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Sunrise or Sunset:

Presidential Candidate Tax Proposals and the Uncertain State of Future Tax Law

Rockefeller Insights

Sunrise or Sunset: Presidential Candidate Tax Proposals and the Uncertain State of Future Tax

With less than a month to go before the 2024 elections, the candidates' policies have taken center stage before voters head to the polls. While the economy, immigration, inflation, and women's rights are certainly top of mind for many voters, the tax proposals of Vice President Harris and former President Trump, as well as the looming sunset of many current tax laws, are also especially important to many voters.

At this point, we have just heard proposals from the candidates with varying levels of detail and specificity. Given the law-making process at the federal level, the make-up of Congress after the election will also end up having a substantial impact on whether any tax proposal ultimately becomes law.

Certainly, more questions than answers at this point in the process, but further clarity could be coming in the near future. This Insight will highlight the major tax policies the candidates are campaigning on, as well as the legislative process these proposals must navigate before becoming law and impacting taxpayers.

TRUMP'S PROPOSALS

Extension of Prior Tax Cuts

One of the signature items of former President Trump's presidency was the passage of the Tax Cuts and Jobs Act of 2017 ("TCJA"). The TCJA was a major tax code overhaul that generally lowered individual income taxes, estate and gift taxes, and the rate at which C Corporations pay income tax. Because the TCJA was passed using the "budget reconciliation" process, which is explained in more detail later in this Insight, the majority of the TCJA's tax cuts are "temporary" provisions and are currently legislated to sunset at the end of 2025. This means that without Congressional action prior to January 1, 2026, the provisions of the TCJA subject to the sunset will revert to prior law.

If former president Trump is elected to a second term, he has vowed to extend and make permanent the overwhelming majority of the provisions in the TCJA. These include, but are not limited to, keeping the current highest tax rate for individuals at 37%, instead of 39.6%, maintaining the currently doubled estate and gift tax exemptions, and retaining the 20% deduction for the qualified business income of pass-through business entities.

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TRUMP'S PROPOSALS (cont'd)

Repeal of the State and Local Tax ("SALT") Deduction Cap:

One provision in the TCJA that former President Trump has said he would not extend is the current $10,000 cap on the SALT deduction.

The SALT deduction essentially allows taxpayers to take a federal itemized deduction related to the taxes (income, real estate taxes, personal property taxes) they pay to state and local municipalities. Prior to the passage of the TCJA, individual taxpayers were able to take the full amount of the state and local taxes they paid as itemized deductions, not subject to a cap. The TCJA, however, imposed a $10,000 annual cap on the SALT deduction. This cap is one of the provisions currently legislated to sunset at the end of 2025.

Former President Trump has recently stated that he would allow the $10,000 cap to sunset and have the unlimited SALT deduction reinstated.

C Corporation Income Tax Rate

Another provision in the TCJA that former President Trump would plan to modify relates to the income tax rate that applies to C Corporations. Prior to the passage of the TCJA, the profits of a C Corporation were subject to a 35% income tax. The TCJA lowered the 35% rate to 21% and unlike many of the other provisions of the TCJA, this 21% rate was considered "permanent" and not subject to sunsetting at the end of 2025.

If former President Trump is re-elected, he has stated that he would plan to further lower the current 21% corporate rate to 15%. While not directly impacting individual taxpayers, any change to the corporate rate could have a substantial revenue impact on the federal budget.

As further discussed later in this Insight, the revenue effect a particular tax provision has on the federal budget can impact whether, or to what extent, such a provision is ultimately included in certain tax legislation.

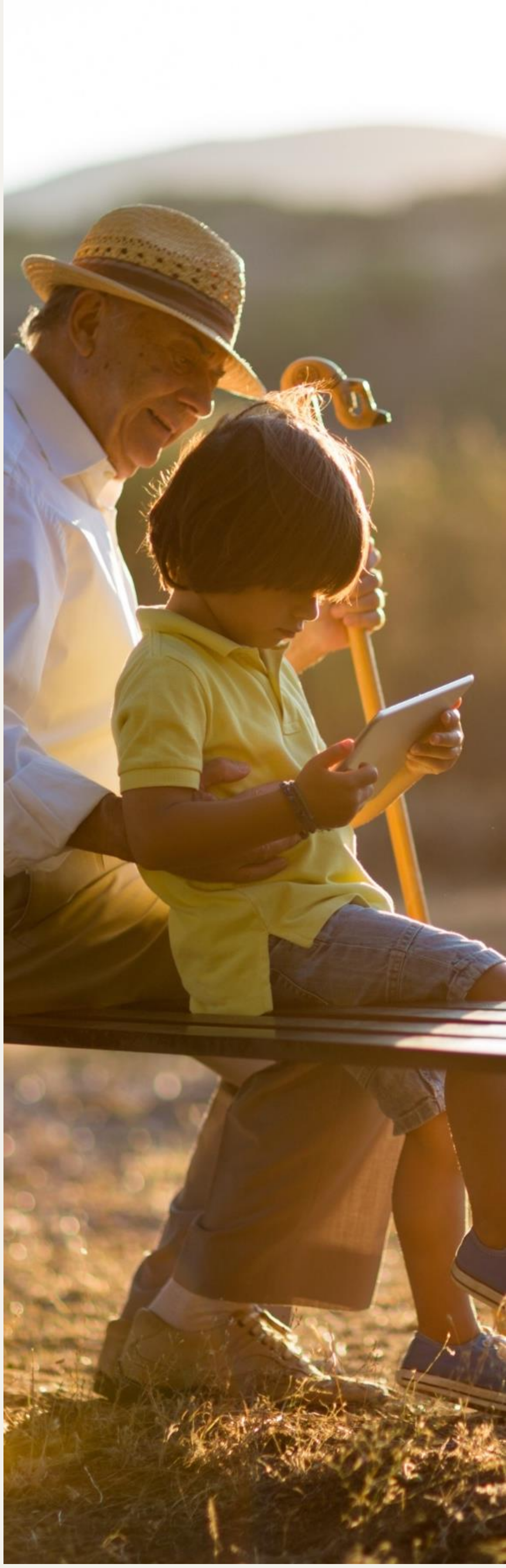
Exempting Certain Income from Taxation

Another campaign promise of former President Trump relates to exempting certain income from taxation altogether. Specifically, he has stated that tips, overtime pay, and social security income should not be subject to taxation.

TRUMP'S PROPOSALS (cont'd)

Exempting Certain Income from Taxation (cont'd)

Currently, all tips and overtime pay are subject to income and payroll (Social Security and Medicare) taxes, and whether social security income is taxed depends on the amount of the recipient's other income. If passed, the finer details of these proposals, including whether tip and overtime income would be exempt from both income and payroll taxes or just income taxes, will need to be reviewed.



HARRIS' PROPOSALS

Rollback of TCJA Provisions for Individuals Making More Than $400,000 a Year

Without specifying exactly what provisions would be targeted, Vice President Harris' administration would seek to ensure the wealthiest Americans "pay their fair share" by rolling back Trump's tax cuts. This would presumably include allowing the highest tax rate for individuals to revert back to 39.6%, from the current 37% rate, as is legislated to happen in 2026 under the TCJA. At the same time, the Harris campaign has stated that they are committed to ensuring no one earning less than $400,000 a year will pay more in taxes.

Increase the C Corporation Income Tax Rate

As mentioned earlier, the 21% corporate income tax rate is one of the provisions of the TCJA that is not legislated to sunset at the end of 2025 and that rate will remain in place until subsequent legislation changes it.

If elected, Vice President Harris has pledged to introduce legislation that would raise the corporate rate from 21% to 28%.

Increase the Long-Term Capital Gains Tax Rate for Individuals Making $1 million a Year or More

Under current law, the maximum rate individuals pay on long-term capital gains and qualified dividends is 20%[1]. This rate will apply in 2024 when an individual's taxable income exceeds $518,900 ($583,750 for married couples filing jointly).

If Vice President Harris is elected, she has stated that she would raise the maximum long-term capital gains rate from 20% to 28%. This 28% rate would apply to those who earn $1 million a year or more. For those earning less than $1 million a year, the current rates would remain. It is unclear if the increased 28% rate would also apply to qualified dividends.

1 Not including the 3.8% net investment income tax.

HARRIS' PROPOSALS (cont'd)

Enacting a Minimum Income Tax on Billionaires (or $100 millionaires)

While short on details, the Harris campaign has stated that they support a minimum income tax on billionaires. President Biden has also proposed a minimum tax on taxpayers worth more than $100 million in recent years in his budget proposals.

Biden's proposals would have imposed a minimum tax of 25%[2] on total income, generally inclusive of unrealized capital gains, for all taxpayers with wealth (that is, the difference obtained by subtracting liabilities from assets) greater than $100 million.

The Biden proposals went into detail on how the minimum tax is calculated, how it is paid, an "illiquid" exception, as well as the ramifications the minimum tax would have on future tax events. It remains to be seen whether the Harris proposal would follow similar parameters.

Increased Deductions for Small Businesses

If elected, Vice President Harris has stated that she would propose expanding the startup expense deduction for small businesses from $5,000 to $50,000. New businesses would also have the flexibility to use the deduction immediately or in a future year to help reduce their taxes when they start to make a profit.

In addition to increasing the startup expense deduction, the Harris campaign has also proposed the development of a "business standard deduction," like the one available to individual filers, which could save small businesses time and money and simplify their filing requirements.

Exempting Tip Income From Taxation

The Harris campaign and other Democrats in Congress are also in favor of exempting tip income from income taxes. Under the Harris proposal, tip income would, however, remain subject to payroll taxes.

PASSING FEDERAL LEGISLATION IN THE UNITED STATES

Clearly, both candidates have laid out ambitious plans in the form of tax proposals. If elected, they will, however, need to work within the confines of the federal legislative process to enact any items on their political agenda. Like we saw in both 2017 with the Trump Administration and 2021 with the Biden Administration, that process can be cumbersome and can often result in the inability to enact changes or live up to the promises made on the campaign trail.

2 Based on the Biden Administration's Fiscal Year 2025 Revenue Proposal. Prior proposals would have Imposed a 20% minimum income tax.

PASSING FEDERAL LEGISLATION IN THE UNITED STATES (cont'd)

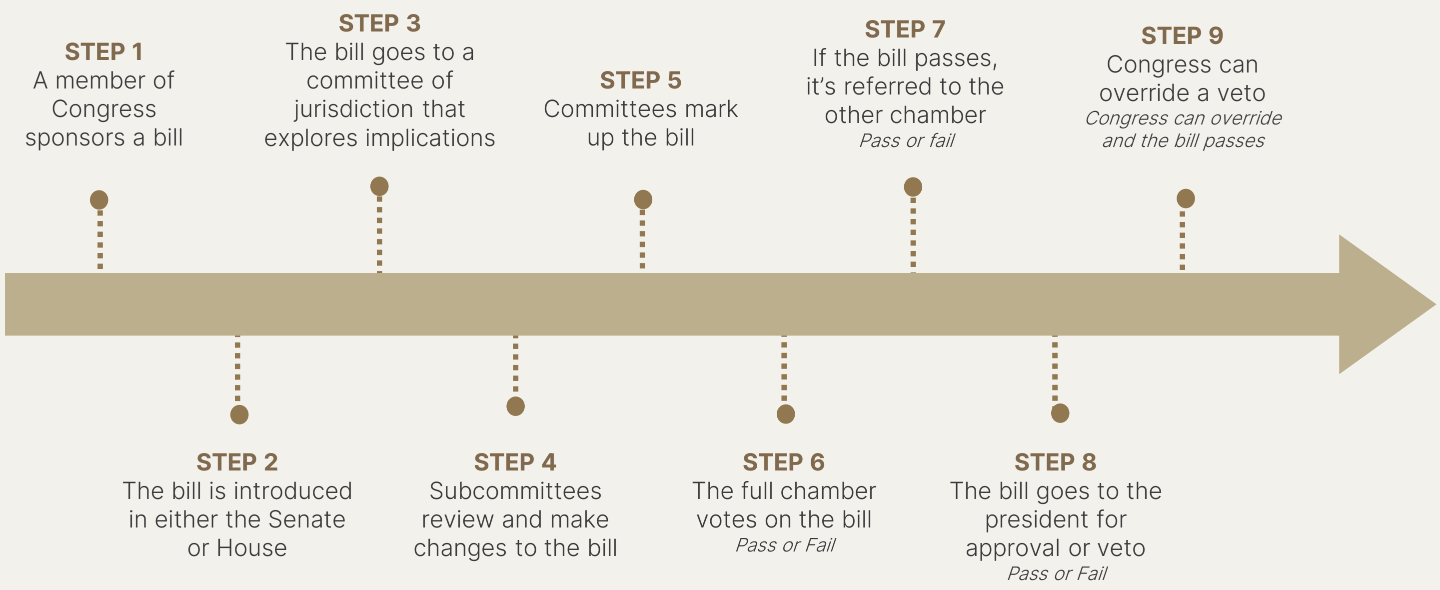
Standard Legislation Process

For a federal bill to become law, including tax legislation, both chambers of Congress, the House of Representatives and the Senate, must pass the bill before it is sent to the President for signature to officially become law[3].

For a bill to pass the House of Representatives, a simple majority of Representatives (218 of 435) must vote in favor of the bill. Similarly, for a bill to pass the Senate, a simple majority of Senators (51 of 100, or 50 of 100 with the Vice President's vote as the tiebreaker) must vote in favor of the bill.

A bill, however, generally cannot be scheduled for a vote in the Senate until a process known as "debate" has ended. This "debate" process is what permits the delay and blocking tactic known as "filibustering," as "debate" cannot be ended until 16 Senators sign a motion to that effect and the motion is approved by three-fifths (3/5) of the full Senate. That is why it is commonly believed that you need 60 votes to pass a bill in the Senate.

The Legislative Process:



3 Congress can override a Presidential veto with a 2/3 vote in both the House of Representatives and the Senate.

PASSING FEDERAL LEGISLATION IN THE UNITED STATES (cont'd)

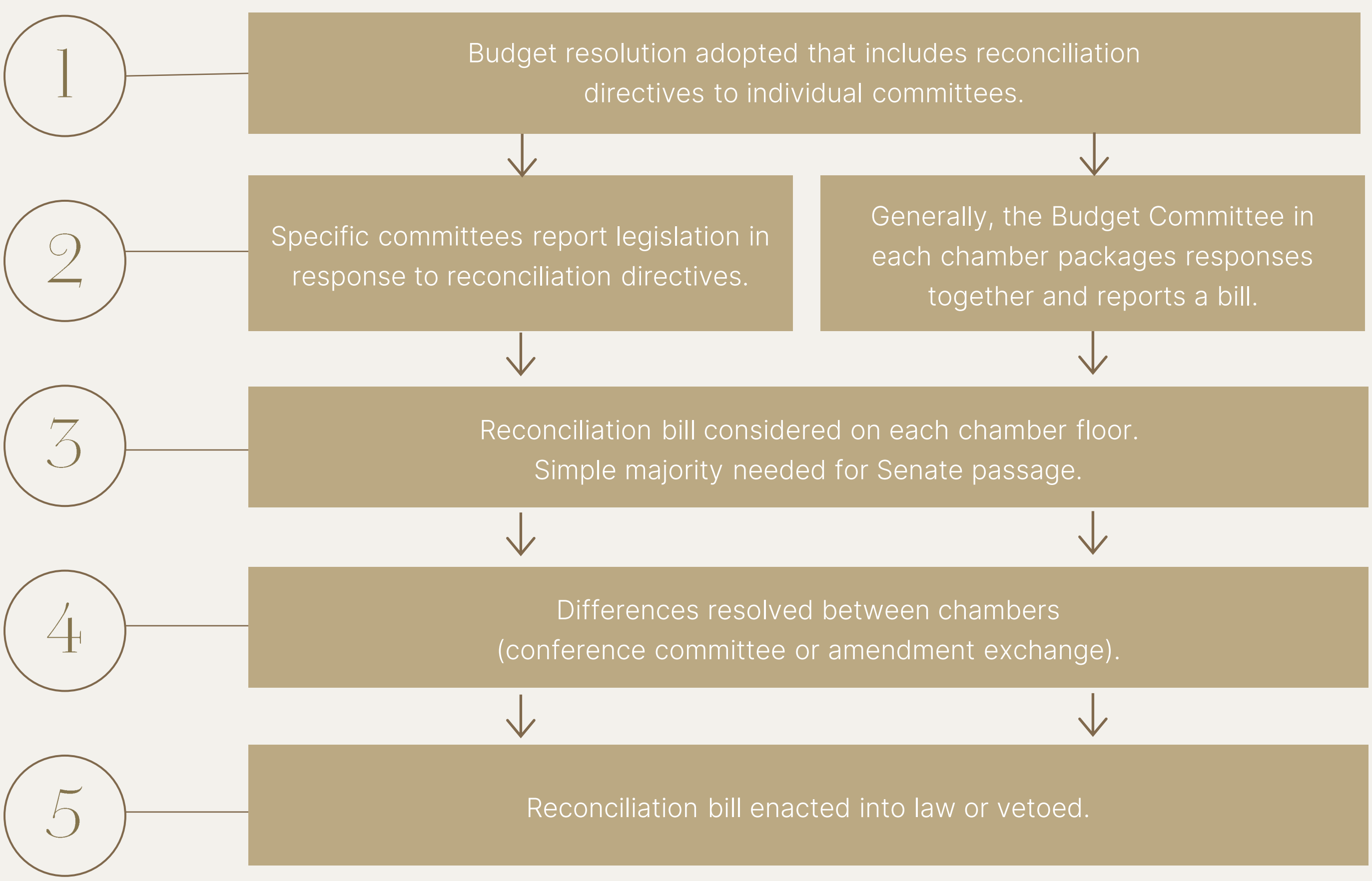
The Budget Reconciliation Process

Notwithstanding the standard procedure described above, certain types of legislation can be advanced using a special legislative process called "budget reconciliation". Budget reconciliation allows for expedited consideration of certain tax, spending, and debt limit legislation.

In the Senate specifically, budget reconciliation bills generally override the "debate" and "filibuster" rules, so they can be voted on and passed with a simple majority. As a result, the budget reconciliation process has been used most frequently when the same party controls the presidency, the House, and the Senate, but lacks the 60-vote majority in the Senate needed to overcome the "debate" and "filibuster" rules.

One constraint with passing bills via the budget reconciliation process is that the bill cannot increase the deficit in any fiscal year beyond those covered by the reconciliation measure (the "budget window," which is usually a period of 10 years). Additionally, the budget resolution that allowed reconciliation to begin with includes a self-imposed deficit limit within the budget window. This constraint is the reason why many of the TCJA's provisions had to be "temporary" and must expire at the end of 2025.

How Does Budget Reconciliation Work?



UNCERTAIN RESULTS IN WASHINGTION, CERTAIN GUIDANCE FROM ROCKEFELLER

As the outcome of the Presidential election remains very uncertain, it is important to be aware of all tax proposals that could ultimately come to fruition and have a plan to act if and when they do.

Equally important, if not more so, is understanding how the results of the Congressional elections, and the post-election make-up of Congress in general, could impact the presidential candidates' tax proposals and shape any tax legislation that ultimately gets passed. How large a majority, or lack thereof, either party holds in either chamber of Congress can have profound implications on which, if any, of the above tax proposals ultimately become law.

In 2021 and 2022 for example, despite Democrats holding the White House, the House of Representatives, and the Senate, President Biden's ambitious proposals to raise taxes on the extremely wealthy were significantly scaled down and resulted in the Inflation Reduction Act of 2022 (the "IRA"), which was ultimately signed into law in August of 2022. While the IRA contained several tax provisions, it resulted in minimal tax impact to the intended taxpayers. The watered-down nature of the IRA was primarily due to the holdout of two Democratic Senators who refused to support the more aggressive proposals; exemplifying just how much the margins in Congress could matter when attempting to pass federal legislation.

With the impending sunset of many of the TCJA's provisions set to occur at the end of 2025, negotiations this time around could prove hastier than in 2021 and 2022. However, the outcome of the 2024 elections will unequivocally have an impact on the negotiations and uncertainty could ultimately continue until the very end of 2025 and potentially beyond.

One thing is certain though, your Rockefeller Private Advisor will be closely monitoring the proposals, and the negotiations after the election, and will be at the forefront to help you implement any planning that can and should be accomplished as the tax laws evolve.

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