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Post Election Recap

What Happens Next?

Now that the 2016 elections are over, it is time to consider key tax law changes that may be enacted in 2017 and beyond. Given the election results, many tax and fiscal issues remain uncertain. Today, it appears that significant tax legislation may be in the offing. No doubt, the ultimate make-up of the tax laws will depend on the direction taken by our nation's leadership (including President-Elect Trump and Congress), either by their ability or inability to agree on tax and fiscal legislation.

With a new President and Congress coming in 2017, there are a lot of variables and hurdles to overcome regarding any legislation (even tax legislation). As it stands currently, nothing has changed regarding income, estate, gift, generation-skipping transfer, health insurance, payroll, etc., taxes. When debating budgetary issues, Congress will need to address projected deficits from increasing interest rates, anticipated increases in infrastructure spending, anticipated increases in defense spending, proposed tax cuts, funding Social Security and SSDI, funding Medicare, etc.

The content of this material is based on the research and opinion of the KeyAMS and is not guaranteed to be accurate.

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Your Next Move

These "new" or additional expenditures, combined with the $19 trillion of current national debt, should reinforce the need for you and your family to build absolute and significant flexibility into financial and estate planning scenarios. More importantly, you and your family should have a renewed focus on providing income and protecting family wealth for current and future generations.

The democratic process in the U. S. is ever changing—Given this dynamic, even if income tax rates are reduced and the estate tax repealed (as called for by President-Elect Trump), the democratic process may (or will) cause a return of higher income tax rates and the estate tax at just about any time in the future

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With respect to estate tax repeal, there are a number of obstacles to overcome. While the focus of repeal is to eliminate the tax, there will not be an elimination of other indirectly related taxes. For example, it appears there may be a Canadian-type income tax (i.e., at death), a carryover or limited carryover basis (e.g., no basis step-up), or a modified estate tax. Thus, if property is not subject to estate tax, there may be capital gains taxes; ordinary income taxes on qualified plans, annuities, etc.; state income taxes; state inheritance and/or estate taxes. Such related wealth/income taxes can approach 35%. It becomes apparent that creating liquidity or replenishing a family's wealth depletion from taxes will become a priority.

Assuming there will be significant tax law changes, will they be "permanent"?

The democratic process in the U. S. is ever changing— a Presidential election every 4 years, The House's 435 members are elected every two years and in The Senate approximately 1/3 of the senators are elected every two years. Given this dynamic, even if income tax rates are reduced and the estate tax repealed (as called for by President-Elect Trump), the democratic process may (or will) cause a return of higher income tax rates and the estate tax at just about any time in the future. One only needs to recall 2010, when the estate tax was repealed for one year, as evidence of tax law "permanency."

Potential Changes for Taxpayers?

Income tax rates	**Three brackets: 12%, 25% and 33%** **Joint filers—$0-$75,000; $75,001-$225,000; and $225,001 and above** **Single filers—$0-$37,500; $37,501-$112,500; and $112,501 and above**
Affordable Care Act (Obamacare)	**Repeal the .9% Medicare Hospital Insurance Tax and the 3.8% Net Investment Income Tax**
Capital gains and qualified dividend income	**Retain current-law rates and brackets for such income**
Alternative Minimum Tax	**Repeal**
Itemized deductions: ■ **Mortgage interest deduction** ■**Charitable contributions** ■ **State and local taxes**	**Limit itemized deductions to $200,000 for joint filers and $100,000 for single filers**
Standard deduction and personal exemptions	**Increase the standard deduction to $30,000 for joint filers and $15,000 for single filers, eliminate head of household filing status, and eliminate personal exemptions**
Retirement savings incentives	**No changes indicated**
Estate taxes	**Repeal the estate tax, however, appreciated assets held at death would be subject to capital gains tax to the extent they exceed $10 million (this tax would be similar to the Canadian-type deemed disposition tax).** **Contributions of appreciated assets to a private charity established by the decedent or the decedent's relatives would be disallowed.**
Gift taxes	**No changes indicated**
Generation-skipping taxes	**No changes indicated**

Actions To Take Now

If you believe President-Elect Trump's income tax campaign proposals will become law in 2017, you might consider the following actions:

1. Defer income recognition to taxable year 2017 or later, where income tax rates may be lower if income tax legislation lowers income tax rates:
    a. Year-end bonuses,
    b. For cash basis professionals, send year-end invoices after December 31,
    c. For those contemplating a year-end Roth conversion, 2017 rates could be lower,
    d. Maximize retirement contributions (e.g., 401(k) and deductible IRAs).

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2. **Accelerate income tax deductions to 2016**, because income tax deductions may be limited under new legislation
    a. Itemized deductions (e.g., mortgage interest, state income and property taxes, charitable contributions, etc.)
    b. Maximize (where appropriate) the use of expensing depreciable property under IRC section 179 (for acquisition of depreciable property in excess of the IRC section 179 deduction, deferral of the purchase may permit expensing of the asset in 2017)

3. If the Affordable Care Act tax provisions (3.8% net investment income (NII) and .9% Medicare taxes) are repealed in 2017 and you would be subject to the taxes in 2016, consider
    a. Deferring asset sales subject to the NII until 2017;
    b. Deferring year-end bonuses (and compensation were possible) which may avoid the .9% Medicare surtax.

4. Using tax loss harvesting in 2016 like you would in other taxable years.

Taken together, the issues raised above generally point to at least one absolute. That is, financial, business, and estate planning will require constant monitoring and updating.

Considering the ever-changing political environment, you need to plan for many contingencies. For example, there may be (1) lower federal income taxes, (2) modification or elimination of the Affordable Care Act Net Investment Income taxes, (3) modification or elimination of transfer taxes (e.g., estate, gift and generation-skipping taxes), or (4) unanticipated changes, etc.). Because of the current state of politics, you and your advisors need to understand the potential outcomes under higher, lower, or similar tax rates. While tax rates are likely to change, income and/or deductions may be limited or excluded under new legislation. Given the potential changes over the short- and long-terms, traditional financial, estate and tax planning may become a year round endeavor focusing on flexibility and multiple year planning.

It is tempting to defer financial, estate, and tax planning while waiting for President-Elect Trump and Congress to act; such a strategy is not recommended. Rather, you should continue your financial, estate and tax planning. A major focus of such planning, however, should be on the flexibility of the plan given the potential tax legislation.

Finally, you and your advisors should consider all facts and circumstances (e.g., market risk and company risk, time horizons, tax issues, geopolitical risks, etc.), regarding any course of action. In other words, relying solely on a projected tax outcome does not generally result in the optimal financial outcome.

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