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A slide with a dark blue header containing the text "PLANNING FOR A POST-ELECTION WORLD" and "AGENDA". The main content area is white and lists the following agenda items: "The Election Results", "Biden Policy Themes", "The Biden Proposals", and "Post-Election Planning Now". The Wintrust logo is in the top right corner of the slide.

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THE ELECTION

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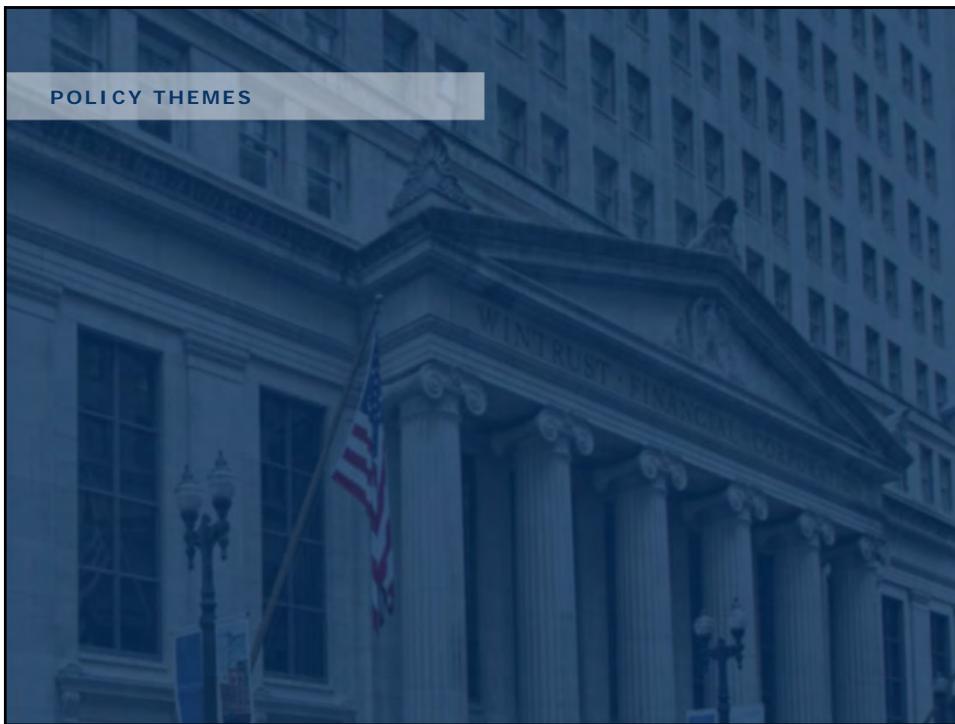
THE ELECTION DEVIL WENT DOWN TO GEORGIA

Its more than just a song, it's all about Georgia...

- On November 7, every major news network called the 2020 election in favor of former Vice President Joe Biden, who will become the 46th President.
- Democrats currently have a majority in the House of Representatives after the election, albeit a shrinking majority.
- The Senate remains unresolved: as of today, 50 of the 100 seats belong to Republicans, with 48 more in the hands of Democrats or independents who caucus with Democrats. The remaining two seats are both in Georgia, which will be decided in a January 5th in a runoff.
- If Republicans retain even one of the two seats, it's unlikely Biden will be able to get many of his proposed changes past the Republican Senate.
- However, if Democrats win both Georgia Senate seats on January 5th, the game changes significantly from a tax perspective, which is the subject of this presentation. So yes, Georgia is on our minds.

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POLICY THEMES

DEMOCRATIC TAX POLICY THEMES

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General Democratic Party Tax Policy Themes:

- Increase the marginal rate imposed on high-income individuals
- Increase the capital gains rate imposed on high-income individuals
- Limiting the value of itemized deductions for those in higher brackets
- Additional payroll taxes on high-earners
- Tax wealth generally; various ideas include an annual wealth tax, greater estate and gift taxes
- Eliminate like-kind exchange treatment for real estate
- Increase the corporate income tax rate and imposing a new corporate minimum tax (a new corporate AMT could gain bipartisan support)
- Tax incentives and credits for childcare, energy efficiency, and alternative energy

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PATH TO BIDEN TAX PROPOSALS

- Democrats need control the House, Senate, and White House:
 - Maintain control of the House? Yes
 - Pickup four seats in the Senate? To be decided January 5th
 - Win the White House? Yes
- Senate filibuster?
 - Can be bypassed by budget reconciliation as in 2017
 - Byrd Rule a nonissue since the proposals are deficit reducing tax increases
 - The Byrd rule is enforced when a Senator raises a point of order such as an increasing deficit proposal during consideration of a reconciliation bill or conference report. If the point of order is sustained, the offending title, provision or amendment is deemed stricken unless its proponent can muster a 3/5 (60) Senate majority vote to waive the rule.
- Other factors: A fragile economy as a result of COVID-19

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RETROACTIVITY RISK

- Congress may have the ability to enact retro-active tax legislation which would limit the ability to plan in advance
- Retroactive taxation of transactions is possible if rationally related to a legitimate legislative. *Pension Benefit Guaranty Corporation v. R. A. Gray & Co.*, 467 U. S. 717 (1984); *United States v. Carlton*, 512 U.S. 26 (1994).

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BIDEN TAX PROPOSALS

RESTORE TOP MARGINAL RATE

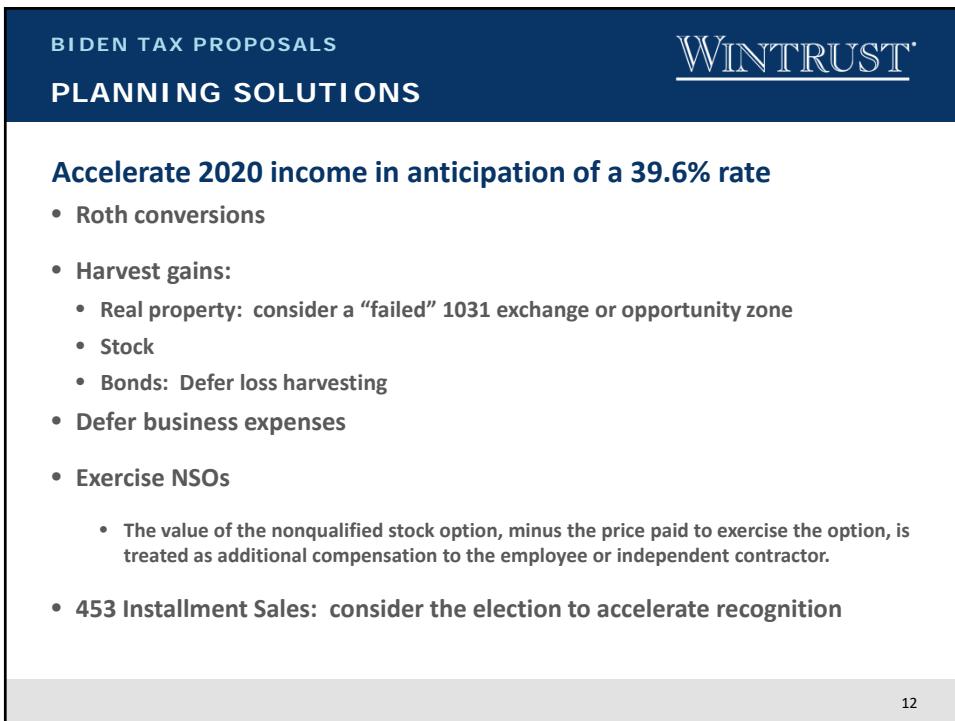
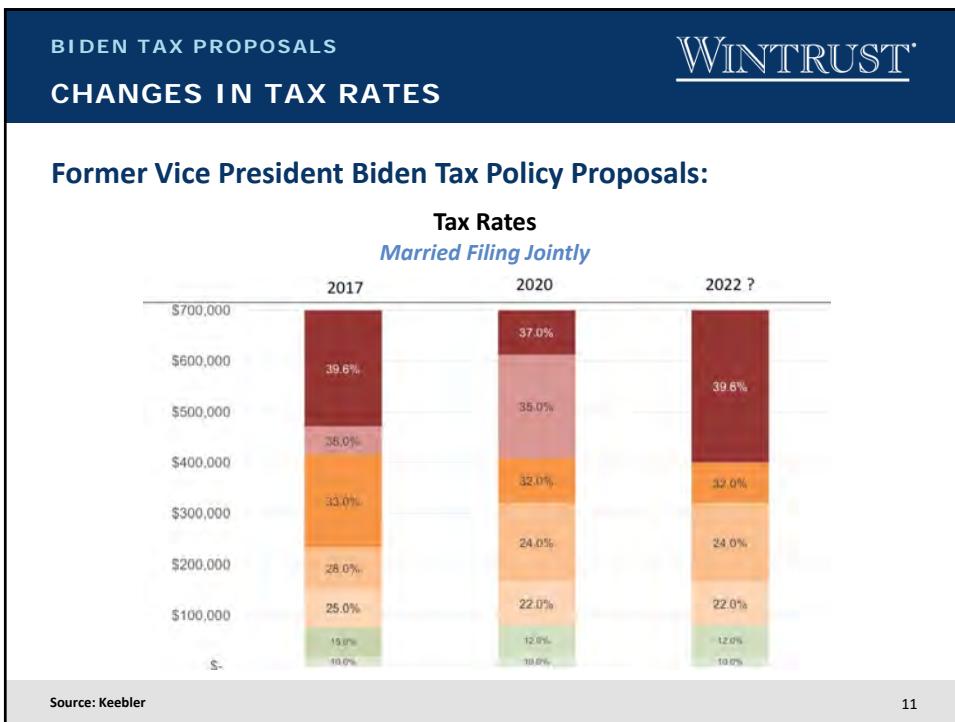
Former Vice President Biden Tax Policy Proposals:

- Proposal to restore the 39.6% marginal rate
 - Would apply to income over \$400,000
 - Unclear how it is affected by filing status
- Poll: Most Americans support raising taxes on those making at least \$400,000: Most Americans, including nearly half of Republicans, support raising taxes on people making at least \$400,000 while keeping the current tax rates for everyone else, according to a new poll from The New York Times and SurveyMonkey.
- About two-thirds of respondents said they supported higher taxes on those making \$400,000 or more and maintaining tax rates for others.
- Eighty-eight percent of Democrats, 70 percent of independents and 45 percent of Republicans said they backed this idea.
- The survey comes in the wake of the 2020 presidential election, during which President-elect Joe Biden pledged to not raise taxes on anyone making under \$400,000.

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ITEMIZED DEDUCTION CAP

Former Vice President Biden Tax Policy Proposals:

- Proposal to Cap Itemized Deductions to a 28% Tax Benefit to limit the regressive nature of itemized deductions
- Could restore the state and local tax deduction for amounts above the current \$10,000 cap

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DEDUCTION CAP (CONTINUED)

Former Vice President Biden Tax Policy Proposals:

- Proposal to Cap Itemized Deductions to a 28% Tax Benefit
- Exact calculation method unclear however perhaps itemized deductions would be reduced by a ratio
- For example, someone with \$40,000 of itemized deductions subject to 39.6% marginal rate would reduce the deductible amount as follows:
 - $\$40,000 \times 28\% / 39.6\% = \$28,282.82$

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DEDUCTION CAP EXAMPLE

Former Vice President Biden Tax Policy Proposals:

- Proposal to Cap Itemized Deductions to a 28% Tax Benefit
 - Rough justice to limit the regressive nature of itemized deductions

Itemized Deductions of \$40,000

	Marginal Tax Rate				
	22%	24%	32%	35%	37%
Current Deduction Tax-Value	\$ 8,800	\$ 9,600	\$ 12,800	\$ 14,000	\$ 14,800
Proposed Deduction Tax-Value	\$ 8,800	\$ 9,600	\$ 11,200	\$ 11,200	\$ 11,200

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RESTORE PEASE LIMIT

Former Vice President Biden Tax Policy Proposals:

- Proposal to restore the 3% Pease limitation:
 - Would apply if income exceeds \$400,000
 - Recall, the old Pease Limitation:
 - Applied after \$313,800 (2017 MFJ) AGI threshold
 - Reduced itemized deductions by 3% of AGI over the threshold, up to 80% of itemized deductions
 - Standard deduction available if greater
 - Reduction only applied to charitable, SALT, mortgage interest, and miscellaneous itemized deductions only

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RESTORE PEASE LIMIT EXAMPLE

Former Vice President Biden Tax Policy Proposals:

- Proposal to restore the 3% Pease limitation:
 - Consider a married couple with an AGI of \$1,000,000
 - They have \$40,000 of itemized deductions attributable only to SALT, mortgage interest, and charity
 - A new Pease Limitation with the “double” standard deduction quickly eliminates the value of itemizing:
 - $3\% \times (\$1,000,000 - \$400,000) = \$18,000$
 - $\$40,000 - \$18,000 = \$22,000$ which is < \$24,800 standard deduction

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EXPAND SOCIAL SECURITY TAX

Former Vice President Biden Tax Policy Proposals:

- Proposal to Expand Social Security Tax:
 - Applies to earned income over \$400,000
 - The established 12.4% rate & employee/employer split retained
 - Creates a tax-free (donut-hole) gap between the Social Security base and the \$400,000 threshold:
 - 12.4% rate on earned income up to \$137,700
 - No tax on earned income between \$137,700 and \$400,000
 - 12.4% rate on earned income over \$400,000

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S-corporation Dividend Solutions for Business Owners:

- S-corporation dividends are not subject to employment taxes
- As a solution, this assumes Congress does not close this “loophole” and the reduced salary is a “reasonable wage”

Executive compensation Solutions:

- Incentive Stock Options (ISOs): No FICA Tax on option spread
- Non-Qualified Stock Options (NQSOs): FICA Tax on option spread, but it is delayed until exercise, i.e. deferred compensation
- No favorable treatment, but there is a timing benefit and the possibility of taking advantage of the “doughnut hole”

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Former Vice President Biden Tax Policy Proposals:

- Proposal to Add a New Section 199A, 20% Deduction for Pass-through Entities, Phase-out:
 - Would apply if income exceeds \$400,000
 - There are few other details; assumedly, it is merely another limitation on the availability of the deduction in addition to the limitations for non-qualifying businesses

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BIDEN TAX PROPOSALS
LIMIT CAPITAL GAIN BENEFITS

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Former Vice President Biden Tax Policy Proposals:

- Proposal to eliminate the preferential rate for long-term capital gains and qualified dividends on income over \$1,000,000:
 - Most significant proposal and a fundamental shift
 - Basically an increase from 20% to 39.6%
 - Expect many people to sell assets if it is set to take effect

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BIDEN TAX PROPOSALS
CAPITAL GAIN LIMIT EXAMPLE

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Former Vice President Biden Tax Policy Proposals:

Married Filing Jointly
Capital Gains and Qualified Dividend Rates



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CAPITAL GAIN LIMIT EFFECT

Former Vice President Biden Tax Policy Proposals:

- Eliminating preferential capital gains rate – Long-term effects:
 - A 39.6% capital gains rate will encourage longer holding periods
 - If the “step-up” in basis at death is retained, many people will be substantially more encouraged to hold onto assets until death
 - If the “step-up” in basis at death is repealed in-favor of a forced-recognition event, people will be encouraged to recognize gains before death to:
 1. Find better investments and
 2. Avoid a 39.6% tax applying in the year of death instead of a 20% rate during life

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LIMIT STEP-UP IN BASIS

Former Vice President Biden Tax Policy Proposals:

- Proposal to eliminate the Section 1014(a) Basis Adjustment at the – “The Basis STEP-UP”:
 - Most significant proposal and a fundamental shift in the taxation of wealthy individuals
 - Unclear whether the proposed 39.6% rate would apply to gains in excess of \$1,000,000 at death
 - Unclear whether the proposal includes an income tax deduction for estate tax paid (or vice versa)
 - Presumably, gifting assets would also be a recognition event
 - Expect huge gifts and sales if it is set to take effect

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ELIMINATE 1031 EXCHANGE

Former Vice President Biden Tax Policy Proposals:

- Elimination of Tax Benefit for Real Estate Like-Kind Exchanges:
 - Applies to real property for taxpayers with income over \$400,000
 - Taxpayers with real estate contemplating a Section 1031 like-kind exchange should complete their transactions to defer their tax gains prior to enactment

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INCREASE BUSINESS TAXES

Former Vice President Biden Tax Policy Proposals:

- Business Income Tax Increase:
 - Vice President Biden would increase the corporate tax rate from 21% to 28%
 - Vice presidential candidate Senator Harris went further during her presidential campaign, proposing a 35% corporate tax rate

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Former Vice President Biden Tax Policy Proposals:

- New Corporate Alternative Minimum Tax – possible bipartisan support:
 - 15% on global book income, while still allowing net operating losses and foreign tax credits, for corporations with more than \$100 million in book net income
 - Would adversely impact:
 - Start-up companies and other corporations whose taxable income is likely to be materially lower than their book income
 - Taxpayers with capital intensive projects, which would lose the benefits of tax bonus depreciation
- GILTI Tax Increase:
 - For companies operating in the United States and abroad, Biden has also proposed doubling the tax rate on global intangible low-taxed income to 21% (currently 10.5%)

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Former Vice President Biden Tax Policy Proposals:

- Expanded Tax incentives (credits) including:
 - Childcare
 - Restoration of the electric vehicle tax credit
 - Tax credits for residential energy efficiency
 - Making permanent the New Markets Tax Credit
 - A Manufacturing Communities Tax Credit
 - Would reduce the tax obligations of businesses in communities which experience major layoffs
 - Renter's credit to reduce rent and utilities to 30% of income
 - Expansion of Earned Income Tax Credit
 - A new First Down Payment Tax Credit of up to \$5,000

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RETIREMENT PLAN DEDUCTIONS

Former Vice President Biden Tax Policy Proposals:

- Retirement Plan Tax Deduction Changes:
 - Modification of how retirement accounts are treated
 - Shift benefit of tax deferral toward lower and middle income earners
 - Convert current deductibility of traditional retirement contributions into matching refundable tax credits for 401(k)s, IRAs, and SIMPLE accounts.
 - Eliminate deductible contributions and instead provide a 26% refundable tax credit for each \$1 contributed
 - Roth tax treatment would be unaffected; higher income taxpayers would shift to more Roth-style accounts

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PLANNING FOR TAX CHANGES



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Individuals:

- Accelerate bonuses and recognition events to avoid rate increases
- Roth Conversions before rates increase
- Consider non-qualified deferred compensation and stock option plans to avoid rate increases and increased payroll taxes
- Harvest gains and defer losses in anticipation of rising capital gains rates from 20% to 39.6%:
 - Sell gains in current year, pay lower tax
 - Repurchase same or similar assets
 - Consider time value of prepayment of tax however
 - Consider capital losses are more tax effective if they offset income tax at higher rates
 - Do not forget the 30 day wash sale rule

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Opportunity Zones:

- Basis adjustment of 10% or 15%
- Deferral of gain to 2026
- Permanent elimination of gain if held more than 10 years from investment
- Should future capital gains rates increase, popularity of Opportunity Zones will follow

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ROTH IRA CONVERSIONS**Roth IRA Conversions:**

- Special favorable tax attributes that need to be consumed such as charitable deduction carry-forwards, investment tax credits, NOLs, etc...
- Expect the converted amount to grow significantly
- Current marginal income tax rate is likely lower than at distribution
- Cash outside the qualified account is available to pay the income tax due to the conversion
- The funds converted are not required for living expenses, or otherwise, for a long period
- The client expects their spouse to outlive them and will require the funds for living expenses

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BUSINESS INCOME TAXES**Planning for Business Income Tax Increases:**

- Defer business expenses to capture a greater benefit if rates increase
- Consider what reinstatement of the AMT and doubling GILTI tax would mean
- Complete Sec 1031 like-kind exchanges for real estate before law changes
- Payroll taxes:
 - Conversion to an S-corporation structure since corporate dividends are not subject to employment taxes
 - Incentive stock options have no social security

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ITEMIZED DEDUCTION TIMING

Planning for Itemized Deduction Changes:

- Carefully consider property tax payments
 - Defer to capture a greater benefit due to higher rates
 - Defer in-case the \$10,000 SALT deduction cap is repealed
- Accelerate non-tax itemized to avoid additional itemized deduction limits
- Carefully consider charitable contribution timing:
 - Defer to capture a greater benefit due to higher rates
 - Accelerate to avoid additional itemized deduction limits
- Note: the CARES Act allows a contribution of cash up to 100% of AGI (does not apply to Donor Advised Funds or Supporting Organizations)

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ESTATE AND GIFT CONSIDERATIONS

Planning for Estate and Gift Tax Changes:

- Use lifetime gift exclusion and GST exemption prior to date of tax increases
- Married couple's unable to gift full \$23.16 million, should fully utilize one spouse's exclusion first
- Gift to an intentionally defective grantor trust (IDGT) or spousal lifetime access trust (SLAT)
- Retain flexibility by structuring transfer to IDGT as an installment sale in exchange for a promissory note:
 - If Biden plan materializes, forgive note quickly completing the gift
 - If status quo, maintain promissory note
 - If Grantor changes mind on gift, pull assets back by calling the note

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PLANNING FOR TAX CHANGES
ESTATES AND GIFTS (CONTINUED)

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Planning for Estate and Gift Tax Changes:

- If the “step-up” in basis at death is retained, many people will be substantially more encouraged to hold onto assets until death
- If the “step-up” in basis at death is repealed in-favor of a forced-recognition event, people will be encouraged to recognize gains before death to:
 - (1) Find better investments and;
 - (2) Avoid a 39.6% applying in the year of death instead of a 20% rate during life, for example

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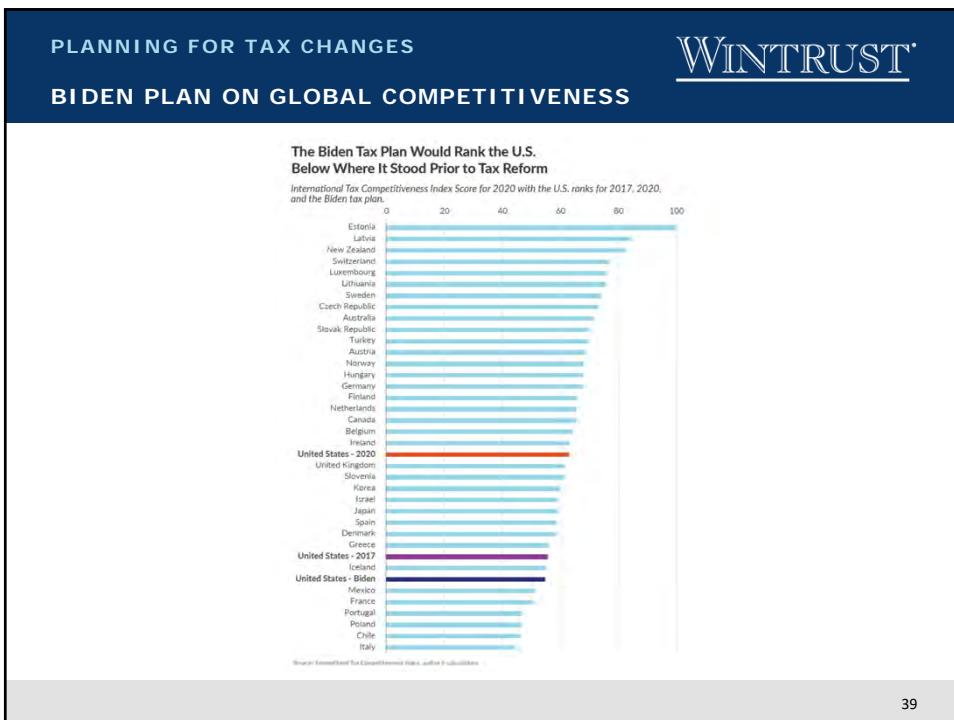
PLANNING FOR TAX CHANGES
SUMMARY

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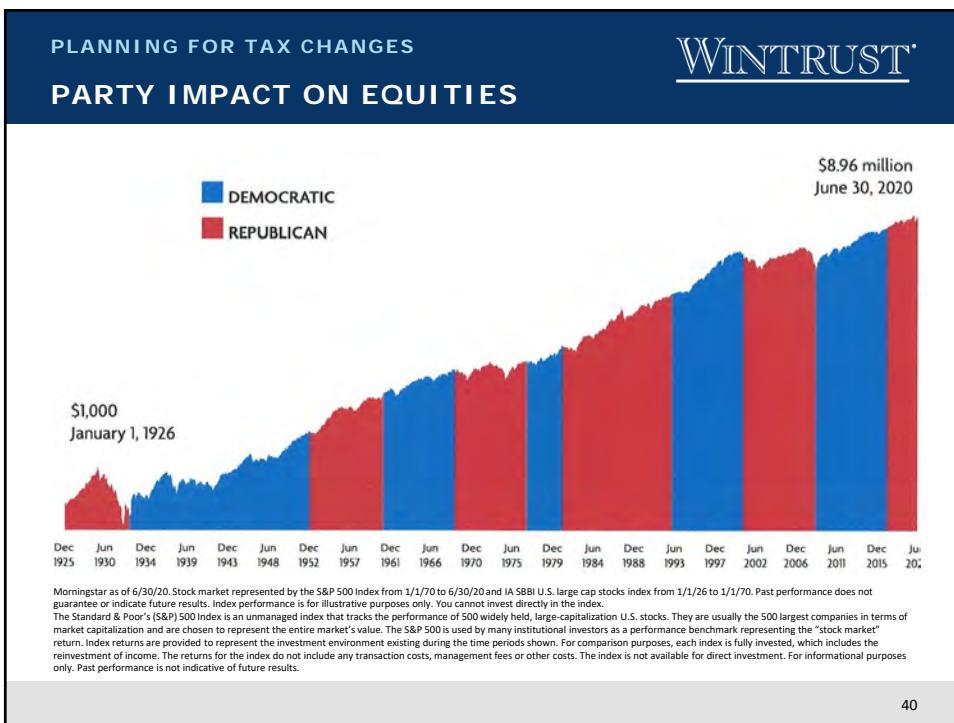
	Current Law	Biden Plan	Trump Plan
Business	21% corporate rate; 20% pass-through deduction; Territorial Style regime with 10.5% GILTI rate	28% corporate rate; Repeal of 20% pass-through deduction; Double GILTI rate to 21%; 15% minimum global book income tax; Repeal like-kind exchange deferral for real estate	Make 20% pass-through deduction permanent
Individuals	37% top rate through 2025 when it reverts to 39.6%	39.6% top rate; Cap deductions at a 28% tax rate	Make 37% rate and other TCJA changes permanent
Investment Income/ Capital Gains	20% maximum capital gains rate; 3.8% net investment income tax	Tax at 39.6% for taxpayers over a \$1 million income threshold	Supports indexing capital gains for inflation
Payroll Taxes	6.2% tax on wages up to \$137,700 and 1.5% Medicare on both employer & employee; 0.9% Medicare tax on employee over \$250k (MFJ)	Impose 6.2% tax on wages above \$400,000 for both employer and employee	Supports temporary payroll tax holiday as COVID-19 relief
Estate and Gift Taxes	Top rate of 40% with exemption of \$11.58 million through 2025, when it reverts to \$5 million indexed for inflation from 2011	Return to “historical norm” which may mean restoring the \$3.5 million exemption; eliminates step-up in tax basis for inherited assets	Make current TCJA law changes permanent

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PLANNING FOR TAX CHANGES

PARTY IMPACT ON EQUITIES

By PAUL VIGNA

Stocks Tend to Climb Regardless of Who's In the White House

For investors worried about how the stock market will fare in the event of a divided government or a sweep by either party in next month's election, history offers an important lesson.

Stocks tend to go up regardless of which party controls Washington.

From 1929 through 2010, one party controlled both chambers in only 45 of those years. The S&P 500 on average rose 7.6% during those years, according to Dow Jones. When a divided government was up 30 times and down 15 times.

In the other 46 years when there was a split government, the index climbed 30 times, falling 29 times, falling 16 times and remaining unchanged once.

The tech-heavy Nasdaq Composite index badly underperformed its peers in the recent presidential election contest. The day after the election when it was clear neither Mr. Bush nor Mr. Gore had the necessary electoral votes to become president, the S&P 500 fell 1.6%, and the Dow slipped 0.6%. The Nasdaq lost 5.8%.

And by Dec. 22, 2008, the Nasdaq had lost 11.5% of its value since the election.

...and become the dominant sector in the market.

After the 2008 financial crisis, the stock market's valuation and their influence has been growing ever since. The tech sector is set to end 2020 with its greatest-ever share of the stock market, eclipsing its 40-year peak. The Nasdaq has

THE WALL STREET JOURNAL.

S&P 500 Performance Based on US Gov't Control

Control Type	Performance (%)
Total Since 1928	11%
Excluding Recessions	12%
Divided	8%
Unified	9%

Sources: AllianzGI, Morningstar Direct

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PLANNING FOR TAX CHANGES

ILLINOIS CORPORATE TAX

Had the proposed Illinois constitutional amendment been ratified by voters, new individual and corporate income tax rates would have taken effect on January 1, 2021.

Under Public Act 101-0008, corporate income would be taxed at 10.49%, which would become the second-highest rate in the nation, lower than only New Jersey, while pass-through business income would be taxed at a top rate of 9.49%, the sixth-highest such rate nationwide (7.99% top individual rate plus 1.5% personal property replacement tax rate).

Enactment in Illinois could popularize the use of incomplete gift non-grantor trusts to avoid state income taxation in the settlor's resident state. These are referred to as WING, DING and NING Trusts because they are only possible in certain states including Wyoming, Delaware and Nevada.

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QUESTIONS?

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