Tax Alert
Post Election Review of Tax Policy

TAX PRACTICE BOARD

Stephen Brecher
646.225.5921
Stephen.Brecher@WeiserMazars.com

Jeffrey Katz
212.375.6816
Jeffrey.Katz@WeiserMazars.com

Howard Landsberg
212.375.6604
516.282.7209
Howard.Landsberg@WeiserMazars.com

James Toto
732.205.2014
James.Toto@WeiserMazars.com

Faye Tannenbaum
212.375.6713
Faye.Tannenbaum@WeiserMazars.com

EDITOR

Richard Bloom
732.475.2146
Richard.Bloom@WeiserMazars.com

Significant changes could occur to the federal tax law for individuals and businesses as a result of Donald Trump's election as the 45th President of the United States, along with the Republicans maintaining a majority in the United States House of Representatives and the United States Senate. Comprehensive tax reform has been a cornerstone of President-elect Trump's campaign platform. Items mentioned have included changes to the individual and corporate tax rate, capping of itemized deductions, repealing the alternative minimum tax (AMT), repealing the federal estate tax, repeal of the Affordable Care Act (including the Net Investment Income Tax - NIIT), and repatriation of profits held offshore.

Although there is now a Republican president and a Republican controlled Congress, passage of tax reform is not certain. President-elect Trump and the Republican party have proposed different changes and the recent presidential campaign has highlighted the fact that President-elect Trump may not have the full support of the entire Republican party. In addition, although the Republican party currently controls the Senate, a Senator can filibuster a bill (unless 60 Senators vote to end the filibuster) and there are not 60 Republican senators currently in the Senate. However, a filibuster does not apply to certain bills that employ a "reconciliation" process.

Following is a broad summary of many of the features of President-elect Trump's proposed changes to individual, estate and business taxes. Many proposals are not clearly defined at this point.

Individual Taxation

President-elect Trump's proposal includes changes to the individual tax rates and income brackets, increases to the standard deduction, elimination of personal exemptions, capping itemized deductions, repeal of AMT and NIIT, and taxing carried interest at ordinary rates.

Individual Tax Comparison of Potential Changes

	Current 2016 Tax Law	Trump Tax Proposal
Rates on Ordinary Income	7 brackets with a top rate of 39.6%	3 brackets of 12%, 25%, and 33%
Rates on Long Term Capital Gains/Qualified Dividends	Top rate of 20%, 1-year holding period	Unchanged
Standard Deduction*	$6,300 (single), $12,600 (married)	$15,000 (single), $30,000 (married)
Personal Exemptions*	$4,050	Eliminated
Itemized deductions*	No Limit	Limited to $100,000 (single), $200,000 (married)
AMT	28% maximum rate, with exemption amount of $53,900 (single) $83,800 (married)	Eliminated
NIIT	3.8%, applies if AGI is above $200,000 (single), $250,000 (married)	Eliminated
Carried Interest	Taxed at capital gains tax rates	Taxed at ordinary income tax rates

**Standard deductions, personal exemptions, and itemized deductions are currently subject to a phase out based on adjusted gross income (AGI).*

In addition, President-elect Trump proposes to create new deductions for child and dependent care expenses as well as an expansion to the earned income tax credit (EITC) to working parents who do not currently qualify.

Potential Tax Planning and Observations

- If income tax rates are expected to decline in 2016, taxpayers should accelerate expenses to 2016 and postpone income to 2017.
- Roth IRA conversions done in 2016 should be monitored to see if marginal income tax rates are lower in 2017.
- If a taxpayer has made charitable contribution pledges, one should consider funding those pledges in 2016 as opposed to future years since the deductibility of charitable contributions may be limited and deductions in 2016 could potentially offset income taxed at higher tax rates.
- Taxing carried interests at ordinary income tax rates has been proposed in prior years by Democrats as well.

Estate Tax

Included in President-elect Trump's proposal is a repeal of the estate and gift taxes (the Trump Plan refers to a repeal of the "death tax" and many analysts believe that "death tax" would include gift tax). The proposal also apparently replaces the concept of property receiving a step-up in basis at death with the carryover basis concept so that a decedent's built-in gains will be taxed when the property is sold subject to an exclusion of $5 million of gain per decedent ($10 million per married couple).

Estate Tax Comparison of Potential Tax Changes

	Current 2016 Tax Law	Trump Tax Proposal
Estate Tax	$5,450,000 exemption, as adjusted for inflation, with top tax rate of 40%	Eliminated
Portability of Estate Tax and Gift Tax Exemption	Unused exemption of deceased spouse available (with limitations)	N/A due to Elimination
Gift Tax Annual Exclusion	$14,000 per donee as indexed for inflation	Eliminated
Lifetime Gift Tax	$5,450,000 exemption, as adjusted for inflation, with top rate of 40%	N/A due to Elimination
Basis of Inherited Assets	Stepped up to fair market value at death	Carryover basis. Exclusion of $5 million of gain ($10 million per married couple) on disposition of assets

Potential Tax Planning and Observations

- While many taxpayers who have not begun legacy planning might want to take a "wait and see" approach, there are significant risks by not beginning plans now. There are no guarantees that the estate tax will be repealed. Plans should remain flexible and take into consideration the potential repeal of estate taxes.
- The Republican Party has proposed eliminating the estate tax in the past.

Business Taxation

President-elect Trump proposes to reduce the tax on corporate and flow-through business income to 15%. The proposal also includes a deemed repatriation of corporate profits held offshore at a "one time" tax rate of 10%. In addition, the Trump Tax Plan eliminates most corporate tax expenditures except for the Research and Development credit.

Business Tax Comparison of Potential Changes

	Current 2016 Tax Law	Trump Tax Proposal
Corporate Income Tax Rates	Top rate of 35%	Top rate of 15%
AMT	20%	Eliminated
Pass-Through of Business Income	Top Rate of 39.6%	Top rate of 15%*
Depreciation	Over the useful life of the asset	Election to deduct immediately (*manufacturers only*), if elected, forego interest deductions
Section 179 Expensing	Maximum of $500,000	Maximum of $1,000,000

** Campaign materials indicate that the owners of pass-through entities could elect to be taxed at a flat rate of 15% on their pass-through income retained in the business.*

Potential Tax Planning and Observations

- If tax rates are expected to decline in 2017, taxpayers should accelerate expenses to 2016 and postpone income to 2017.
- Businesses may consider deferring capital asset acquisitions as they might be able to expense the full purchase price in 2017 in lieu of deducting interest expense. This appears to apply only to manufacturers.
- Some taxpayers may consider deferring asset acquisitions to take advantage of the potential larger section 179 limitation in future years.

While there is much uncertainty, it is clear that tax legislation must be monitored closely given the change in the Administration and one must remain flexible in their tax planning.

Please contact your WeiserMazars tax professional for additional information.

Richard Bloom, CPA, PFS
Partner
732.475.2146
Richard.Bloom@WeiserMazars.com

Jonah Gruda, CPA
Partner
212.375.6819
Jonah.Gruda@WeiserMazars.com

David Nigliazzo, CPA
Manager
212.375.6883
David.Nigliazzo@WeiserMazars.com

Visit us at: www.weisermazars.com

Follow us on:

Disclaimer of Liability