ECONOMY, ELECTION AND YEAR-END TAX PLANNING
THE PERFECT STORM FOR INDIVIDUALS

November 12, 2020
With You Today

JOHN NUCKOLLS
Managing Director, Private Client Services National Senior Technical Director
415-490-3393
jnuckolls@bdo.com

TRACI PUMO
Partner, National Tax Office, Private Client Services
561-207-3239
tpumo@bdo.com

KATHY WALTER
Senior Manager
206-267-7687
kwalter@bdo.com
Discussion Topics

- Individual Tax Laws
- Potential Impact from Election on Individual Taxes
- Charitable Planning: Why 2020 May Be an Optimum Year for Charitable Planning
- Estate, Gift and Generation-skipping Tax Planning: Why Now Is the Time to do Estate Planning
- Year-end Planning Ideas to Manage Tax Liability

THE PERFECT STORM FOR INDIVIDUALS
Individual Tax Laws
Individual Tax Rates

<table>
<thead>
<tr>
<th>PROVISION</th>
<th>TAX YEAR 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Individual Tax Rates</td>
<td>Seven tax brackets</td>
</tr>
<tr>
<td></td>
<td>10%, 12%, 22%, 24%, 32%, 35% and 37%</td>
</tr>
</tbody>
</table>

The top individual rate will be for joint filers with more than $622,050 of taxable income, single or head-of-household filers with more than $518,400 of taxable income, and married filing separate filers with more than $311,025 of taxable income.
## Individual Standard Deduction & Personal Exemptions

<table>
<thead>
<tr>
<th>PROVISION</th>
<th>TAX YEAR 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Standard Deduction</strong></td>
<td>The standard deduction is increased to $24,800 for joint filers, $18,650 for head-of-household filers and $12,400 for all other taxpayers.</td>
</tr>
<tr>
<td><strong>Personal Exemptions</strong></td>
<td>For tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026, the exemption amount is reduced to zero.</td>
</tr>
</tbody>
</table>
# Medical Expenses and State & Local Tax Deductions

<table>
<thead>
<tr>
<th>PROVISION</th>
<th>TAX YEAR 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Medical Expense Deduction</strong></td>
<td>The itemized deduction for medical expenses must exceed 7.5% of the taxpayer’s Adjusted Gross Income (AGI).</td>
</tr>
</tbody>
</table>
| **State and Local Tax and Real and Personal Property Tax Deduction** | - The aggregate deduction for state and local real property taxes, personal property taxes, state and local and foreign income and excess profits taxes, and general sales taxes is limited to $10,000 ($5,000 for married individuals filing separately).  
  - This $10,000 limitation will also apply to state and local income taxes imposed on owners of pass-through entities on their business income.  
  - The deduction for foreign real property taxes is eliminated (unless paid or accrued in carrying on a trade or business or in an activity engaged in for profit). |
## Home Mortgage Interest Deduction

**PROVISION**  
**TAX YEAR 2020**

**Home Mortgage / Home Equity Interest Deduction**

- For tax years beginning after Dec. 31, 2017, and before Jan. 1, 2026, the deduction for interest on home equity debt is suspended, and the deduction for home acquisition mortgage interest is limited to underlying debt of up to $750,000 ($375,000 for married taxpayers filing separately).
- The new lower limit does not apply to any acquisition debt incurred before Dec. 15, 2017.
- Prior law’s $1 million/$500,000 limitations continue to apply to taxpayers who refinance existing qualified residence debt that was incurred before Dec. 15, 2017, provided the debt resulting from the refinancing does not exceed the amount of the refinanced debt.
Charitable Contributions & the Affordable Care Act

<table>
<thead>
<tr>
<th>PROVISION</th>
<th>TAX YEAR 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Charitable Contributions</td>
<td>▶ The AGI limitation for cash contributions to public charities and certain private foundations is 100% of AGI.</td>
</tr>
<tr>
<td></td>
<td>▶ Contributions exceeding the 100% limit may be carried forward and deducted for up to five years.</td>
</tr>
<tr>
<td>Affordable Care Act (ACA) Individual Mandate</td>
<td>For months beginning after Dec. 31, 2018, the amount of the individual’s shared responsibility payment or penalty is reduced to zero.</td>
</tr>
</tbody>
</table>
## Alternative Minimum Tax

<table>
<thead>
<tr>
<th>PROVISION</th>
<th>TAX YEAR 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alternative Minimum Tax (AMT)</td>
<td>The AMT exemption amounts are:</td>
</tr>
<tr>
<td></td>
<td>▶ $72,900 for single taxpayers</td>
</tr>
<tr>
<td></td>
<td>▶ $113,400 for married filing jointly</td>
</tr>
<tr>
<td></td>
<td>▶ $56,700 for married filing separately</td>
</tr>
<tr>
<td></td>
<td>▶ $25,400 for trusts and estates</td>
</tr>
<tr>
<td></td>
<td>These exemption amounts are reduced (not below zero) to an amount equal to 25% of the amount by which the taxpayer’s AMTI exceeds increased phase-out thresholds:</td>
</tr>
<tr>
<td></td>
<td>▶ For joint returns and surviving spouses, $1,036,800</td>
</tr>
<tr>
<td></td>
<td>▶ For all other taxpayers (other than estates and trusts), $518,400</td>
</tr>
<tr>
<td></td>
<td>▶ For estates and trusts, $84,800</td>
</tr>
</tbody>
</table>
## Child Tax Credit & Alimony

### PROVISION | TAX YEAR 2020
--- | ---
Child Tax Credit & Credit for Other Dependents | The child tax credit is $2,000 (up to $1,400 is refundable)
- The income levels at which the credit phases out are $400,000 for married taxpayers filing jointly ($200,000 for all other taxpayers). These thresholds are not indexed for inflation.
- A $500 nonrefundable credit is provided for certain other dependents ineligible to be claimed for the child tax credit.
Alimony | For divorce and separation agreements executed after Dec. 31, 2018, the deduction for payment of alimony or separation maintenance will not be available, nor will the payment be includable in income of the recipient.
- Previous agreements could be modified to be consistent with the TCJA.
## Estate & Gift Tax Exemption

<table>
<thead>
<tr>
<th>PROVISION</th>
<th>TAX YEAR 2020</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estate &amp; Gift Tax Exemption</td>
<td>- For estates of decedents and gifts made after Dec. 31, 2017 and before Jan. 1, 2026, the base estate and gift tax exemption amount is doubled from $5 million to $10 million.</td>
</tr>
<tr>
<td></td>
<td>- The $10 million amount is indexed for inflation and is $11.58 million for 2020 ($23.16 million per married couple).</td>
</tr>
<tr>
<td></td>
<td>- The increase in exemption amount also applies to generation-skipping transfer taxes.</td>
</tr>
<tr>
<td></td>
<td>- The annual gift tax exclusion amount is $15,000 in 2020.</td>
</tr>
<tr>
<td></td>
<td>- The annual gift tax exclusion amount for gifts to spouses who are not citizens of the United States is $157,000 in 2020.</td>
</tr>
</tbody>
</table>
Potential Impact of Election on Individual Taxes
Election: Biden’s Tax Platform

Proposed Tax Rate Changes

- Top rate 39.6%
- Tax increases for taxpayers making more than $400,000
- Raise minimum GILTI rate to 21%
- Capital gain rates: 39.6% for taxpayers with over $1 million in income
- Opportunity zones reform
  - Incentivizing opportunity funds to partner with non-profit or community-oriented organizations
  - Direct benefits to be reviewed by the Department of Treasury
  - Require recipients to provide detailed reporting and public disclosure

THE PERFECT STORM FOR INDIVIDUALS
Election: Biden’s Tax Platform

ITEMIZED DEDUCTIONS
- Cap itemized deductions at 28%
- Restore Pease limitation for income above $400,000
- End SALT cap

CHILD INCENTIVES
- Expand earned income tax credit (EITC) to older workers
- Expand dependent care credit to $8,000

OTHER PROPOSED CHANGES
- Eliminate step-up in basis to FMV at death
- Eliminate carried interest
Election: Biden’s Tax Platform

Retirement

▶ Create an “automatic 401(k)” for workers that do not have access to a pension or 401(k) plan through their employer

▶ Allow 401(k) plans to offer penalty-free hardship withdrawals and distributions for survivors of domestic violence or sexual assault

▶ Catch-up contributions for caregivers

▶ Tax credits to small businesses to help offset the cost of starting or maintaining retirement plans
Election: Biden’s Tax Platform

QBI
- End special qualifying rules
  - Including ones for real estate investors
- Taxpayers making $400,000 or less would be eligible for deduction

Real Estate
- First-home buyer credit of up to $15,000
  - Credit would be refundable
  - Paid upon purchase, not when filing tax return
- Neighborhood Home Credit for renovating distressed properties in distressed communities
- Renter’s tax credit
Election: Trump’s Tax Platform

- Proposed Tax Rate Changes
  - Considering a 10% tax cut for the middle class
  - Cut capital gains rate to 15% by executive action
    - Considering indexing capital gains to inflation

- Other proposed changes
  - Extend TCJA provisions past 2025
  - Make TCJA rates permanent

- Repeal Affordable Care Act

- Eliminate carried interest
Charitable Planning: Why 2020 May Be the Optimum Year for It
Charitable Planning

2020 Tax Law Changes

- 100% AGI limitation on certain cash gifts made in 2020
- Taxpayers taking the standard deduction are entitled to an above-the-line deduction of up to $300 for certain qualified charitable contributions
- Charitable deduction is limited to a percentage of AGI, based on the type of property donated and the organization to which the donation is made
Charitable Contributions and AGI

- **100% AGI**: Cash contributions paid directly to public charities
  - Limited to cash contributions made in 2020
  - Does not include private foundations or donor-advised funds
  - In 2021, cash contributions will return to 60% AGI limitation

- **50% AGI**: Noncash (noncapital gain property) contributions to qualified charities

- **30% AGI**: Cash contributions and noncash contributions of capital gain property
  - Cash to private foundation
  - Qualified appreciated stock to public charity or donor-advised fund

- **20% AGI**: Noncash contributions of capital gain property
  - Qualified appreciated stock to private foundation
# Timing of Gifts

<table>
<thead>
<tr>
<th>METHOD OF CHARITABLE GIVING</th>
<th>EFFECTIVE DATE OF CONTRIBUTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gifts by check</td>
<td>Date the check is mailed</td>
</tr>
<tr>
<td>Gifts by credit card</td>
<td>Date the charge is made to the card</td>
</tr>
<tr>
<td>Gifts of stock-by-stock certificate (typical case)</td>
<td>Date of transfer according to issuer’s/transfer agent’s records</td>
</tr>
<tr>
<td>Gifts of stock by electronic transfer</td>
<td>Date the stock is received according to issuer’s record</td>
</tr>
</tbody>
</table>
Timing of Charitable Contributions

- Consider the taxpayer’s expected tax bracket: 2020 vs. 2021
- A taxpayer planning to make a charitable contribution in 2021 should consider making it in 2020 instead if speeding up the deduction would produce overall tax savings, e.g., because the taxpayer is in a higher marginal tax bracket in 2020 than in 2021
  - Keep in mind the AGI limit for cash gifts to public charities is 100% of AGI for 2020
- Taxpayers that expect to be in a higher bracket in 2021 should consider deferring a contribution until that year
- In making any sizeable charitable contributions, to the extent possible, make the contributions in appreciated capital gain property that would result in long-term capital gain if sold
  - A deduction generally is obtained for the full value of the property, such as shares of stock, etc., while income tax on the appreciation in value is avoided
Appreciated Capital Gain
Property to Public Charity

- Generally subject to a 30%-of-AGI ceiling, unless a special election is made to reduce the deductible amount of the contribution
- Making the election will limit the donor’s deduction to the basis of the contributed property
- In most cases, the election should be made only if the FMV of the property is equal to or only slightly higher than the basis of the property
- If an election is made, then the AGI limitation increases to 50%-of-AGI
Stock Contributed to a Private Foundation

- The charitable deduction for contributions of appreciated property to a private foundation generally is limited to the taxpayer’s basis in the property.

- A special rule allows a full FMV deduction for contributions of qualified appreciated stock:
  - In general, qualified appreciated stock is stock that is capital gain property and is traded on an established securities market.

- To claim a full deduction on the 2020 return for a contribution of “qualified appreciated stock” to a private foundation, the private foundation must be set up by year-end and the contribution must be made before 2021.
Charitable Lead Trusts (CLTs)

- A CLT is a type of split interest trust whereby an annuity or unitrust income interest is paid to a charitable beneficiary for a specified period of time and the remainder interest is distributed to a non-charitable beneficiary (often the grantor or the grantor’s children).
- A CLT is not tax-exempt. If structured as a grantor trust, the grantor reports the income on his or her personal income tax return. If treated as a non-grantor trust, the CLT is taxed as a complex trust.
- If structured as a grantor trust, the grantor receives an income tax charitable deduction equal to the present value of the income interest going to charity in the year of contribution to the CLT. The income of the CLT will be attributable to the grantor-owner during the term of the CLT and no subsequent charitable deductions will be permitted for the annuity or unitrust payment each year to charity.
- If structured as a non-grantor trust, the grantor will not be entitled to a charitable deduction in the year of contribution, but the trust will take charitable deductions on its tax return for income distributed to charity each year.
Estate, Gift and Generation-Skipping Tax Planning
Federal Estate, Gift, and GST Taxes

- The applicable exclusion amount is $11,580,000 for gifts made and estates of decedents dying in 2020
- 2020 Annual exclusion limit = $15,000 per donee
  - Spouses may “split” their gifts to each donee, raising the per donee annual maximum exclusion to $30,000
- Portability
  - Allows the estate of a decedent who is survived by a spouse to make a portability election to permit the surviving spouse to apply the decedent’s unused exclusion to the surviving spouse’s own transfers during life and at death
  - The portability election must be made on a timely filed estate tax return
    - When advising an executor as to the need to file a federal estate tax return, always consider the need for a portability election
    - Rev. Proc. 2017-34 provides relief for late estate tax portability elections
Strategies for Year-End 2020

► Annual exclusion gifts ($15,000 per donee)

► GST annual exclusion gifts ($15,000 per donee)
  • Section 529 plans can be “front-loaded” with up to five years’ worth of annual exclusion gifts ($75,000 per person, or $150,000 per couple)
  • Special rules for application of GST annual exclusion gifts to trusts

► Planning note: The basis is carried over to the beneficiary, so the beneficiaries will not get the benefit of the basis step-up that would occur on death

► Gifts using “enhanced” exemption
Strategies for Year-End 2020

- Grantor Retained Annuity Trust (GRAT)
- Spousal Lifetime Access Trust (SLAT)
- Sale to Intentionally Defective Grantor Trust
Gifts to Children and Other Family Members

► Income Taxed to Donee
  • Once an individual makes a gift of income-producing property to a family member, the income will be taxed to the donee and not to the transferor
  • If the donee is in a lower income bracket, the aggregate family income tax liabilities will be reduced
  • Maximum savings will be realized for a gift to a child of the donor only if the child is not subject to the kiddie tax in the current year

► Kiddie Tax, a child is subject to the kiddie tax for if:
  • He or she is under age 18 at the end of the year, or is age 18 at the end of the year (or a full-time student over age 18 and under age 24), and his earned income for the tax year doesn’t exceed one-half of his support
  • He or she has more than $2,200 of unearned income
  • The child has at least one living parent at the close of the tax year
  • The child does not file a joint return for the tax year
Year-end Strategies to Manage Tax Liability
Overview

Year-end tax planning is generally oriented towards deferring income and accelerating deductions to minimize current-year taxes.

• Has the advice changed for 2020?

Effective year-end tax planning must take into account each taxpayer’s unique situation and tax planning goals, with the aim of minimizing income taxes to the greatest extent possible.
Accelerating Income

- Convert a traditional IRA to a Roth IRA
- Accelerate required minimum distributions
- Elect out of installment sales
- Trigger an inclusion event for opportunity zone investments
- Harvest capital gains
- Forgo like-kind exchanges
- Exercise stock options
- Buy back stocks that were sold at a loss within the last 60 days to take advantage of the wash sale rules which disallow the capital loss in 2020 but increase tax basis for future dispositions in subsequent years
- Review flow-through businesses for tax accounting method change opportunities
Other Planning Opportunities

- Opportunity zones
- Qualified charitable contributions
- Increase withholding before year-end to ensure no underpayment penalties
- SECURE Act: Review beneficiaries of retirement plans
- CARES Act: Waiver of qualified plan 10% early distribution penalty for COVID-19 purposes
Q&A
BDO is the brand name for BDO USA, LLP, a U.S. professional services firm providing assurance, tax, and advisory services to a wide range of publicly traded and privately held companies. For more than 100 years, BDO has provided quality service through the active involvement of experienced and committed professionals. The firm serves clients through more than 65 offices and over 700 independent alliance firm locations nationwide.

As an independent Member Firm of BDO International Limited, BDO serves multi-national clients through a global network of more than 88,000 people working out of more than 1,600 offices across 167 countries and territories.

BDO USA, LLP, a Delaware limited liability partnership, is the U.S. member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms. BDO is the brand name for the BDO network and for each of the BDO Member Firms.

www.bdo.com
Thank You