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Ballots to Beneficiaries: How Potential Presidential Policies Could Shape the Future of Your Estate Plan

Ready or not, we are entering another presidential election season.

If you are like most Americans, the economy is top of mind when it comes to evaluating the candidates. But even if you do not intend to vote, the tax policies of the next administration could have a major impact on your personal wealth and estate planning strategies.

Tax Legislation Is on the Horizon

In the area of tax policy, the 2024 election is set to leave its mark.

The Tax Cuts and Jobs Act of 2017 (TCJA) is expiring at the end of 2025, and with its expiration will come the undoing of its individual and other tax provisions, including lower personal income tax rates, higher standard deductions, increased estate tax exemptions, and the expensing of business investments.

Many tax experts have said that major new tax legislation to replace the TCJA is all but assured from the incoming Congress. What the candidates promise on the campaign trail over the next few months could go a long way toward setting tax policy priorities.

Evaluating the Candidates Through an Estate Planning Lens

There is historical precedent for tax policy changes following a candidate's promises made during campaign season.

John F. Kennedy promised to lower income taxes in 1960, paving the way for lower individual and corporate tax rates in the Revenue Act of 1964. In 1980, Ronald Reagan hinted at what would become the Economic Recovery Act of 1981, which lowered estate and capital gains taxes. And in 2016, Donald Trump foreshadowed tax policies of the TCJA in speeches and debates.

Candidates are unlikely to use the term estate planning, but they frequently use the language of tax policy to discuss issues that affect a person's estate value and the inheritance they leave behind. Here are some key policy terms to pay attention to from an estate planning perspective:

- Capital gains tax: A tax on the profit earned from selling an asset (such as stocks or real estate)
- Estate tax: A tax on the transfer of property upon one's death
- Gift tax: A tax on the transfer of property from one individual to another during their lifetime without receiving full value in return
- Income tax: A tax on the income of an individual or entity
- Tax credit: An amount that taxpayers can subtract from their total tax liability
- Tax deduction: A reduction in taxable income, potentially decreasing or eliminating tax liability
- Tax exemption: A monetary exclusion that reduces the amount of taxable income
- Trust income tax: A tax on the income generated by a trust

What the 2024 Candidates Are Saying About Estate-Planning Related Taxes [1]

The publicly stated views of the 2024 candidates reveal clear contrasts in their visions for America's economic future. Here is what the candidates have said about estate, wealth, and capital gains taxes.

President Joe Biden

President Biden would reportedly tax long-term capital gains and qualified dividends at ordinary income tax rates for taxable income over $1 million and tax unrealized capital gains at death for amounts exceeding a $5 million exemption ($10 million for joint filers).[2] He has also proposed a minimum effective tax of 20 percent on unrealized capital gains from assets such as stocks, bonds, and privately held companies; higher top individual income tax and corporate income tax rates; and tighter estate tax rules to reduce inherited wealth accumulation.[3]

Former President Donald Trump

Former president Donald Trump has said he plans to make permanent the 2017 individual tax cuts that he enacted during his term under the TCJA[4]. He also wants to make the expiring estate tax cuts from the TCJA permanent.[5] The unified gift and estate tax exclusion amount is set to expire on December 31, 2025, and revert to pre-TCJA levels that are expected to be around half of what they are in 2024 ($13.61 million per individual/ $27.22 million per married couple).

Robert F. Kennedy Jr.

The only major tax policy that RFK Jr. has announced, according to the Tax Foundation, is exempting Bitcoin from capital gains taxes when the cryptocurrency is converted to or from US dollars.[6] He has also expressed a desire to make tax code changes to discourage corporate ownership of single-family homes.[7]

Chase Oliver

Although the Libertarian Party's candidate, Chase Oliver, has addressed many issues during his campaign, such as immigration, student loans, and closing regulatory loopholes that reward businesses with close relationships with government officials,[8] he has not spoken on too many issues that would impact estate planning. However, the Libertarian Party has traditionally been in favor of limited government, the repeal of the income tax, and the abolishment of the Internal Revenue Service.[9]

Jill Stein

The Jill Stein 2024 platform calls for raising taxes on the richest Americans. This includes applying the Social Security payroll tax to capital gains and dividends, as well as increasing the estate tax.[10]

Cornel West

West's platform is focused on economic justice but light on economic policy details. His campaign site says that the candidate would impose a wealth tax on all billionaire holdings and transactions and close all tax loopholes for the oligarchy.[11]

Future-Proofing Your Estate Plan

Changes to the law are one of the primary reasons to revisit your estate plan. We will be following this year's election closely so we can keep you informed about policy changes that will help you make proactive adjustments to your plan, such as using estate planning tools to lock in the "bonus" estate tax exemption and manage possible capital gains exposure.

We cannot predict election outcomes, but we can create an estate plan that protects your estate, your legacy, and your heirs through political shifts. To learn more, please contact us.

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1) These are potential presidential candidates as identified by CNN. See 2024 Presidential Candidates, CNN Politics, https://www.cnn.com/interactive/2024/politics/presidential-candidates-dg (last visited July 2, 2024).
2) Garrett Watson et al., Details and Analysis of President Biden's Fiscal Year 2024 Budget Proposal, Tax Found. (Mar. 23, 2023), https://taxfoundation.org/research/all/federal/biden-budget-tax-proposals-analysis.
3) Garrett Watson & Erica York, Proposed Minimum Tax on Billionaire Capital Gains Takes Tax Code in Wrong Direction, Tax Found. (Mar. 30, 2022), https://taxfoundation.org/blog/biden-billionaire-tax-unrealized-capitalgains.
4) Tracking 2024 Presidential Tax Plans: Where Do the Candidates Stand on Taxes?, Tax. Found. https://taxfoundation.org/research/federal-tax/2024-tax-plans/#Candidates (last visited June 27, 2024).
5) Id.
6) Id.
7) Jing Pan, "Robbing Americans of the Ability to Own Homes:" RFK Jr. Has Promised Wall Street Reforms. Here's His Plan, Yahoo!Finance (May 30, 2024), https://finance.yahoo.com/news/robbing-americans-ability-own-homes101400283.html.
8) Platform: What Chase Stands For, Chase Oliver, https://www.votechaseoliver.com/platform (last visited July 1, 2024).
9) Platform, Libertarian: The Party of Principle, https://www.lp.org/platform/ (last visited July 1, 2024).
10) Platform: People's Economy, Jill Stein 2024, https://www.jillstein2024.com/platform (last visited June 27, 2024).
11) Policy Pillars for a Movement Rooted in Truth, Justice, & Love: Economic Justice, Cornel West 2024, https://www.cornelwest2024.com/platform (last visited June 27, 2024).