CHILTON TRUST

Tax Bulletin:
What A Trump Presidency Could Mean For You and Your Taxes

PAUL F. NAPOLEON, *Senior Vice President & Head of Tax Services*

As you are aware, the unconventional campaign and surprise election resulted in Donald J. Trump being elected the 45th President of the United States. In addition, the Republicans will retain control of both chambers of Congress, providing the incoming President with significant influence over tax policy beginning with tax year 2017. Both Trump and House Speaker Paul Ryan, historically the party's "tax wonk" since the Republicans retook the House of Representatives in 2010, have made proposals throughout their respective campaigns on how to overhaul the current tax code for both individuals and businesses. While the plans differ slightly in substance, there are many major similarities that we should look to see enacted into law early in President-Elect Trump's first term.

The following are some of the highlights from the Trump and Congressional plans:

Potential Changes for Individual Taxes

- *Individual Income Tax Brackets Under the Trump and Congressional Plans (as provided by the Tax Foundation) will change, with the highest tax bracket to decrease (please see below):*
  - *A reduction in the number of individual income tax rates from seven brackets to three, i.e., 12%, 25%, and 33%:* The proposed change in tax rates and the consolidation of tax brackets would have the effect of lowering taxes for most taxpayers, especially those in the highest tax bracket. It is worth noting that the highest marginal tax rate would decrease from 39.6% to 33%, and the lowest tax rate would increase from 10% to 12%.
- *Net investment income tax*: The proposed repeal of the Affordable Care Act (ACA) would likely include the elimination of the net investment income tax of 3.8%

Individual Income Tax Brackets Under the Trump Plan

Ordinary Income	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+

and other related taxes that were enacted and tied to the rollout of Obamacare. This could lead to significant tax savings to high net worth individuals if the new administration is able to repeal the ACA and replace it with a more tax friendly alternative.

- *Changes in certain tax thresholds*: An increase in the standard deduction from $12,600 to $30,000 for couples filing jointly, along with the elimination of personal exemptions and the head of household tax filing status. Additionally, there would be a ceiling on itemized deductions at $100,000 for single filers and $200,000 for married filers. It is plausible that with an increase in the lowest marginal tax rate bracket along with the loss of personal exemptions, there could be an increase in tax liability for certain low income taxpayers. This would also replace some revenue losses built into the platform, as high net worth individuals, many of whom have utilized significantly higher levels of itemized deductions in the past, would no longer have their full deductions available to them.
- *Carried interest taxed at ordinary rates*: The carried interest component of many high net worth tax returns would be taxed at ordinary rates as opposed to the preferential capital gain rates currently in effect. This would seemingly be a significant increase in taxes for high net worth individuals that operate in the financial services industry, e.g., hedge fund managers, private equity partners, etc. However, it is possible that this income would qualify as business income taxed at the 15% corporate rate (see below).
- *Elimination of the individual alternative minimum tax*
- *The repeal of the current estate and gift tax regime:* Note that in this scenario, for estates valued greater than $10 million, the embedded appreciation in assets would be taxed to the beneficiary (inheritance tax), but only when the beneficiary disposes of the asset. Under the current tax code, these assets are generally taxed immediately upon the decedent's death. Moreover, tracking basis for the ultimate disposition of the asset could prove to be challenging. Additionally, to avoid exploitation, donating appreciated assets to private charitable organizations set up by a decedent or a decedent's relatives through an estate would be prohibited.

<u>Potential Changes for Corporate Taxes</u>

- *A reduction in the corporate income tax rate from 35% to 15%:* This change in rate would also affect business income passing-through to individuals by way of S Corporations, partnerships, LLCs, and LLPs, as well as from sole proprietorships. Currently, these entities are not taxed at the entity level, and the income is taxed at the individual's marginal income tax rate. This could lead to significant tax savings for individuals with such investments. Under the current Congressional proposal, the rate would be lowered to 20%, with a 25% tax on pass-through entities and sole proprietorships.
- *Elimination of the corporate alternative minimum tax*
- *Deferred foreign profits to be taxed upon repatriation at a rate of 10:* This could create a significant incentive for foreign branches of U.S. companies to repatriate their foreign earnings.
- *The immediate expensing of business assets, providing substantial immediate tax benefits with the elimination of the current system of depreciation*: Under Trump's plan, this would only apply to manufacturers, but those who choose to elect this provision would lose the ability to deduct corporate interest expense. The purpose of this caveat is to avoid the double benefit of fully expensing debt-financed purchases of business property. Additionally, land purchases would be excluded from full expensing under the plan, which could lead to significant issues for debt-financed land purchasers and

real estate developers as they could not expense the land itself or deduct the interest expense incurred.

It is important to note that any changes to existing tax law will likely differ from what President-elect Trump or the Congressional Republicans proposed during their respective campaigns. Generally, a tax bill needs to pass with simple majorities in the House and Senate to move forward to the President's desk for signature, with the standard of 60 votes to avoid a filibuster being normalized in the Senate over the past decade. Alternatively, there is a procedural method through budget reconciliation legislation that would allow a simple majority in the Senate to pass the bill regardless of a filibuster. The Republicans have intimated during the campaign that this method could be an option, as they will not be able to break any filibuster by the Democrats with their current slim majority.

According to nongovernmental think-tanks from both sides of the aisle, President-Elect Trump's tax platforms, unaltered, could possibly increase the national debt by upwards of $5 trillion over a 10-year period under current economic and geo-political conditions. Additionally, the President-Elect, throughout his campaign as well as in his acceptance speech last week, has stated that one of his major priorities is to dramatically ramp up public works and infrastructure projects throughout the country within his first 100 days in office as a way to increase jobs. These proposals could prove politically challenging to pass into law without the requisite revenue to pay for them. As a result, the Republicans will need to determine an appropriate tax plan to put forward that appeals to all parties involved. Therefore, the final bill will likely contain attributes from both tax proposals, as well as compromises with more conservative lawmakers who are against increasing the budget deficit under any circumstances.

We most likely will begin to see the results of legislative action beginning as soon as the summer of 2017. Chilton Trust will continue to monitor and report on the Trump Administration, and Congress's rhetoric and actions over the coming months and years as these new plans begin to take shape. As always, we will continue to look for new tax and estate planning opportunities that may result from any changes that take effect in the upcoming political term.

CHILTON TRUST

Chilton Trust Company

New York	Palm Beach*	Stamford
300 Park Avenue	396 Royal Palm Way	1290 East Main Street
New York, NY 10022	Palm Beach, FL 33480	Stamford, CT 06902
Phone: (646) 443-7733	Phone: (561) 598-6330	Phone:(203) 352-4000

Paul F. Napoleon, CPA, CFP® is a Senior Vice President & Head of Tax Services. Paul Napoleon, CPA, CFP®, is an accomplished tax professional with over twenty years of tax and accounting experience, serving as a trusted tax advisor to high net worth individual clients. He specializes in designing strategies to preserve and enhance his clients' wealth and helps them build value and manage risk. He provides income, trust, and gift tax consulting and compliance services, which include equity based compensation, investment, charitable giving, and retirement planning strategies to wealthy families. Prior to joining Chilton Trust, Mr. Napoleon spent twelve years at PricewaterhouseCoopers LLP in its Personal Financial Services practice. As a tax director at PwC, Mr. Napoleon has worked extensively with high net worth individuals, family groups, closely held businesses, and corporate executives. He has significant individual, trust, and gift tax compliance and tax planning experience. Mr. Napoleon is a Certified Financial Planner and a member of the American Institute of Certified Public Accountants and the New York State Society of CPAs. He has been a speaker on individual tax matters and has authored several articles on individual tax issues for PricewaterhouseCoopers' events and newsletters.

www.ChiltonTrustCompany.com

* Fiduciary services may only be offered through the Palm Beach office.