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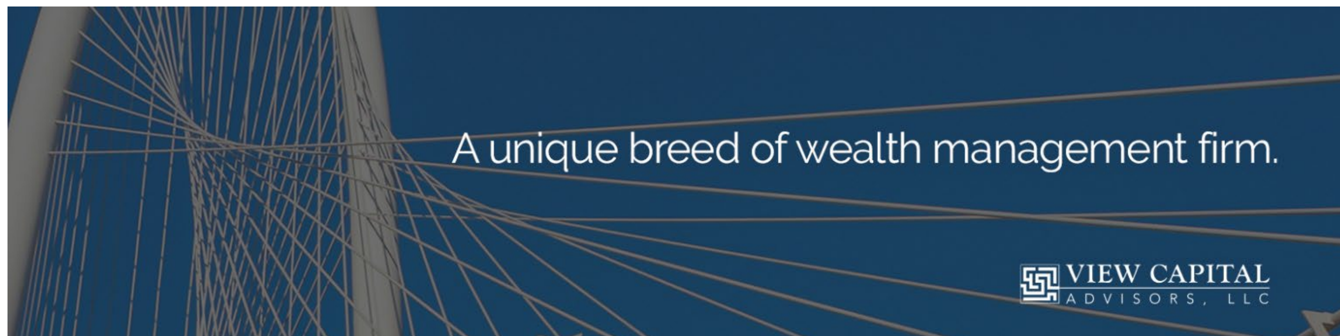

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Comparing the Candidates' Tax Plans

Both presidential candidates have laid out their tax policy platforms for prospective voters to compare as we approach the November election. We wanted to highlight several of the significant policy differences between the candidates that, if implemented, will impact our newsletter readers. These summaries come from the Tax Foundation, the nation's leading nonpartisan Washington, D.C., based think tank that collects data and publishes research studies on U.S. tax policies.

Vice President Harris' major individual and business provisions:

- Increase the corporate income tax rate from 21 percent to 28 percent
- Expand the base of the net investment income tax (NIIT) to include nonpassive business income and increase the rates for the NIIT and the additional Medicare tax from 3.8 percent to reach 5 percent on income above $400,000
- Increase top rate to 39.6 percent on income above $400,000 for single filers and $450,000 for joint filers

- Tax long-term capital gains and qualified dividends at 28 percent (as opposed to 39.6 percent as proposed in the Biden budget) for income above $1 million and tax unrealized capital gains at death above a $5 million exemption ($10 million for joint filers)
- Limit retirement account contributions for high-income taxpayers with large individual retirement account (IRA) balances
- Tighten rules related to the estate tax, a generic description that will probably lean toward provisions in prior bills introduced by Senator Sanders that reduce exemptions and raise estate tax rates
- Limit 1031 like-kind exchanges to $500,000 in gains
- Exempt tipped income from income taxation for occupations where tips are currently customary
- Expand the Section 195 deduction limit for startup expenses from $5,000 to $50,000
- A new minimum tax on taxpayers with net wealth above $100 million would be required to pay a minimum effective tax rate of 25 percent on an expanded measure of income that includes their unrealized capital gains

Former President Trump's major individual and business provisions:

- Making permanent the expiring individual provisions of the Trump Tax Cuts and Jobs Act of 2017 (TCJA), but discontinuing the $10,000 state and local itemized deduction tax cap
- Making permanent the expiring estate tax provisions of the TCJA
- Making permanent the business tax phaseouts of the TCJA (100 percent bonus depreciation, R&D expensing, and an EBITDA-based interest limitation)
- Lowering the corporate tax rate to 20 percent; 15% for companies that make their products in the U.S.
- Exempting tips and overtime pay from income taxes
- Exempting Social Security benefits from income taxes
- Eliminating the green energy subsidies in the Inflation Reduction Act
- Raising current Section 301 tariffs on China to 60 percent
- Imposing a universal tariff on all U.S. imports of 10 percent
- Foreign retaliation on U.S. exports, in-kind, matching the 60 percent and 10 percent tariffs
- Imposing a universal tariff on all U.S. imports of 20 percent

The Tax Foundation estimates that Vice President Harris' proposals would raise about $1.7 trillion in revenue over 10 years after factoring in reduced revenue from slower economic growth. They also estimate that her proposed tax changes would reduce long-run GDP by 2.0 percent, wages by 1.2 percent, and employment by about 786,000 full-time equivalent jobs.

Former President Trump has not released a fully detailed tax plan as part of his bid for reelection. The impact of Trump's proposals will vary significantly depending on which combination of policies are pursued. The Tax Foundation estimates that President Trump's proposals would lose about $1.3 trillion in revenue over 10 years. They also estimate that his proposed tax changes would reduce long-run GDP

by 0.2 percent, increase wages by 0.6 percent, and reduce employment by about 387,000 full-time equivalent jobs.

The proposed tariffs threaten to offset the economic benefits of his proposed tax policy changes, while falling short of offsetting the tax revenue losses. Overall, Trump's policies would reduce distortions in one part of the tax system, namely income taxes, only to replace them with new distortions in the tariff tax system.

Both candidates' policy proposals would increase the deficit. The national debt currently stands at 99 percent of Gross Domestic Product (GDP) and is projected to grow from 102 percent of GDP at the start of FY 2026 to 125 percent by the end of 2035 based on the Congressional Budget Office's (CBO) current law baseline. The debt will exceed its record as a share of the economy — 106 percent set in 1946 — in just three years.

Debt would continue to grow faster than the economy under either candidate's plans and, in most scenarios, would grow faster and higher than under current law.

CTA Filings –– It's Time to Act!

We have been following the reporting requirements under the Corporate Transparency Act (CTA) for the past few quarterly Panorama newsletters. Any reporting companies such as limited liability companies, limited partnerships, or corporations created on or before 12/31/23 must complete an online filing to report certain information about the company, its beneficial owners, and persons having substantial control over the company on or before 12/31/24. This date is quickly approaching. Penalties may apply for failure to timely report or update the required information.

FinCEN, the bureau under the U.S. Department of the Treasury charged with oversight and administration of this reporting program, anticipates as many as 35 million online filings during 2024. Indications are that only a fraction of that number have been filed through August of 2024. Therefore, a deluge of filings will likely take place before the end of the year. We would accordingly advise that you not wait until the last week of the year to tackle this task!

We have learned that some, but not all, accounting and law firms will handle the filings for a fee for their existing clients. In addition, some national corporate registered agent companies will also make the filings for a fee. You, of course, can do the online filings yourself (https://www.fincen.gov/boi). FinCEN does not charge a fee for online filings.

I would share the following observation about doing the filing yourself. Using the above-referenced URL, I recently set up a personal FinCEN ID for myself and filed a report for a single member LLC just to see what the process really involves. I was surprised to see that it took me less than 10 minutes to accomplish both tasks. The website is very easy to access and understand. If you have the needed information at hand and you only have one or two companies to file, I recommend that you do the filings yourself. While you are not required to secure a FinCEN ID (apply using the URL above), I would recommend that you do so. A FinCEN ID is a permanently assigned 12-digit number that you apply for online, is unique to you, and that you can use for all filings. In addition, for any required updates to your beneficial owner information, you need only update your FinCEN ID as it is linked to all reporting companies that you are affiliated with.

I would also offer a word of caution. Even if you have no equity ownership in a reporting company, you could still be classified as a beneficial owner if you directly or indirectly exercise substantial control over a reporting company. For example, are you a trustee of a trust that owns a reporting company, do you serve on the board of a Homeowners Association, or do you act as agent under a power of attorney for an equity owning beneficial owner? How about serving in an officer capacity at your employer, or do you act as a manager on an LLC owned by another family member? These situations may cause you to be classified as a beneficial owner because you have substantial control. These are situations where a FinCEN ID might also be beneficial. For more detailed coverage of this topic, refer to the FinCEN FAQs at https://www.fincen.gov/boi-faqs.

SECURE ACT 2.0 –– Spousal IRAs

Beginning in 2024, the SECURE Act 2.0 provides a new election to surviving spouse retirement account beneficiaries. Of all the different types of retirement account beneficiaries, those who are the surviving spouse of the original account owner receive the most preferential tax treatment when it comes to distributing the account's assets after the owner's death.

The primary benefit of all retirement plans is the ability of the account owner to defer taxation on the income and gains earned on their plan assets until required by law to begin withdrawals from the plan. The longer the deferral, the longer the account can grow tax deferred. A non-spouse individual designated beneficiary must generally withdraw the full balance of the inherited retirement account within 10 years from the account owner's death. If no individual is designated as beneficiary on the retirement account (i.e., the account owner's estate is the beneficiary), the retirement account must be fully withdrawn within five years from the account owner's death.

Required Minimum Distribution (RMD) rules were also changed in the SECURE Act 2.0. For retirement account owners born in 1950 or before, the RMD age is now age 72. If born between 1951

and 1959, the RMD age is 73. For all others born in 1960 or later, the RMD age is 75. When it comes to RMDs, later is better.

Surviving spouses have historically had more flexibility in extending their required distribution date. They can delay their RMDs from the inherited account until the original account owner would have reached the required age for starting RMDs if they were still alive. Alternatively, surviving spouses also have the option to roll over the inherited account into an IRA account in their own name, allowing the account to be treated as if it had always been theirs. The rollover allows the surviving spouse to wait until their own RMD age to start distributing from the account. When RMDs do begin, they're able to use a more favorable IRS Actuarial Table to calculate the RMD amounts.

Prior to 2024, an inheriting spouse had to evaluate whether the need to access the account earlier than the RMD date would result in early withdrawal penalties. A surviving spouse under age 59 1/2 may want to do a spousal rollover to take advantage of the more favorable RMD distribution schedule. But if they need to access any of the funds in the account before age 59 1/2, withdrawing them from the rollover account would incur a 10% early withdrawal penalty, which they wouldn't have incurred if they had left the account as inherited.

But the SECURE 2.0 Act created a new option for surviving spouses that provides flexibility for maximum deferral or earlier, penalty-free access. The new rule allows spousal beneficiaries who leave the account in the decedent's name (no rollover) to elect to use the more favorable actuarial table. This means that spouses who choose to keep the account in the decedent's name for any reason will no longer be forced to take higher RMDs for doing so.

There may still be reasons to complete a spousal rollover despite the new Spousal Election rule. For example, surviving spouses who are younger than the decedent can delay RMDs for longer after rolling the account over. The best option might be to keep the account under the decedent's name until RMDs begin and then roll it over into the spouse's name thereafter.

The main takeaway is that the new Spousal Election serves to benefit surviving spouses by reducing the tradeoffs between inherited account and spousal rollover planning options. The consequences of making the "wrong" choice are now much less than they were under the old rules.

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