

# 2020 Tax Policies Of The Major Presidential Candidates

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## Highlights

- ✓ Trump and Biden Campaigns Take Divergent Views on Many Tax Proposals
- ✓ Trump Proposes Permanent Extension of TCJA Proposals
- ✓ Biden Proposes Rollback of TCJA for Higher Incomes
- ✓ Prospects for Tax Legislation

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## SPECIAL REPORT

# Major Presidential Candidates Describe Tax Policies

This special briefing describes the current tax policies of the candidates of the two major parties: President Donald Trump, the incumbent candidate for the Republican Party and former Vice President Joe Biden, the Democratic candidate for president.

**NOTE.** Between the date of publication of this briefing and the election, the positions of the candidates may change. Wolters Kluwer has based this briefing on what it considers accurate, nonpartisan, and unbiased information at the time of publication.

**COMMENT.** Many of the tax proposals of President Trump when he was campaigning in the 2016 election were carried out by the passage of the Tax Cuts and Jobs Act (TCJA) in 2017. As such, there are not many “new” proposals presented by his 2020 re-election campaign. For the most part, the proposals by President Trump are to make permanent many TCJA provisions that are scheduled to expire after the 2025 tax year. Joe Biden, on the other hand, has several proposals that would roll back many provisions of the TCJA. The two campaigns seem to have fundamental disagreements over the TCJA, especially as it applies to corporations and higher-income individuals.

## INDIVIDUAL TAXATION

### Income Tax Rates

Under current law, there are seven tax brackets: 10, 12, 22, 24, 32, 35, and 37 percent, which are applicable from 2018 through 2025 under the TCJA.

### Trump

No current proposals or changes.

**COMMENT.** Although Trump has floated the idea of a new 10 percent middle income tax cut, he largely supports extending the tax provisions under the TCJA beyond 2025. Additional details related to Trump’s tax priorities may be released as the campaign progresses.

### Biden

Biden has proposed increasing the top rate back to 39.6 percent, where it sat prior to the TCJA.



## Capital Gains/Dividends

Under current law, a capital gains rate of 0 percent, 15 percent, or 20 percent applies to capital gains and qualified dividends received by individuals, depending upon the amount of the individual's taxable income. For 2020, the 20 percent rate applies to joint filers with taxable incomes over \$496,600 (\$469,050 for heads of households, \$441,450 for single filers, and \$248,300 for married taxpayers filing separately).

### Trump

No current proposals.

 **COMMENT.** *Trump stated in August that he is “seriously” considering a capital gains tax cut via executive action. Additionally, he has stated that he would propose cutting the maximum capital gains rate to 15 percent if reelected. His fiscal year (FY) 2021 budget proposal would extend the applicable TCJA provisions beyond 2025. Further, Trump has floated indexing capital gains to inflation.*

### Biden

Biden's proposal would increase the top marginal income tax rate on long-term capital gains to 39.6 percent for taxpayers earning more than \$1 million annually and eliminate the step-up basis tax expenditure that allows decedents to pass capital gains to heirs without tax. The top rate on long-term gains would nearly double from 23.8 percent to 43.4 percent, according to the Tax Foundation.

*“The two campaigns seem to have fundamental disagreements over the TCJA, especially as it applies to corporations and higher-income individuals.”*

## INDIVIDUAL TAX INCENTIVES

### Child Tax Incentives

Currently, the maximum Child Tax Credit is \$2,000 through 2025 under the TCJA. Additionally, an earned income tax credit (EITC) up to \$6,557 may be available in 2020, depending on income and family size, as well as a dependent care credit up to \$2,100.

### Trump

Trump has no currently proposed expansions to child tax incentives. Trump's FY 2021 Budget proposal would extend applicable TCJA provisions beyond 2025.

### Biden

Biden has proposed expanding the EITC and dependent care credit. Further, Biden has proposed a refundable \$8,000 child care tax credit for a qualifying child or up to \$16,000 for two or more children.

Additionally, Biden proposes a new \$5,000 tax credit for caregivers of individuals with certain physical and cognitive needs.

### Limitation on Itemized Deductions

Prior to the TCJA, a limitation on itemized deductions (the so-called “Pease limitation”) took effect at higher income levels (in 2017, \$318,700 for joint filers, \$287,650 for heads of households, \$261,500 for single filers, \$156,900 for married taxpayers filing separately). The TCJA eliminated the limitation through the 2025 tax year.

### Trump

Trump proposes a permanent repeal of the limitation.

### Biden

Biden proposes restoring the Pease limitation on itemized deductions for taxable incomes above \$400,000.

### Carried Interest

Generally, income that flows to a partner from a private investment fund is taxed at the lower capital gains rates with a three-year holding period requirement for certain long-term capital gain and loss.

### Trump

Trump proposes eliminating carried interest.

### Biden

Biden proposes eliminating carried interest.

### Payroll Tax

Currently, the FICA tax of 12.4 percent is split between employer and employee.

### Trump

No current official proposals.

 **COMMENT.** *Trump has consistently lobbied for payroll taxes to be cut or outright eliminated. Under a recent executive action, employers are*

*allowed to defer the collection and payment of the employee's share of the FICA tax during the September to December 2020 period to January of 2021, with a promise to eliminate the deferred taxes if re-elected.*

## Biden

Biden has proposed eliminating the wage base cap on taxpayers with income above \$400,000.

## BUSINESS TAXATION

### Corporate Tax Rates

Under current law, the corporate tax rate is 21 percent.

## Trump

Trump has no currently proposed changes.

## Biden

Biden proposes increasing the corporate tax rate to 28 percent. Additionally, Biden proposes a minimum tax on corporations with book profits of \$100 million or more.

### Qualified Business Income Deduction

Under current law, the Section 199A deduction allows eligible taxpayers to deduct up to 20 percent of their qualified business income (QBI), plus 20 percent of qualified real estate investment trust (REIT) dividends and qualified publicly traded partnership (PTP) income through. The deduction is scheduled to expire after 2025 under the TCJA.

## Trump

Trump supports extending the applicable TCJA provision beyond 2025.

## Biden

Biden has proposed phasing out the qualified business income deduction for incomes above \$400,000.

### Energy Tax Incentives

Various credits are available under current law for oil production, electric vehicles, as well as for the production of solar, wind and other "green" energy.

## Trump

Trump has no currently proposed energy tax incentives.

## Biden

Biden proposes ending subsidies for fossil fuels, restoring the full electric vehicle tax credit and various credits and

deductions to incentivize both residential and commercial energy efficiency.

## INTERNATIONAL TAXATION

### Repatriation

Under current law, U.S. corporations can defer payment of U.S. income tax on profits from offshore subsidiaries until they are repatriated.

## Trump

Trump has no currently proposed changes.

## Biden

Biden proposes ending TCJA incentives for multinationals. Additionally, according to Biden's website, he would establish a "claw-back" provision to "force" a return of public investments and tax benefits when it closes employment locations in the U.S. and sends jobs overseas. Additionally, Biden proposes "tightening" anti-inversion laws.

### GILTI

Generally, Global Intangible Low Tax Income (GILTI) was enacted under the TCJA as an anti-base erosion provision. GILTI is a tax on earnings that exceed a 10 percent return on a company's invested foreign assets.

## Trump

Trump has no currently proposed changes.

## Biden

Biden proposes doubling the tax rate on GILTI earned by foreign subsidiaries of U.S. firms from 10.5 percent to 21 percent.

## TAXES AND HEALTH CARE

Since passage of the ACA, taxes and health care have become more intertwined than in previous years. The ACA created a number of new taxes and fees. However, the ACA's individual mandate was effectively repealed by the TCJA.

## Trump

Trump largely supports repealing the Affordable Care Act.

## Biden

Biden proposes strengthening the Affordable Care Act (ACA) by eliminating the 400 percent income cap on tax credit eligibility and lowering the limit on the cost of coverage from 9.86 percent of income to 8.5. Additionally, he would propose expanding a variety of family tax credits to increase coverage and lower premiums.

## TAX LEGISLATION ON THE HORIZON

Before the ink was even dry on the TCJA, several GOP members of Congress, as well as President Trump, were already getting ready for “Tax Reform 2.0.” Promises of further tax cuts were a rallying cry during the 2018 mid-term elections. However, the steam went out of the prospects for such a tax bill once the GOP lost the majority in the House. However, there are still many GOP members of Congress who support such a measure. Whether there is a “Tax Reform 2.0” will largely depend on the outcomes of the elections in November.

Of a much more immediate matter, a bill providing further stimulus in response to the COVID-19 pandemic (“CARES 2”) seems much more likely. Both parties, and President Trump, feel that there is a need for further legislative action, however, there is a wide gulf between them all with regard to the size and scope of such a bill. The last pandemic stimulus/relief bill (the CARES Act), delayed many provisions of the TCJA to take effect after 2020 in order to promote business growth and survival. Whether a CARES 2 bill would further impact the provisions of the TCJA remains to be seen.