



Taxes Under Biden vs Trump: An Early Look

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The 2020 presidential election is getting closer. To give you an idea of what election results could mean for tax policy, we took a look at the proposals of presumptive Democratic nominee Joe Biden vs incumbent President Trump. Policy proposals could change a lot between this August and November, and then in 2021 depending on the election outcome. But it's always good to have an idea of what could lie ahead.

Based on what we know so far, it seems that tax policy under Trump would change only marginally, and keep in place the 2017 Tax Cuts and Jobs Act. Bigger changes are likely with a Biden administration, especially if the Senate and House are both under Democratic control. Biden would increase taxes for certain upper-income households but certainly not for everyone. And the annual wealth tax, which was a big focus during the Democratic primary debates, is no longer on the table.

The overview so far: Under Biden, two of the biggest beneficiaries of the 2017 tax cuts – US households with annual income of \$400,000 or more and US corporations – would likely see 2017 benefits ratcheted back. And there is something new: how the Biden administration would tax capital gains, affecting mostly inherited assets and high-income investors. Below is our assessment of whom would be impacted most by type of tax, based on what we know so far.

INCOME TAXES

You're in the top tax bracket. Biden has proposed increasing the top income tax rate to 39.6% – where it was in 2017 – from 37% currently. This would apply to ALL filers with income over \$400,000 annually – both married filing jointly and single. Currently, the highest rate of 37% applies to singles with income over \$518,400 and joint filers with income over \$622,050.

CAPITAL GAINS TAXES

For a long time, US tax policy has given beneficial treatment to long-term capital gains (profits on the sale of an investment held for more than 12 months). Consider that long-term capital gains and qualified dividends are taxed at a maximum 20%. Meanwhile, regular income from sources like wages and retirement accounts is taxed at a maximum 37%. Because of this disparity, how the Biden capital gain proposals would affect you greatly depends on the amount and sources of your income.



You're an investor with more than \$1 million in annual income. Biden has proposed ending the preferential tax rate on long-term capital gains but only for households with \$1 million or more in income from all sources. For them, capital gains would be taxed as income at their highest rate, which would revert back to 39.6%. For everyone else, long-term capital gains would continue to be taxed at beneficial rates of 0%, 15% and 20%, depending on income level.

You intend to leave greatly appreciated assets to your heirs. Currently, assets owned at death transfer to heirs at the prevailing market price, referred to as "stepping-up tax basis." This means heirs can inherit, sell immediately, and not pay any capital gains tax. Biden proposals would do away with "stepped-up basis." This means a capital gains tax would be due, although it is not clear when: at the time the estate settles and transfer to heirs, or when the heirs sell. Most likely it would be at the time of transfer (with transfers to spouses and charities exempt). This tax change could present a logistical challenge in that the original cost of certain assets – such as a family business or vacation home – can be very difficult to determine.

Example: Martin paid \$200,000 for an apartment building in 1984; his daughter eventually inherits that building at a market value of \$2 million after he passes away. Under the Biden capital gains proposal, the estate would then owe \$454,000 in taxes (39.6% rate on \$1.8 million in capital gains).

BIDEN TAX PROPOSALS: IMPACT BY INCOME LEVEL*

 Potentially Higher Taxes

Tax Type	A Less than \$400,000 Household Income [#]		More than \$400,000 Household Income [#]		More than \$1 million Household Income [#]	
	Biden	Trump	Biden	Trump	Biden	Trump
Highest income tax bracket	37%	37%	39.6%	37%	39.6%	37%
Long-term capital gains	0% - 20%	0% - 20%	0% - 20%	0% - 20%	0% - 39.6%	0 - 20%
Capital gains taxes on inheritance and gifts	✓	X	✓	X	✓	X
New Social Security payroll tax	X	X	✓	X	✓	X
Limit on 20% qualified business income	X	X	✓	X	✓	X
Limits on itemized deductions	✓	✓	✓	X	✓	X

*Based on what we know as of July 2020. [#]Annual adjusted gross income (AGI) for both married filing jointly and single filers.



Biden may also call for changing the relatively high exclusion from federal gift and estate taxes. This currently allows each person to pass on \$11.58 million to beneficiaries (double the level in 2017), although this higher level is set to expire at the end of 2025. And since many of Biden's other proposals do increase taxes on the wealthy, halving the exclusion to 2017 levels or even lower can be expected.

SOCIAL SECURITY TAXES

You work and your salary is \$400,000 or higher.

The Biden plan would impose a new 12.4% Social Security payroll tax on earned income above \$400,000 – 6.2% to be paid by you and 6.2% by your employer. Workers with salaries between \$137,700 and \$400,000 would see no increase, creating what some are referring to as a “donut hole.” Over time, the donut hole would close, as the \$137,700 cutoff is adjusted annually for inflation.

TAX DEDUCTIONS

You have \$400,000 or more in income and you claim the 20% business income deduction. Many who own a business with pass-through income – such as a sole proprietorship, LLC, or partnership -- now qualify for a 20% deduction on their business income (thanks to the 2017 Tax Act). Biden proposes a phase-out of this deduction for those with annual income of \$400,000 or more.

You have \$400,000 or more in income and you itemize deductions. Biden would bring back the “Pease” limitation (suspended by the 2017 Tax Act), reducing allowable itemized deductions by 3% for every dollar of taxable income above a certain threshold (in 2017, \$254,200 single; \$305,050 for joint filers).

Your top tax bracket is higher than 24%. Biden proposals would cap the tax benefit of allowed itemized deductions to 28% of value, meaning that if your tax bracket is 28% or higher, the benefit of itemizing deductions would be greatly reduced. Currently, there is no 28% income tax rate; the 24% bracket tops out at \$163,300 for single and \$326,600 for joint filers.

Example: Sam and Suzie have income of \$600,000 and donate \$100,000 to a charity. Under current law, they're in the 32% tax bracket and the tax-deductible \$100,000 donation saves them \$32,000 in taxes. Under the Biden proposal, the most they would save from the \$100,000 donation would be capped at \$28,000.

GOVERNMENT SPENDING ON THE RISE

The US federal budget deficit has grown dramatically this year to counter the health and economic impact of Covid-19. Reversing this trend will eventually require higher taxes and lower spending. For now, the focus is on economic recovery.

It's worth noting that both Biden and Trump are likely to increase government spending to improve infrastructure (which for Biden would be part of his clean energy and climate change initiative). Biden would also make Medicare available starting at age 60 (vs. 65 now), which is hugely relevant for people planning for retirement. And he would forgive student loans for low- and middle-income students who attend public colleges and universities



COROPORATE TAXES

Biden has proposed the following:

- Raise the top US corporate tax rate to 28%; that's up from 21% now but less than the 35% it was in 2017.
- Double the tax rate on the income of foreign subsidiaries to 21% from 10.5% currently;
- Bring back a corporate minimum tax of 15% on worldwide income over \$100 million;
- Do away with real estate industry tax loopholes;
- Provide tax credits to induce companies to manufacture in the US, offer retirement plans to their workers, and use renewable energy;
- Expand the "new markets credit" for investments in low-income communities.

WHAT LIES AHEAD

As noted earlier, we don't really know. Great uncertainty remains about the details of the Biden and Trump tax platforms. So it's premature to act on any of their pronouncements. We will be keeping a close watch, as more specifics are likely to be released by both presidential contenders soon, not just about taxes but also economic policy. And we will continue to review client tax strategies for 2021 and beyond.



ABOUT THE AUTHOR

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