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English

税务快讯

2020 年美国大选对美国企业所得税政策的影响

因我不同
成就不凡
始于 1845

2020 年 11 月 3 日，数百万的美国选民将就美国大选进行投票，而这次两位美国总统候选人为前副总统拜登和现任总统特朗普。

特朗普总统在其首次任期内的显著成就之一是于 2017 年 12 月 22 日颁布的新税法，通常被称作《减税和就业法案》（TCJA）。该法案减轻了许多企业（无论是公司类型还是税收穿透实体）、个人、信托和遗产的税收负担。11 月 3 日进行的选举的结果将决定 TCJA 的命运。

前副总统拜登认为 TCJA 的税收优惠偏向于大公司和较富裕的个人纳税人。在 10 月 7 日的副总统辩论中，当被问及 TCJA 的话题时，拜登的竞选伙伴加州参议员卡玛拉·哈里斯曾提到："拜登将在上任第一天就会废除这一税收法案"。另一方面，特朗普总统则表示，TCJA 当中的临时减税政策是刺激经济增长所必需的，应该永久实施，甚至应当扩大某些减税政策。

本期税务快讯对上述两位候选人关于 TCJA 和其他问题的税收政策提案进行了概要性对比。本期税务快讯主要侧重于企业所得税的相关法规。若您希望了解 2020 年美国总统大选个税提案，敬请参阅我们于 10 月 9 日发布的税务快讯。关于下表所概括的税法提案，两位总统候选人尚未对他们提出的许多提案提供详细的信息。

公司和其他经营实体的所得税提案

项目	现行法律	拜登提案	特朗普提案
【1】企业所得税税率	21%	将税率提高至 28% 将向美国净收入超过一亿美元但无美国所得税税负的公司就其账面收入征收 15%的最低企业所得税	欲将税率降低至 20%，但未正式提出下调方案
【2】折旧	一般而言，符合资格的财产支出允许到 2022 年底之前立刻享受 100%全额费用化；从 2023 至 2026 年该扣除比例会逐年降低到 20%（2026 年之后到期）	暂未提出正式提议；也许会受 15%最低企业所得税影响（见上述）	考虑延长或扩大额外折旧并允许"全额费用化"，但未有正式提案 允许 "将制造业带回美国的重要行业，例如制药行业和机器人技术行业"进行 100％的全额费用化
【3】美国跨国公司的非美国来源收入	至 2025 年底，美国跨国公司将其获得的全球无形低税收入（GILTI），扣除 50%后的部分计入应纳税所得额（即有效税率为 10.5%），2025 年以后，可将 GILTI 扣除 37.5%后的部分计入应纳	将 GILTI 的有效税率提高至 21%	保持现行法律

	税所得额（即有效税率为 13.125%）		
【4】针对将就业迁移到海外或是在美国创造就业的美国本土公司的税务处理	无直接的激励或限制政策	制定一项“追溯”条款，要求公司在美国裁员并把相关职能外包到海外时需返还（已享受的）公共资助和税收优惠 取消制药业公司和其他将生产功能转移到海外的公司的税收激励措施	“为将就业机会从中国转回至美国的公司提供税收抵免” 对离开美国到海外创造就业机会的公司征收关税 允许重要行业就其符合资格的财产支出进行 100% 全额费用化（见上述）
【5】关于避税天堂和防止税基侵蚀的政策	税基侵蚀和反滥用税（BEAT） 条例限制了大型跨国公司通过向位于低税率国家的关联方公司支付可税前扣除的款项的方式以转移其在美国的留存利润	减少使用“避税天堂、税务规避、以及外包”的动机	保持现行法律
【6】附带权益	如果持有超过三年，则视为长期资本利得	适用于普通所得的所得税税率（恢复至最高 39.6%的税率）	曾表示欲终止长期资本利得的税收优惠政策，但没有正式方案

另外，需要注意的是美国的税收政策一般起源于美国国会（由美国参议院和美国众议院组成），而不是白宫。因此，在拜登政府或特朗普政府第二任期内制定的任何新税收法案都必须考虑美国国会的批准。在这方面，美国参议院的选举也同样将于 11 月 3 日举行，届时 100 个席位中的 33 个席位将进行定期选举（除了两项特别选举以填补某些参议院席位空缺）。同样在 11 月 3 日，美国众议院的所有 435 个席位都将进行选举（同样将进行特别选举以填补某些众议院席位空缺）。 毫无疑问，参议院和众议院选举的结果也将对税收政策产生重大影响。

尽管存在各种不确定的因素，未来几年内美国税法产生重大变化是存在现实的可能性的。现在开始评估候选人提出的各项提案和对潜在的影响进行建模还不算为时过早。另外，现在亦可以计划当提案

从框架性方案和讨论要点到成为具有实质内容和生效日期的全面立法政策时应采取什么样的适当措施。

我们建议在美从事商业活动的中国企业应该紧密关注美国税法的发展动向，从而判断相关改变所产生的潜在影响。如果您需要了解税务发展的最新动态，评估其对企业的影响以及获知企业所需采取的应对措施，欢迎联系德勤中国的美国税务服务小组成员或者您的德勤联系人：

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Tax Newsflash

Impact of the 2020 US elections on US corporate income tax policy

On November 3, millions of US voters will be casting their vote in the general election, where the leading contenders for President are former Vice President Joe Biden and incumbent President Donald Trump.

One of President Trump's notable achievements during his first term in office was the enactment of the tax law informally known as the Tax Cuts and Jobs Act (TCJA) on December 22, 2017 which, among other things, lowered the tax burden for many businesses (whether formed as corporations or pass-through entities), individuals, trusts, and estates. Implicitly on the November 3 ballot is the fate of TCJA.

Former Vice President Biden contends that the benefits of TCJA are skewed to large corporations and more affluent individuals. When asked about TCJA in the Vice Presidential debate on October 7, Joe Biden's running mate California Senator Kamala Harris stated "On day one Joe Biden will repeal that tax bill." President Trump, on the other hand, argues that the temporary tax cuts of TCJA were necessary to fuel economic growth and should be made permanent – and, in some cases, expanded.

This publication offers a high-level comparison of the two candidates' tax policy proposals on TCJA and other issues. This publication focuses specifically on corporate income tax provisions. See our Tax Newsflash dated October 9 for a summary of individual tax proposals of the 2020 US presidential election. With respect to the provisions summarized below, note that little detail is currently available with respect to many of the proposals that either candidate has put forward thus far.

Corporate and business tax proposals

Issue	Current law	Joe Biden	Donald Trump
[1] Corporate income tax rate	21%	Increase to 28% 15% minimum tax on book income of companies reporting US net income > USD 100	Has said he favors a decrease to 20% but has no formal proposal

		million but owe no US income tax	
[2] Depreciation	Generally, 100% immediate expensing for qualified property through 2022, then phased down each year through 2026 to 20% (expires after 2026)	No specific proposal, but may be affected by proposed minimum tax (see above)	Said to be considering proposals to extend or expand bonus depreciation and to allow "full expensing", but has not released a formal plan. Allow 100% expensing "for essential industries like pharmaceuticals and robotics who bring back their manufacturing to the United States."
[3] Foreign-source income of US multinationals	Global intangible low-taxed income (GILTI) earned by US-based multinationals subject to a 50% deduction (effective tax rate of 10.5%) through 2025, and a 37.5% deduction (effective tax rate of 13.125%) thereafter	Increase GILTI effective rate to 21%	Retain current law
[4] Tax treatment of domestic companies that offshore or re-domesticate jobs	No direct incentives or disincentives	Establish a "claw-back" provision requiring a company to return public investments and tax benefits when they shed US jobs and send them overseas Eliminate incentives for pharmaceuticals and other companies to move production overseas	"Create tax credits for companies that bring jobs from China back to America" Impose "tariffs on companies that leave America to produce jobs overseas" Allow 100% expensing for essential industries (see above)
[5] Tax havens, base erosion generally	Base Erosion and Anti-Abuse Tax (BEAT) limits the ability of large	Reduce incentives for "tax havens, evasion, and outsourcing"	Retain current law

	multinationals to shift profits from the United States by making deductible payments to their affiliates in low-tax countries		
[6] Carried interest	Treated as long-term capital gains if held for more than three years	Tax at ordinary rates (restore top rate to 39.6%)	Has said he wants to end favorable tax treatment but has no formal proposal

In the context of the summary discussion above, it is important to note that generally tax policy originates in US Congress (which consists of two chambers – the US House of Representatives and the US Senate), not the White House, so any new tax laws enacted in a Biden administration or in the second term of a Trump administration will necessarily need to consider the approval of US Congress. In this regard, elections for the US Senate will also be held on November 3 when a total of 33 of the 100 seats are up for regular election (in addition to two special elections to fill certain vacancies). Also on November 3, all 435 seats in the US House of Representatives are up for election (with special elections to fill certain vacancies). No doubt, the result of these US Congressional elections will also have a significant impact on tax policy.

Despite various elements of uncertainly, significant tax law changes over the next few years is a real possibility, and it is not too early to start evaluating the proposals being put forward, modelling potential outcomes, and planning the appropriate actions to take if and when these proposals go from high-level plans and talking points to fully framed legislative policies with substance and effective dates.

Chinese companies with US operations are recommended to follow these developments closely and assess the potential impact of any tax law changes. For further information, contact any of the China-based US tax professionals listed below or your regular Deloitte contact.

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