Forbes

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TAXES 11/13/2016 @ 2:43PM | 15,447 views

Six Tax Planning Strategies To Prepare For A Trump Presidency

In the aftermath of Tuesday's Presidential election, it can tough to identify a winner in the whole thing. Those who opposed Trump are rioting in the streets, refusing to recognize the President-elect as just that, and decrying his victory as the downfall of human civilization. Those who voted for Trump have had little opportunity to enjoy their victory, as they are now being verbally attacked from all angles, with "blame" for the result placed squarely at their feet, as if their beliefs and hopes for the country's future are any less valid than anyone else's. Hillary Clinton's long political career came crashing to a halt in a shocking and humiliating manner, and as for Trump, well, I'm not even convinced *he* expected this to happen, and now he's got to step away from the daily routine of having his promises greeted with raucous applause to actually, you know…doing some work. It's been a rough week for everyone.

There is one clear victor in Tuesday's results, however, and that is those who loathe the current tax law and long for reform. President-elect Trump's tax proposals align nicely with those previously posited by Republican tax writers like Paul Ryan and Kevin Brady, and with Tuesday's events resulting in a consolidation of power in the hands of the Republican party, it has been said that tax reform within Trump's first 100 days in office is a "priority."

NAPLES, FL – OCTOBER 23: Republican presidential candidate Donald Trump speaks during a campaign rally at the Collier County Fairgrounds on October 23, 2016 in Naples, Florida. Early voting in Florida in the presidential election begins October 24. (Photo by Joe Raedle/Getty Images)

(If you'd like to understand the details of Trump's plan, give this a read.)

As a result, the tax law could look dramatically different come May. Fewer rates. Lower rates. Streamlined deductions. Thus, while year-end tax planning is always important, as 2016 comes to a close, taxpayers must be even more diligent than normal, as you're not just comparing 2016 to 2017; rather, if you want to optimize your tax savings, you must also compare 2016 to what 2017 *might be*.

To that end, here are six tax tips for preparing for a Trump presidency.

Defer your income until 2017, but be wary of your income levels in both years.

It's always advantageous to push any income you can from one year into the next; after all, there is a time value to taxes you can pay next year instead of now. This year, however, the concept of deferral is even more meaningful. For 2017, the top rate on ordinary income — things like wages, interest income, and business income — is 39.6%. Should President-elect Trump's proposal become law, however, the top rate on ordinary income in 2017 would drop to 33%. Thus, deferring a year-end bonus from 2017 until 2018 would save you nearly 7% in tax if you're in the highest bracket. See the charts below:

Single Taxpayers

Ordinary Income Tax Rates	Current Law	Trump
$0-$10,350	0%	0%
$10,350-$15,000	10%	0%
$15,000-$19,625	10%	12%
$19,625-$48,000	15%	12%
$48,000-$52,500	25%	12%
$52,500-$101,500	25%	25%
$101,500-$127,500	28%	25%
$127,500-$200,500	28%	33%
$200,500-$423,700	33%	33%
$423,700-$425,400	35%	33%
Over $487,650	39.6%	33%

Married Filing Jointly

Ordinary Income Tax Rates	Current Law	Trump
$0-$20,700	0%	0%
$20,700-$30,000	10%	0%
$30,000-$39,250	10%	12%
$39,250-$96,000	15%	12%
$96,105-$105,000	25%	12%
$105,000-$172,600	25%	25%
$172,600-$252,150	28%	25%
$252,150-$255,000	33%	25%
$255,000-$433,750	33%	33%
$433,750-$487,650	35%	33%
Over $487,650	39.6%	33%

Deferral doesn't only benefit the rich, however. For example, if you'll look at the charts, you'll see that if you're single and earn between $101,500 and $127,500, deferring income into 2017 could save you 3% (28% under current law versus 25% under the Trump proposal. Similarly, if you are married filing jointly and earn between $172,600 and $255,000, deferral could save you from 3-8%.

But be warned, as currently constructed, there are some taxpayers who will pay a HIGHER tax rate in 2017 under Trump. Take a look: if you are single and earn between $127,500 and $200,500, your rate is going to jump from 28% to 33% under the new proposal. As a result, you would rather take that year-end bonus into income in 2016 than 2017.

If you earn between $127,500 and $425,400 (if single) or between $255,000 and $487,650 (if married filing jointly), sell your investments before 2017

If you hold a capital asset — thinks like corporate stock or raw land or a rental property (via Section 1231) — for more than one year and sell it for a gain, you pay tax at preferential tax rates. Under current law, your preferential rate depends on your income level, with potential rates of 0%, 15%, or 20%.

President-elect Trump would retain those same three rates on capital gains, but there's a twist. Based on his proposal, there is a group of taxpayers who under current law pay 15% on their gains, but who under the Trump plan would pay 20%. It works like so: under current law, the 20% top rate doesn't kick in until you earn more than $425,400 (if single, or $487,650, if married filing jointly. Under Trump's tax plan, however, all taxpayers in his top tax bracket would pay a 20% rate on capital gains, and as of this writing, his top bracket begins at $127,500 (if single, $255,000 if married filing jointly).

As a result, if you're single and your taxable income — after including any gain from the sale of your asset – would be between $127,500-$425,400, or if your married and your taxable income — after including any gain from the sale of your asset — would be between $255,000 and $476,650, you can save 5% of federal taxes by selling prior to the end of 2016. This assumes, of course, that any changes to the tax rates coming down under President Trump would be effective on January 1, 2017, and while that may not be the case, in the tax planning world, it's best to prepare as if any changes will arrive at the start of the next year.

If you are an *employee* and earn more than $52,500 (if single) or more than $105,000 (if married filing jointly), tender your resignation today.

Time to quit your day job. Not for good, mind you; rather, you're just going to want to make a subtle change that could save you thousands. Let me explain:

If you earn a salary, you pay tax on those wages at "ordinary income tax rates." Under the Trump plan, those rates will be as follows:

Income Level	Single	Income Level	Married Filing Jointly
$0-$15,000	0%	$0 – $30,000	0%
$15,000-$52,500	12%	$30,000-$105,000	12%
$52,500-$127,500	25%	$105,000-$255,000	25%
> $127,500	33%	>$255,000	33%

As you can see, you will pay 25% on your salary once it exceeds $52,500 (if single, $105,000 if married filing jointly). That rate jumps to 33% once wages exceed $127,500 (if single, $255,000 if married). But that's not the important thing here. What matters is this: under President Trump's proposal, *all business income of a taxpayer will be taxed at 15%.*

Business income includes not only income earned through an S corporation or partnership — which is taxed at the individual owner level rather than at the business level — but also any earned income as a sole proprietor or independent contractor and reported on Schedule C on your tax return.

If you're capable of some basic math, the opportunity starts to reveal itself. If you are single and earn a salary of $300,000, you will pay a 33% rate on more than half of your income, with the overwhelming majority of the rest of the income taxed at 25%. But if you convert your employment relationship to that of a consultant or independent contractor, that same $300,000 of income would be subject to a flat tax of 15%.

Let's say, for example, that you set up an S corporation and engage your employer to pay your S corporation as a consultant. Ignoring for the moment any rules the Trump administration may come up with to prevent such a change, the $300,000 would not be taxed at the corporate level. The S corporation would then be required to pay you, as its shareholder — reasonable compensation (much more on that here), which we'll call $100,000. On your individual return, that $100,000 salary would be taxed at 33%, but what have you done? The remaining $200,000 of income will flow through to your individual return as "business income," where it will be taxed at 15% instead of 33%, thereby saving you $36,000 in income taxes. Even better, under an old tax law — Revenue Ruling 59-221 — the $200,000 of S corporation flow-through income is not subject to payroll taxes (which can rise to as much as 15.3% on some of your income, 2.9% on the rest), and the $200,000 of cash can be distributed tax-free from the S corporation to you.

The Trump campaign has heard the criticism that subjecting all business income to a flat 15% rate could give rise to the greatest tax shelter of the modern era, but as of today, the campaign has no way to prevent you from switching from an employment to consulting arrangement and saving significant tax dollars.

Rich? Give to charity before the end of 2017

Gifts to charity are deductible under current law as "itemized deductions." Since 2013, the itemized deductions of high-income taxpayers (those earning more than around $250,000 if single, $300,000 if married filing jointly), are reduced by 3% for every dollar the taxpayer's income exceeds those thresholds.

President-elect Trump, however, is proposing a much more dramatic limit on itemized deductions, promising a top cap of $100,000 (if single, $200,000 if married filing jointly). At the time of this writing, it is not perfectly clear whether charitable contributions will be subject to this limit, but if they are, you may enjoy a much larger tax break if you make the contribution in 2017 — where it will be subject to the smaller, 3% Pease reduction described above — as opposed to 2018, when it could be subject to the hard cap.

In general, you also want to accelerate deductions into the current year, because again....time value of money. But this year it becomes even more important, because the majority of taxpayers will experience a lower rate under the Trump plan (but see the first item above for those taxpayers whose rates will actually INCREASE under Trump), and thus by accelerating deductions into 2017

If you're a business owner, don't buy new assets until 2017

As 2016 comes to a close, business owners will likely feel pressure to accelerate the purchase of business assets before year-end, so as to take advantage of the numerous depreciation incentives in the law and reduce the current year tax bill. As a reminder, when you purchase an asset, you generally may only deduct the cost of the asset over a period of years, with the length varying from 3 to 39 years depending on the nature of the asset. There are also incentives that allow an immediate write-off of 50% of an asset's cost (so-called "bonus depreciation") as well as, subject to a $500,000 limit, the complete expensing of an asset's cost.

As 2016 comes to a close, you may feel tempted to do once again accelerate as many asset purchases into this year, particularly because, as described above, all business income that is currently taxed at rates as high as 35% (for C corporations) or 39.6% (for partnerships, S corporations, and sole-proprietorship) will be taxed at only 15% under the Trump plan. So why not take deductions NOW and offset income taxed at a much higher rate?

Here's why...President-elect Trump has proposed allowing for 100% expensing of *all asset acquisitions,* with no limitation. As a result, you may get a much greater bang for your business buck if you hold off on buying assets until 2017.

Die, but wait until 2017 to do so

Sorry to sound so dramatic, but President Trump *is* proposing to eliminate the estate tax, making the next four years as good a time as any to head towards the light. And if that doesn't convince you to pack it in, don't worry; with anti-Trump protests turning more violent on a daily basis, this decision may soon be out of our hands.

There is much to be unsettled about the proposed removal of the so-called "death tax." For example:

- Would it be eliminated entirely or phased in over a period of years?
- Would the gift tax be eliminated with it, or would it be preserved so as to avoid income shifting (i.e., Mom gifts an asset to lower-income child, child sells the asset and pays less tax than Mom would, then child gifts the cash back to Mom)?
- Trump has proposed taxing the appreciation inherent in the assets of certain estates (value in excess for $5 million if single, $10 million if married), thereby preventing the tax-free "step-up" that occurs under current law when a decedent passes on assets to a beneficiary without gain, and with the heir's basis in the assets equaling its fair market value. Would this gain be taxed at death? Or would the heir take a basis in the assets equal to the decedent's basis, so that the gain is deferred until the heir sells the asset? The Trump campaign seems to indicate it would be the latter, but we're not certain yet.

Until these questions are answered, many taxpayers may take a wait-and-see approach towards estate tax planning over the coming months. But don't forget, despite Trump's best efforts to ignite WWIII, we may well survive his presidency, and should that occur, a new regime may reinstate the estate tax, meaning today's planning may still yield tax savings.

All of these strategies should be undertaken with care, as 1. We don't know if they'll become law, and 2. We don't know WHEN they'll become law. But big changes are likely coming, and we'd be remiss if we didn't plan accordingly based on the best information available. After all, if you institute these strategies and then it turns out the Trump plan *doesn't* become law, it's not the end of the world. Unless, of course, you choose to follow my final strategy discussed above, in which case it will be the end of your world. And while you won't save tax dollars in that situation, I will admire your commitment to having tried to do so, and will speak well of you at your wake.

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