税务快讯

2020 年美国总统大选个税提案及加利福尼亚州商务人士的报税新方案

因我不同
成就不凡
始于 1845

一、2020 年美国总统候选人的税收提案

概览

随着 11 月份美国大选的临近，作为 2020 年总统竞选的一部分，现任总统特朗普和前副总统拜登分别提出了迥然不同的税收议案。拜登辩称特朗普实施的《减税和就业法案》（TCJA）偏向高收入群体，并提出了政策建议来解决这种不平衡的现象。特朗普总统则表示，TCJA 临时减税政策是刺激经济增长所必须，应该长久实施，甚至在特定情况下应扩大其实施范围。

这次选举的政策辩论将决定特朗普的减税法案 TCJA 的命运，该法案降低了许多纳税主体的税收负担。TCJA 颁布的大部分税收规定将于 2025 年底到期。如果拜登在 2020 年总统大选中获胜，一些纳税人的税务方案可能需要重新审视。下表概括了两位候选人的主要个税提案，以及这些提案一旦颁布将对纳税人产生的影响。

项目	现行法律	拜登议案	特朗普议案	潜在影响
联邦普通所得所得税率	在 2025 年或之前，适用最高 37%的税率 劳动所得超过 25 万美元的联合申报家庭和超过 20 万美元的单身人士，需要额外缴	恢复最高 39.6%的税率	2019、2020以及 2021年的预算方案中均假设现行法律将无限期延用 作为最终减税 2.0 计划的一部分，曾提到针对中等收入家庭的税率	恢复至 2018 年前 39.6%的最高税率水平 影响应税收入超过 622,050 美元（联合申报家庭 2020 年起征点）或者 518,400 美元（单身人士

	纳 0.9%的医疗保险税		下调，但未提出正式的下调提议	2020 年申报起征点）的高收入纳税人
资本利得，股息	长期资本利得和符合条件的股息所得适用最高 20%的优惠税率 调整后总收入超过 25 万美元的联合申报家庭和超过 20 万美元的单身人士，需要额外缴纳 3.8%的净资产投资税	对于应税收入超过 100 万美元的纳税人，长期资本利得和符合条件的股息所得按照最高的普通所得所得税率 39.6%征税	曾偶尔表示有意通过降低税率或将与某些资产相关的收益指数化以应对通胀，从而减轻资本利得税，但尚未提出正式提议	对于应税收入超过 100 万美元的纳税人，如果对长期资本利得和符合条件的股息所得按普通所得税率征税，并且最高边际税率恢复到 39.6%的建议获得通过，长期资本利得和符合条件的股息所得的税负可能增加近一倍
社会保障税	**社会保险：**以雇员的工资为计税基数（2020年上限为137,000美元，每年根据通胀率调整），由雇主和雇员均摊 12.4% 的社会保险 **医疗保险：** 由雇主和雇员均摊 2.9% 的医疗保险；无收入上限 **适用于S类公司股东的特殊规定：**分配给S类公司股东的收入不被视为自雇收入从而需要计算社会保障税	扩大12.4%社会保险的计税基数；工资总额超过 400,000美元的部分同样需要缴纳社会保险； 工资总额超过 137,000美元，但不超过400,000美元的部分仍无需纳税	没有提出关于社会保障税长期性结构改革的具体建议； 在8月8日给财政部的指令中呼吁免除/递延雇员一方的社会保障税（递延一般适用于税前双周工资4000美元或以下，或非双周工资期的同等金额）； 已讨论过为雇员提供额外的社会保障税减免，但没有正式的提议	如果民主党提出的针对工资总额超过 400,000 美元的收入部分也征收社会保障税的建议获得通过，雇员和公司的社会保障税负担将进一步加重
分项扣除	纳税人可选择以下两项中较高者进行扣除： （1）标准扣除； （2）分项扣除（无限额，执行至2025年） 州税、地方税最高扣除金额为 10,000美元（此限制一直适用至 2025年）	恢复针对收入超过400,000美元纳税人的逐步取消限制；或设置新的28%的分项扣除限额	2019、2020以及 2021年的预算方案中均假设现行法律将无限期延用	如果民主党的提案被通过，纳税人特别是高收入者的分项扣除额将大幅减少
遗产税	最高40%的遗产税、赠与税和代际税；2025年12月31日之前，每个纳税人适用 1000万美元的免征额，每年根据通胀进行调整（2020年为1158万美元） 所继承财产的成本基数也随之调增	呼吁将遗产税恢复到2009年的水平，即适用45%的最高税率，以及人均350万美元的免征额（根据每年的通胀率调整） 废除在去世时调增资产成本基数的规定	2019、2020以及 2021年的预算方案中均假设现行法律将无限期延用	对依赖 1000 万美元遗产税免征额进行家庭财富规划的家庭将产生重大影响

德勤观察

如果民主党提议的税收政策得到实施，可能对高收入和中等收入阶层的纳税人产生较大影响。除了恢复最高边际税率、限制扣除额和增加社会保障

税之外，长期资本利得可能还要按普通所得的最高税率来纳税。但是现阶段的政策提案尚存在很多不确定因素，比如在即将到来的 11 月大选之后，美国国会两院的席位将由哪个政党主导？如果拜登当选，其执政团队的人选如何？随着新冠疫情的流行，未来四年经济的预期如何，可能会对税收政策产生怎样的影响？对于已颁布的 TCJA 税收措施，是否会在 2025 年之前被废除等等。随着大选日的临近，其中一些问题将慢慢变得清晰，纳税人可以在年底前研究制定其因应举措。

二、加利福尼亚州商务人士的报税新方案

概览

出差前往加利福尼亚州 (加州) 的国际商务人士，经常面临税务合规的挑战，而他们的雇主同样面临着加州税法所规定的所得税扣缴和申报义务。其原因在于加州不允许税收协定豁免，而该豁免在联邦层面是允许的。如果雇员没有有效的美国社会保障号（SSN），大多数公司无法通过工资单为他们预扣预缴税款。因此，为了符合要求，这些雇员需要先申报联邦税表以申请联邦个人纳税人识别号（ITIN），等待从美国联邦税局（IRS）获得 ITIN，然后才能申报加州个人所得税表以支付加州税款。这个过程通常需要几个月的时间，并且可能导致延迟申报以及延迟纳税的罚款。

为了解决这个问题，加利福尼亚州近期通过了一项法案（第 2660 号议会法案），为雇主对其国际商务人士在税务合规方面面临的挑战提供解决办法。该法案建立了一种机制，允许雇主自愿申报一份年度综合税表并代表他们所选择的外籍雇员按季度预缴税款。该年度税表将被视为雇主履行了所得税扣缴和申报义务，以及履行了雇员的个人所得税申报义务，除非该雇员成为加州居民或负有其他收入而需有加州所得税申报义务。即使个人决定不加入雇主的综合税表而选择单独申报该年度的个人所得税表，雇主仍然可以代表该雇员按季度预缴税款。预缴税款将用来抵扣年终个人所得税税负。

德勤观察

越来越多的企业把税务合规作为企业管理的优先发展任务。多年来，实操中不同程度的困难给企业的税务合规带来一定困扰。新的申报方法不仅有助于雇主遵守加利福尼亚州的合规要求，而且还减轻了每年在加州停留时间较短的国际商务员工的个人税务申报负担。如果公司希望为其国际商务员工选择这种新的申报方法，应该预先做好规划，确保能够对有关国际派遣员工的商旅与工作行程信息进行有效的跟踪管理，并提前做好员工方面的沟通和指导工作。

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Tax Newsflash

Individual tax proposals of the 2020 U.S. presidential election; new filing method for business travellers in California

I. 2020 Presidential Candidates' Tax Proposals

Overview

The 2020 U.S. Presidential Election is scheduled for Tuesday, 3 November 2020. As part of their 2020 presidential campaign, both candidates – President Donald Trump and former Vice President Joe Biden have laid out significant different tax proposals affecting both individuals and corporations. Biden contends that Trump's Tax Cuts and Jobs Act (TCJA) benefits are skewed to more affluent taxpayers and has offered policy proposals to address that perceived imbalance. President Trump, on the other hand, is making the case that the TCJA's temporary tax cuts were necessary to fuel economic growth and should be made permanent and, in some cases, even expanded.

One of the policy debates in this election would be the fate of Trump's signature Tax Cuts TCJA which lowered the tax burden for many individuals, corporations, estates, and pass-through entities. Most of the tax provisions in the TCJA as enacted are scheduled to expire at the end of 2025. An overhaul of some individual's tax planning could be around the corner if Biden wins the 2020 presidential election. The following table provides a high-level summary of the two candidates' key individual tax proposals and how they may affect American taxpayers if enacted.

Issue	Current law	Joe Biden	Donald Trump	Potential Implications
Federal ordinary income tax rates	Top rate of 37% through 2025 Additional 0.9% Medicare income tax applies to earned income > US$250,000 for joint filers and US$200,000 for single taxpayers	Restore top rate to 39.6%	FY 2019, 2020, and 2021 budget blueprints assume permanent extension of current law Has mentioned a rate cut for middle-income families as part of an eventual Tax Cuts 2.0 package but has not offered a formal proposal	Restore the top marginal rate to the pre-2018 level (39.6%) Affect high-income taxpayers with taxable income over US$622,050 (2020 threshold for MFJ filers)/US$518,400 (2020 threshold for single filers)
Capital gains, dividends	20% tax rate applies to long-term capital gains and qualified dividends Additional 3.8% net investment income tax applies to individuals with income > US$200,000 and joint filers with income > US$250,000	Tax long-term capital gains and dividends at ordinary income rates for those with taxable income > US$1 million	Has occasionally expressed interest in capital gains tax relief either through a rate cut or by indexing gains related to certain capital assets for inflation but has not offered a formal proposal	For taxpayers with taxable income over US$1 million, the tax liability on long-term capital gains and qualified dividends could be nearly doubled if the proposals on taxing long--term capital gains and qualified dividends at ordinary income rates together with the restoration of the top marginal

				rate to 39.6% are passed
Payroll taxes	**Social Security:**12.4% tax is equally split between employers and employees on first US$137,700 of employee's wages (the cap for 2020, indexed for inflation) **Medicare:**2.9% tax is equally divided between employers and employees; no income limit applies **Special rule for S corp shareholders:** Earnings distributed to shareholders of an S corporation are not considered self-employment income for purposes of payroll taxes	Expand the 12.4% Social Security tax to apply to wages > US$400,000, creating a "doughnut hole" of untaxed wages between US$137,700 (as indexed for inflation after 2020) and US$400,000; unclear if US$400,000 threshold would be indexed for inflation	No specific proposals for permanent structural changes to payroll taxes Has called for forgiveness of employee-side Social Security taxes deferred under his Aug. 8 directive to the Treasury Department (deferral generally applies to pretax biweekly wages US$4,000 or less or the equivalent for non-biweekly pay periods) Has discussed possible additional payroll tax relief for employees but has no formal proposal	Increase the payroll taxes burden of both the employee and the company if the proposed expansion by the Democrats applying to both employee and employer's social security tax contributions for wages > US$400,000
Itemized deductions	Taxpayer may deduct the greater of (1) the standard deduction, or (2) the sum of the itemized deductions, with no cap (not subject to any phase-out limitation) on the latter through 2025 State and local tax (SALT) payments deductible up to US$10,000 (cap scheduled to expire after 2025)	Restore phase-out limitation on the itemized deductions for those with income > US$400,000; or install a cap value of itemized deductions at 28%	FY 2019, 2020, and 2021 budget blueprints assume permanent extension of current law	If the Democrats proposal is enacted, significant reduction in itemized deduction can be claimed, especially for the high-income taxpayers
Estate tax	40% estate, gift, and generation-skipping tax; basic exclusion of US$10 million per taxpayer, adjusted annually for inflation (US$11.58 million in 2020); increased exemption sunsets 31 December 2025 Step-up in basis applies to inherited assets	Has called for "returning the estate tax to 2009 levels," implying a 45% top rate and base exclusion of US$3.5 million per taxpayer, indexed annually for inflation Repeal stepped-up basis at death	FY 2019, 2020, and 2021 budget blueprints assume permanent extension of current law	Significant impact to families who rely on the US$10 million threshold (and the subsequent indexed amount) on their family wealth planning

Observations

High and middle income class taxpayers may find they are mostly affected if the Democratic proposed tax measures get enacted especially for those taxpayers who may have to pay ordinary income tax rates on long-term capital gains in addition to restoration of top marginal income tax rate, limitation on deductions and increase in payroll taxes. There are many uncertainties at this stage such as which party will dominate the seats in the two houses in the U.S. Congress after the upcoming November election? If Biden gets elected, who will he choose to staff his administration? With COVID having become a pandemic, what will be the expected state of the economy and how will that affect the tax policy in the next 4 years? For those enacted TCJA tax measures, will they get repealed before 2025, etc.?

With the Election Day just a few weeks away, a better indication to some of these questions may become clearer so taxpayers can start working on their own tax plan before the end of the year.

II. New filing method for business travellers in California

Overview

Business travellers from outside the United States who travel to California on business trips may present a tax compliance challenge as well as withholding and reporting obligations as required under exiting California law for their employers because the state does not allow a tax treaty exemption, even if it is permitted at the federal level. Most companies have found they are unable to comply with the California withholding and reporting obligations as they are unable to remit taxes via payroll for employees without a valid U.S. Social Security number (SSN). As a result, in order to be compliant, these employees need to first file a federal tax return to apply for a federal Individual Taxpayer Identification Number (ITIN) and then wait to obtain the ITIN from the Internal Revenue Service before filing a California personal income tax return to pay California taxes. It often takes months to complete the process and may result in penalties for late filing and late payment of tax.

To tackle this problem, California has recently passed a bill (Assembly Bill 2660) ("Bill") that may provide a solution to employer to address payroll and tax compliance challenges for their international business travellers. The Bill creates a mechanism that allows employers to voluntarily file a single annual composite tax return and remit taxes quarterly on behalf of their electing foreign workers who travel into California. The annual return would be treated as fulfilling the employer's income tax withholding and reporting obligations, as well as fulfilling the employee's personal income tax filing obligations unless he or she becomes a California resident or has an unrelated California income tax-filing obligation. The employer could still remit quarterly taxes on behalf of the employee even if the individual decides to opt out of the employer's composite return and instead chooses to file a personal income tax return for the year. The taxes remitted on the employee's behalf would be allowed to be credited against the individual's personal income tax liability.

Observations

Increasingly employers have put full compliance as a priority. Over the years, different levels of practical difficulties prevented companies to accomplish this. The new filing method not only allows the employers to be compliant with the California state requirements, but it also reduces the personal tax filing administrative burden of the international traveling employees who may spend only a short period of time in California each year. If companies would like to opt into this new filing method for their international traveling employees, they should plan upfront on tracking their mobile employees. In addition, the affected employees should be provided with a clear communication and instructions regarding the election of opting into the employer's composite return.

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