President-Elect Trump and the Prospects for Changes to the Tax Laws

By William E. Sigler

Donald Trump's election victory, combined with the Republicans maintaining their majority in Congress, raises the prospects for major tax reform, as well as for the potential rollback of the Affordable Care Act, the Dodd-Frank Act, regulations on climate and labor policy, and restrictions on valuation discounts used in the transfer of family-controlled entities for estate, gift, and generation-skipping tax purposes. Democrats are likely to resist many of these changes, but if Congress can approve an annual budget blueprint in early spring, they can authorize special procedures called "reconciliation" that allow them to sidestep Democratic filibusters. The Republican majority is not expected to be short-lived. In the 2018 mid-term elections, Democrats will be defending 25 of 33 senators facing re-election.

Changes to the Individual Income Tax

Trump's proposals to change the individual income tax include the following:

- Consolidate the current 7 tax brackets into 3, and adapt the current rates for capital gains and dividends, as follows:

Ordinary Income Rate	Capital Gains Rate	Single Filers	Married Joint Filers
12%	0%	$0 to $37,500	$0 to $75,000
25%	15%	$37,500 to $112,500	$75,000 to $225,000
33%	20%	$112,500+	$225,000+

- Eliminate head of household status
- Eliminate the Net Investment Income Tax
- Increase the standard deduction from $6,300 to $15,000 for singles and from $12,600 to $30,000 for married couples filing jointly

- Eliminate the personal exemption
- Make childcare costs an above-the-line deduction from adjusted gross income, up to the average cost of care in the taxpayer's state, but phased out for individuals earning more than $250,000 or couples earning more than $500,000
- Offer credits ("spending rebates") of up to $1,200 a year for childcare expenses to lower-income families through the earned income tax credit
- Create new savings accounts for the care of children or elderly parents or for school tuition
- Cap itemized deductions at $100,000 for single filers and $200,000 for married couples filing jointly
- Tax carried interest as ordinary income
- Eliminate the individual alternative minimum tax

Changes to Business Taxes

Trump's proposals to change business taxes include the following:

- Reduce the corporate income tax rate from 35% to 15%
- Eliminate the corporate alternative minimum tax
- Allow firms engaged in manufacturing to choose between the full expensing of capital investment and the deductibility of interest paid
- Eliminate the Section 199 domestic production activities deduction and all other business credits, except for the research and development credit
- Repatriate currently deferred foreign profits at a rate of 10%
- Increase the cap for the tax credit for employer provided day care from $150,000 to $500,000

Estate, Gift, and GST Taxes

Trump also proposes to eliminate federal estate, gift, and GST taxes, but disallow a step-up in basis for estates over $10 million. This would allow family estate plans to be restructured without technical impediments or Section 2036 exposure.

Unfortunately, individuals residing in states such as Kentucky and Pennsylvania that have inheritance taxes would still have transfer tax concerns.

With respect to income tax planning for 2016, consideration should be given to accelerating deductions and tax credits and postponing income. Contributions to IRAs and similar retirement vehicles should also be accelerated, while IRA Roth conversions should be postponed or readied to be re-characterized by the time of filing 2016 tax returns.

Looking ahead to 2017, if the gift tax is repealed, then income tax planning will become much more flexible. In particular, the focus is likely to shift to basis planning using gifts, partnerships, cash-out re-financings, and similar techniques.

Estate planning itself will not cease to be important. Succession planning, asset protection, and long-term wealth preservation will all continue to be important matters to address through proper planning.