

## **Tax Change Actions**

### **TAX CHANGE ACTIONS**

Given the potential for tax law changes with the new Administration, investors are weighing the benefits of engaging in transactions prior to the close of this year.

And while the Biden Tax Proposal has many facets, the following represents actions that, in many cases, are within the control of taxpayers.

<b>Tax</b>	<b>Current</b>	<b>Proposed</b>	<b>Consideration(s)</b>
<b>Estate and Gift Tax Credit, and Generation Skipping Transfer Tax Exemption</b>	<b>\$11.58 Mil.</b>	<b>\$3.5 Mil.</b>	<b>Make Gifts to utilize Increased Credit/Exemption in 2020</b>
<b>Long-Term Capital Gains Tax Rate (Top)</b>	<b>20%</b>	<b>39.6%</b>	<b>Sell Appreciated Securities in 2020</b>
<b>Real Estate Exchanges (Like-Kind)</b>	<b>Tax-Free</b>	<b>39.6%</b>	<b>Accelerate Sale/Exchange to 2020</b>
<b>Individual Tax Rates (Top)</b>	<b>37%</b>	<b>39.6%</b>	<b>Recognize Income from Bonuses, Retirement Accounts, etc. in 2020</b>
<b>Corporate Tax Rates (Top)</b>	<b>21%</b>	<b>28%</b>	<b>Recognize Income in 2020</b>
<b>Deductible Pass-Through Business (S-Corps, LLCs, Partnerships) Income Tax Rates (Top)</b>	<b>29.6%</b>	<b>39.6%</b>	<b>Recognize Income in 2020</b>

We are of the view that a client should not engage in transactions in 2020 simply to get ahead of potential, unknown tax law changes for the following reasons:

- a. Taxpayers generally have time to assess any tax law proposals well before the proposals are enacted
- b. Retroactive Changes for Estate and Gift Tax and Capital Gains Tax are highly uncommon and pre-enactment transactions are often eligible for grandfathering status
- c. However, retroactive tax law changes are not unconstitutional and legislation has been made retroactive to the beginning of the year in which it is enacted
- d. If Republicans win either or both Senate Seats in the Georgia run-off Election, the above-listed tax changes are highly unlikely

- e. If Democrats win both Senate Seats, composition of the Senate will be 50 Republicans and 50 Democrats, thereby requiring unanimity among Democrats
- f. Given that many Democrats come from red states and swing states, having all Democratic senators on board for tax increases may be difficult if not impossible
- g. Democrats will lack the 60-vote majority needed to avoid filibuster
- h. Abolishing the filibuster will be an extremely hot issue and may be difficult with only 50 votes
- i. Using the Special Budget Reconciliation process used by Republicans to pass the Tax Cuts and Jobs Act (TCJA) will be difficult with 50 votes for the reasons outlined above
- j. Other priorities likely will prevail including:
  - Coming out of recession and restoring employment
  - Distributing COVID-19 Vaccines, which is a Massive Endeavor

Despite our track-record of guiding individuals through tax law changes, we cannot predict every scenario.

Therefore, individuals predisposed to planning anyway should proceed.

Nonetheless, we recommend being ready to move quickly on transactions by having structures (trusts, appraisals, stock transfers, etc.) in place.

Best Regards,

Stephen Taylor, JD LLM

## **STEVE'S BIO**

### **Education**

University of Michigan, BA

Villanova University School of Law, J.D., LL.M. Masters of Taxation

Admitted to practice in Pennsylvania, New Jersey, and New York

### **Specialties**

Estate Planning, Wealth Transfer, Income Tax Planning, Business Succession Planning, Charitable Gift Planning, Estate Administration, Tax Return Preparation, Business Agreements

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