to deduct their net interest expenses.
• There would be an allowance of a one-time deemed repatriation of accumulated deferred foreign income at a flat 10% tax rate.

Healthcare Related Provisions

Trump promised throughout his campaign to completely repeal the Affordable Care Act (ACA), but in recent interviews has said he may keep part of the law intact, including the prohibition against denying coverage to people with pre-existing conditions and allowing adult children to stay on their parent's healthcare until a certain age. If he does move forward with a complete repeal, the following tax consequences would be paramount:

• The medical device tax would be eliminated.
• The so-called "Cadillac Tax" on expensive health insurance plans was scheduled to go into effect in 2020. Repeal of ACA would likely lead to repeal of this tax as well.

There will be much debate with respect to tax proposals expected in the coming year. It is unclear whether the ideas envisioned in the Trump Plan or in the House Blueprint will be enacted into law in their current form. However, some significant 2017 tax legislation seems quite likely.

If you have any questions about these prospective changes, please call us at 212-973-1000 or email us at newsletters@mwellp.com.

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