

TYPES NOT MAPPED YET July 28, 2020 | TTR not mapped yet | Edward J. Buchholz, David J. Kaufman

# Proposed tax plans of the 2020 presidential candidates

With the presidential election in November a little more than three months away, the presumptive nominees, former Vice President Joe Biden and President Donald Trump, are set to square off on a variety of policy issues. As it has for the past several months, the COVID-19 pandemic will likely dominate the upcoming contest, but Biden has proposed a variety of federal tax law changes in contrast to Trump's Tax Cuts and Jobs Act of 2017 ("TCJA"). This article provides a high-level discussion of the candidates' tax law proposals, but it is important to note that these are initial proposals, additional details may arise and any changes in tax law are often ultimately driven by Congress.

### Biden's tax plan

Biden has heavily criticized the TCJA and called for higher taxes on both ordinary and capital gain income for high net worth individuals. Specifically, Biden has proposed the following tax law changes:

- Raise the top marginal individual income tax rate for incomes above \$400,000 to the pre-TCJA rate of 39.6%.
- Tax long-term capital gains and dividends above \$1 million at the ordinary income rate of 39.6%.
- Cap the value of itemized deduction to 28%, thereby reducing the benefit for taxpayers in rate brackets higher than 28%.
- Raise the corporate income tax rate from 21% to 28%.
- Institute a 15% alternative minimum tax on corporations with \$100 million or more in profits.
- Raise the Global Intangible Low Tax Income ("GILTI") (a tax on income from foreign affiliates, including foreign-held intangible property and its related income) rate from 10.5% to 21%.
- Institute a 12.4% Social Security payroll tax, to be split between employers and employees, on income earned in excess of \$400,000.
  - This proposal results in a "donut hole" where wages between the current cap of \$137,000 and \$400,000 are not taxed.
- Phase out the Section 199A deduction on taxable income in excess of \$400,000.
- Expands the Earned Income Tax Credit ("EITC").
- Expand the Affordable Care Act's premium tax credit.

### Trump's tax plan

President Trump has not yet issued an official tax policy proposal for his reelection campaign, but the budget proposals that the White House has submitted to Congress since the passage of the TCJA have all assumed that the individual income provisions from the TCJA that are set to expire at the end of 2025 will be made permanent. Trump has proposed doubling-down on the TCJA and also proposed a so-called "Tax Reform 2.0" for low-income and middle-income taxpayers that is set to be unveiled in September.

## Side-by-side comparison

The table below provides a comparison of some key policy issues among the current law, Trump's proposal, and Biden's proposal.

Policy issue	Current law	Donald Trump	Joe Biden
<b>Ordinary income rate</b>	Top marginal rate of 37% until 2026	Make current law permanent; however, to the extent the current law expires, top marginal rate reverts to 39.6% beginning in 2026	Restore top marginal rate to 39.6% for taxpayers with over \$400,000 of taxable income
<b>Capital gains &amp; dividends</b>	0% rate on capital gains and dividends for taxpayer's with income between \$0 and \$40,000	Make current law permanent; however, to the extent the current law expires, applicable capital gains rate will again be tied to a taxpayer's ordinary income rate beginning in 2016 (e.g., 15% rate if a taxpayer's ordinary marginal income tax rate is between 25%, and 35%)	Tax capital gains and dividends at 39.6% for taxpayers with over \$1 million of taxable income
	15% rate on capital gains and dividends for taxpayer's with income between \$40,001 and \$441,450		
	20% rate on capital gains and dividends for taxpayer's with income of \$441,451 and above		
<b>Itemized deduction cap</b>	Itemized deduction limit repealed until 2026	Make current law permanent; however, to the extent the current law expires, the "Pease" limitation is reinstituted	Cap value of itemized deduction at 28%
<b>Corporate rate</b>	Max corporate tax rate of 21%	No proposed change	Raise corporate rate to 28%
<b>Corporate amt for profit ≥ \$100 million</b>	No corporate AMT	No proposed change	Institute 15% corporate AMT
<b>GILTI rate</b>	10.5% rate	No proposed change	Double rate to 21%
<b>High-income social security payroll tax</b>	No Social Security payroll tax on income above \$137,000	No proposed change	Institute 12.4% Social Security Payroll tax on income in excess of \$400,000

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