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# *What you may expect from Tax Reform*

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# AGENDA

- The Starting Point...Existing Proposals
  - President Trump's Tax Reform Proposal
  - House Republican Proposal (the "Blueprint")
  - Tax Reform Act of 2014 (Drafted by Dave Camp )
- Business and Individual Provisions
- Estate and Gift Tax
- Implications
- Q&A

# THE BIG PICTURE



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# WHAT'S THE LATEST

- April 26 – The Trump administration revealed a “skeletal” outline of proposed tax reform package
- Current Wall Street Journal Headlines
  - *Apple’s Case for Tax Reform – May 9, 2017*
  - *The White House Rejects Tax Reform for the Old Tax Cut Formula – April 30, 2017*
  - *WSJ’s Daily Shot: Searching for Ways to Pay for the Proposed Tax Cuts – April 30, 2017*
  - *Trump’s Finest Moment (So Far) – April 27, 2017*
  - *Do You Want Reagan’s Economy or Obama’s? – April 19, 2017*

# KEY PRINCIPLES FOR ALL PROPOSALS

- Broaden the base and lower tax rates
- Simplify the tax code
- Minimize the taxation of savings and investment
- Eliminate most “special interest” deductions and credits
- Switch to a territorial system for taxing foreign earnings



# IMPLICATIONS FOR BUSINESSES



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# GENERAL BUSINESS PROVISIONS

- Reduce income tax rates for businesses
  - Decrease top corporate tax rate from 35% to a flat rate of 15% (Trump), 20% (House), or 25% (Camp)
  - Flat rate of 15% for pass-throughs (Trump) or top rate of 25% (House) with deduction for “reasonable compensation” paid to active business owner
    - Camp: No significant changes to pass-through tax rate

# GENERAL BUSINESS PROVISIONS

- Net operating losses (NOLs)
  - House: No carryback but carried forward indefinitely and indexed for inflation – carryforwards limited to 90% of net taxable amount for the year of the carryforward
  - Camp: Insurance companies adopt general NOL rules
  - No mention by Trump

# GENERAL BUSINESS PROVISIONS

- Cost recovery for tangible and intangible property
  - Trump: Not addressed (though during campaign proposed that manufacturers could immediately expense)
  - House: Everyone can expense!
  - Camp: “Slow it down...” – Repeal MACRS, adopt ADS
- House and Trump – with full expensing, no deduction for interest expense (or limited to extent of interest income)
- All would eliminate most “special interest” deductions and credits – R&D credit would remain, with varying modifications
- All would repeal corporate AMT

# INTERNATIONAL PROVISIONS

- All proposals would replace worldwide system with a territorial system
- All include provisions for one-time tax to repatriate accumulated profits held offshore
  - Trump: Rate not specified (during campaign stated 10%)
  - Camp and House: 8.75% for accumulated earnings in cash or 3.5% for other earnings
    - Payable over 8 years

# INTERNATIONAL PROVISIONS

- “Border adjustment” tax: House proposal would create taxing system where business income would be based on the location of consumption rather than location of production, exempting exports and taxing imports



# SUMMARY – BUSINESSES

Topic	Trump	House	Camp
Corporate Tax Rate	15% flat rate	20% flat rate	25% flat rate
Pass-through Tax Rate	15% flat rate	25% max, deduct reasonable income for active-owner	No modifications
Cost Recovery & Interest Expense	Silent (campaign proposed expensing for manufacturers, but limited interest deduction)	Full expensing; no interest deduction	Repeal MACRS, adopt ADS; no impact on interest deduction
AMT	Repeal	Repeal	Repeal
International	Territorial system; tax on repatriation on accumulated foreign earnings	Territorial system and border-adjustment tax; 8.75%/3.5% on repatriated earnings	Territorial system and 8.75%/3.5% on repatriated earnings

# IMPLICATIONS FOR INDIVIDUALS



# PROVISIONS AFFECTING INDIVIDUALS

- Significantly reduce marginal tax rates (from 7 to 3)
  - Current marginal rates – 10%, 15%, 25%, 28%, 33%, 35%, 39.6%
  - Trump proposed marginal rates – 10%, 25%, 35%
  - House proposed marginal rates – 12%, 25%, 33%
  - Camp proposed marginal rates – 10%, 25%, 35% (25% for production income)



# PROVISIONS AFFECTING INDIVIDUALS

- Increase standard deduction amounts
  - Trump: “Double” – estimated at \$12,600 for single filers; \$25,200 for joint filers
  - House: \$12,000 (single); \$24,000 (joint)
  - Camp: \$11,000 (single); \$22,000 (joint)
- It is projected that 27 million (60%) of the 45 million filers who would otherwise itemize in 2017 would opt for the standard deduction



# PROVISIONS AFFECTING INDIVIDUALS

- Repeal ACA taxes (3.8% NIIT and .9% Medicare tax) for both Trump and House
- No personal exemptions but increased child tax credit (House and Camp) or above-the-line deduction for childcare (Trump)
- Itemized deductions
  - House and Trump: Eliminate all except mortgage interest and charitable contributions (no deduction for real estate taxes or state taxes)
  - Camp: Repeal most itemized deductions; Mortgage Interest limited for indebtedness over \$500,000 (phase-in over 4 years); significant changes to charitable contributions.

# PROVISIONS AFFECTING INDIVIDUALS

- Capital gains taxes
  - Trump: Maximum rate of 20%
  - House: Permit 50% deduction of net capital gains, qualified dividends, and interest income (effectively cutting tax rate in half)
  - Camp: Permit above-the-line deduction for 40% of net capital gains and qualified dividends
  - House and Trump: Repeal 3.8% NIIT (as part of health care reform)
- Repeal AMT

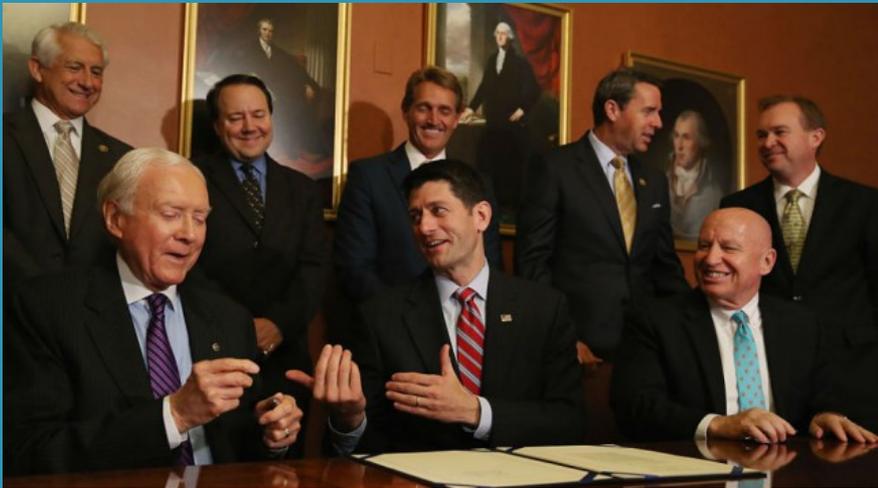
# IMPACT ON DISTRIBUTION

- On average, households at all income levels would receive tax cuts, but the highest-income households would receive the largest cuts
  - Overall taxes would decrease by average of \$2,940 or 4.1%
  - Top 20% would see a 6.6% increase in after-tax income
  - Top 1 percent would see a 13.5% increase in after-tax income
  - Top 0.1 percent would see a 14.2% increase in after-tax income
- In contrast
  - Lowest-income households would see a 0.8% increase in after-tax income (\$110)
  - Middle-income households would see a 1.8% increase in after-tax income (\$1,010)

# IMPACT ON COMPLEXITY

- Trump's plan would simplify the tax code in several ways
  - Increasing the standard deduction and repealing personal exemptions – reduces record-keeping and reporting requirements
  - Number of itemizers would drop 60% to 27 million in 2017
  - Eliminating head of household, AMT, and ACA's 3.8% rate on net investment income would simplify tax preparation
- Some elements of the plan could add complexity
  - Fails to address high-wage earners' strong incentive to become pass-through entities
  - Businesses that elect expensing would lose their interest deductions, making investment decisions more complex
  - All tax changes require changing tax software, education, explanation and misinformation

# IMPLICATIONS FOR ESTATES



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# ESTATE TAX

## ELEMENTS OF THE PROPOSAL:

- Eliminate federal estate, gift and GST taxes
  - Removes several economic distortions (including the incentive to spend down asset balances below threshold for taxation)
  - Also removes incentive for wealthy to make charitable contributions
  - Eliminate “step up” to FMV in inherited assets
  - Possibility of retaining the gift tax even if estate tax is repealed
- Tax capital gains held until death (above a \$5 million per person exemption)
  - Reduces incentive for wealthy individuals to hold on to appreciated assets until death to escape capital gains tax

## ESTATE TAX

### WILL YOU BE AFFECTED BY POTENTIAL REPEAL?

- As of today, Federal estate tax laws continue to provide for the ability to leave an unlimited amount to your spouse or charity.
- Exemptions for  transfers at death is currently at \$5,490,000 (\$10,980,000 for a married couple).
- According to the Tax Policy Center, only one in 517 decedents (or .019%) will pay estate tax.

# ESTATE TAX

## ESTATE TAX PLANNING IS STILL IMPORTANT

- Step up in basis – could go away
- Tax reform can be (usually is) temporary
- Washington State residents with net assets worth more than \$2,129,000 are liable for state estate taxes
- Build flexibility into your clients' estate plans
- Elimination of gift tax would increase ability to do asset protection planning
- Consider putting LPOAs in trusts so assets can be “re-vested” in the grantor if it becomes more important for step up

# DO WE KEEP PLANNING OR WAIT?

Downside of waiting to do gifts/sales

- Potential 2704 Regs may be enacted?
- Capital gains tax on death could be avoided if transferred to a trust now
- Transition could help protect and preserve assets from creditor risk, remarriage, etc

## IF REPEAL HAPPENS....

- Every will and revocable trust should be reviewed
  - Credit trusts necessary?
  - How funded?

# SUMMARY – INDIVIDUALS

Topic	Trump	House	Camp
Marginal Tax Rates	10%/25%/35%	12%/25%/33%	12%/25%/35% (25% for production inc.)
Standard Deduction	“Double”	\$12K Single/\$24K Married	\$11K Single/\$22K Married
Itemized Deductions	Eliminate, except mortgage and charitable contributions	Eliminate, except mortgage and charitable contributions	Eliminate many; modify mortgage and charitable contributions
Capital Gains & Investment Income	Maximum rate of 20%	Deduct 50% of net CG, Div, and Int	Deduct 40% of CG/QD
Estate, Gift, and GST	Repeal	Repeal	Not addressed
AMT	Repeal	Repeal	Repealed
Affordable Care Act	Repeal	Repeal	Maintained

# INCREASES TO THE DEFICIT

	Increase or (Decrease) to the Deficit
Simplify Tax Brackets	+\$1.5 Trillion
Repeal of AMT	+\$0.4 Trillion
Double the Standard Deduction	+\$1.5 Trillion
Repeal of Estate Tax	+\$0.2 Trillion
Reduce the corporate tax rate	+\$3.7 Trillion
Expand child care benefits	Unknown
Repeal most deduction except for mortgage interest and charitable giving	(-\$2.0 Trillion)
One-time tax on overseas profits – offset by new method of only taxing income in US	\$0

Source: Tax Policy Center

# CONSIDERATIONS

- Model potential proposals that could significantly impact you and your businesses
- Identify potential planning opportunities
  - Distinguish between “good regardless of tax law changes” and “only if tax law changes”
  - Evaluate cost-benefit
- State taxes? Depends on degree of conformity

# QUESTIONS?



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