



# Tax Planning Strategies: What to Expect in 2020 and Beyond

## Presented by



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# Agenda

- Current vs. Biden Tax Plans – Potential Changes
- Tax Planning Strategies for Year-End 2020
- What You Should Know Beyond 2020
- Q&A – webinar attendees

A blurred background image of a business meeting. In the foreground, a person's hand is pointing at a tablet displaying a bar chart. Another person's hand is visible in the background, also pointing at a document. A laptop is open on the right side of the frame. The overall scene is dimly lit, with a focus on the collaborative work environment.

## Current vs. Biden Tax Plans – Potential Changes



# Individual Tax Rates

## CURRENT:

- Highest marginal rate - 37% - kicks in at \$518,400 for single and \$622,050 for MFJ.
- Current ordinary tax rates expire after 2025.
- LTCG tax top rate is 20% plus 3.8% NIIT.

## BIDEN:

- No tax increases for people earning < \$400k.
- Increase top rate from 37% back to 39.6%.
- Calling for LTCG's to be taxed at 39.6% for individuals with income > \$1M. NIIT of 3.8% would still be in play.



# Child & Dependent Care Credits

## CURRENT:

- \$2k per eligible child (under 17) and \$500 for other qualified dependents.
- Child care costs credit max \$1,050 for 1 child or \$2,100 for 2 or more, phasing out to minimum of \$600 or \$1200.

## BIDEN:

- No mention of changing the current child tax credit, scheduled to expire after 2025.
- But, would increase the allowable expense threshold for child care credit to increase the minimum credits to \$800 for 1 child and \$1600 for 2 or more.



# Itemized Deductions/ Standard Deduction

## CURRENT:

- No phase-out for high-income earners.
- However, SALT limitation of \$10,000; mortgage interest limitation on up to \$750k of debt; no misc. itemized deductions.
- Almost doubled the standard deduction for most, dramatically reducing the number of people who itemize.

## BIDEN:

- Re-instate phase-out for high-income earners.
- Support limiting the tax benefit of itemized deductions to 28% for upper-income people.
- Eliminate the \$10k SALT limitation.
- Introduce a refundable tax credit of up to \$15k for 1st-time homebuyers. Also calling for new refundable credit for low-income renters that would limit rent & utility payments to 30% of monthly income.



# Gift and Estate Taxes

## CURRENT:

- Lifetime exemption for 2020 - \$11.58M /person.
- Heirs get step-up in basis to FMV for inherited assets.
- After 2025, exemption to reset back to \$5M per person.

## BIDEN:

- Eliminate basis step-up rules.
- Likely he would support repealing TJCA exemption levels before it's scheduled to expire in 2026.

A photograph showing a group of people in business attire sitting around a table. In the foreground, a person's hand is pointing at a tablet displaying a colorful bar chart. Another tablet with a donut chart is visible next to it. Papers and other tablets are scattered on the table, suggesting a collaborative work environment.

# Corporate Tax Rates

## CURRENT:

- Flat 21%

## BIDEN:

- Increase rate from 21% to 28%.
- Introduce additional 10% "offshoring penalty surtax" on profits for goods & services produced overseas and sold back to US.
- Proposed a "Made in America" tax credit.

A photograph showing a group of people in a business meeting. In the foreground, a person's hand is pointing at a tablet displaying a colorful bar chart. Another person's hand is visible in the background, also pointing at a tablet. The setting appears to be a modern office or conference room with a wooden table.

# QBI Deduction

## CURRENT:

- Tax deduction for qualified business income (from pass-thru entities) equal to 20% of QBI.
- Expires after 2025.

## BIDEN:

- Expand and simplify QBI deduction,
- Exclude rental real estate activities.
- Limit deductions for individuals earning > \$400k.



# Real Estate Breaks

## CURRENT:

- Favorable breaks, in addition to QBI, include reduced tax rates, shorter recovery periods for QIP.
- Unfavorable limits on business interest deductions and NOLs (temporarily suspended by CARES Act)

## BIDEN:

- Eliminate like-kind exchanges on real property
- Eliminate the \$25k special exemption on rental activities allowed for middle income individuals.
- Increase depreciable life on rental real estate
- Reform OZ program to provide more oversight and transparency.



# AMT

## CURRENT:

- No corporate AMT

## BIDEN:

- 15% AMT on corporations with at least \$100M in annual income that currently pay little or no federal tax.

A blurred background image showing a business meeting. Several people are seated around a table, looking at documents and tablets. One person's hand is visible, pointing at a tablet screen that displays a colorful bar chart. The setting appears to be a professional office environment.

# Payroll Tax Cuts

## CURRENT:

- 6.2% Social Security on wage base of \$137,700 for 2020 plus 1.45% Medicare - no limit

## BIDEN:

- Supports creating a "donut-hole" for FICA tax rules - re-start SS tax on wages above \$400k

# Tax Planning Strategies for Year-End 2020



# Paycheck Protection Program

**Is the forgiveness of debt income amount of my PPP loan taxable income?**

No. But there is a catch!

Although, the forgiveness amount is not taxable, the expenses paid for using the PPP loan that are ultimately forgiven are not deductible.

So if you received a \$100,000 PPP loan and only received \$80,000 in forgiveness, \$80,000 of expenses you used for the PPP loan would be non-deductible on your tax return.



# Paycheck Protection Program

**OK, but what if I don't receive loan forgiveness until 2021?**

IRS Notice 2020-32 established that the expenses associated with PPP loan amounts that are ultimately forgiven are not deductible for tax purposes. What it does not address is what happens when the forgiveness occurs outside of the same tax period of the expenses.

Rev Ruling 2020-27 – If there is reasonable estimate of loan forgiveness, the deduction for the expenses is not allowed.

If denied forgiveness by SBA, you can either take the deduction in tax years 2020 or 2021.

Tax Planning for 2020 is essential as is cash flow planning!



# Paycheck Protection Program

**But wait there's still hope!**

Many members of congress have gone on record saying that the PPP loan expenses were always intended to be deductible.

There is still hope that in the next relief package Congress will address this issue and makes the expenses fully deductible for tax purposes.

As for timing for that package? Anyone's guess at this point given the upcoming changes in D.C.



# Net Operating Losses (NOLs)

**Hit hard this year by COVID? The CARES Act changed the rules for NOLs.**

Prior to 2018, NOLs could be carried back up to two years to recover past tax payments, any unused amount would then be carried forward up to 20 years and it could offset 100% of taxable income whether carried back or forward.

Since the enactment of the TCJA in 2017, NOLs could no longer be carried back but could only be carried forward indefinitely.

Additionally, the NOL deduction was limited to 80% of taxable income, before the NOL is applied (for losses arising in tax years after December 31, 2017).

# Net Operating Losses (NOLs)

## How does the CARES Act change this?

The CARES Act changes these rules so that NOLs arising in tax years beginning after December 31, 2017 and before January 1, 2021 may be carried back to each of the five tax years preceding the tax year of the loss. IRS has published guidance that also allows for the revocation of previous elections that forgo the carryback of an NOL.

In addition, the CARES Act temporarily removes the 80% offsetting loss limitation.

Fair Warning – the restrictive rules will be reinstated for tax years beginning after December 31, 2020.

\*\*\*States have different rules for NOLs

# Net Operating Losses (NOLs)

## Relief for partnerships impacted by NOLs

As you may have experienced, for tax years beginning in 2018, partnerships have restrictions on amending and restating returns already filed.

For partnerships affected by the changes in the CARES Act, the IRS issued Revenue Procedure 2020-23, allowing eligible partnerships to file amended partnership returns using a Form 1065, checking the “Amended Return” box, and issuing amended Schedules K-1’s to each of its partners.



# Net Operating Losses (NOLs)

## How will the carryback impact other tax attributes?

Businesses will also want to pay attention to how the carryback affects other tax attributes including foreign tax credits, general business credits, charitable contributions, domestic activities production deductions, ownership changes, and more.

These are often impacted in computing modified taxable income for the carryback year and you'll want to consider these things as part of the decision process while working through a net operating loss carryback.



# Employer Payroll Tax Deferral

## **Did you take advantage of the employer payroll tax deferral under the CARES Act?**

The payroll tax deferral under the CARES Act provided an excellent opportunity for employers to defer payment of the employer share of social security taxes incurred through December 31, 2020. Employers who have elected this deferral have until December 31, 2021 to pay 50% of the deferred amount, with the remaining balance due by December 31, 2022. This works out to be a nice interest free loan for the employer.

Although waiting until the due dates to pay the deferred employer taxes may seem appealing, you may want to pay the deferred taxes sooner.



# Employer Payroll Tax Deferral

## Cash Basis Taxpayers

For cash basis taxpayers, it's very simple. You get the deduction the year in which you pay the tax. For cash basis taxpayers they will need to look at what they estimate their taxable income will be for 2020 vs 2021.

Depending on your business' taxable income situation, you may not want to lose out on the deduction for employer payroll taxes on your 2020 return. If this is the case, you need to make plans to pay the deferred taxes before December 31st, 2020.

# Employer Payroll Tax Deferral

## Accrual Basis Taxpayers

For accrual basis taxpayers, it's a little more complex, but they (almost) get the benefit of hindsight to make their decisions. Although you may be thinking that an accrual basis taxpayer automatically gets the deduction the year the employer payroll tax liability was incurred, that is not actually the case.

# Employer Payroll Tax Deferral

## Accrual Basis Taxpayers

IRS revenue ruling 2007-12 establishes that payroll taxes are only deductible in the year incurred for accrual basis taxpayers if the taxes are paid by September 15th of the following year or the date the return is filed with extension. In other words, as long as you pay the deferred taxes prior to the date you file your tax return (including extension period), these taxes are deductible on that tax return. If you pay after the date the return is filed or after the September 15th deadline, the taxes will be deductible the year in which they are paid.

# Employer Payroll Tax Deferral

## Accrual Basis Taxpayers

Therefore, an accrual basis taxpayer may want to extend their 2020 income tax return filing date through September 15th, 2021 and wait to see the results for the first 8 months of 2021 before deciding whether to take the deduction in 2020 or in 2021. Also, assuming the taxpayer only pays 50% of the deferred employer taxes, this same strategy can be applied for the 2021 income tax year.

# Employer Payroll Tax Deferral

## The Catch!

As of right now there is no mechanism on the quarterly 941s or annual 940 to pay this tax prior to year end.

The AICPA is pushing the IRS to address this fact prior to year end so that taxpayers who want to pay the deferred taxes ahead of schedule have the opportunity to do so.



# Qualified Disaster Relief Payments

**Are you one of those fortunate companies who had a great year and are looking to reward your EE's?**

On March 13, 2020, COVID-19 was declared a nationwide emergency, and all 50 states have been approved for major disaster declaration, effective January 20, 2020.

Under the Internal Revenue Code Section 139, qualified disaster relief payments are not included in income.

What this means is payments made to employees to cover actual expenses related to the pandemic, such as expenses of working from home, will be deductible to the employer as an ordinary and necessary business expense, but will not be included in the employee's income.



# Qualified Disaster Relief Payments

If an employer is making these payments, we would suggest the employee submit documentation for the actual expenses incurred to substantiate the payment.

This is a win/win scenario. The Company gets a deduction and does not have to pay any additional ER payroll tax and the Employee gets a tax free payment to reimburse expenses they incurred while working from home.

# Pass-Through Entity State Tax Payments

SALT limitation workaround



# Retirement Plan Contributions / Distributions

- Max out on 401(k) or SIMPLE IRA before year-end
- Consider if a Roth IRA conversion makes sense
  - How close are you to distribution?
  - Trigger tax now or later?
  - Time value of money!
  - Bracket differential
- No RMD required for 2020, but should you consider taking a distribution anyway?

Coordination of investment strategy and tax strategy is key!



# Manage Capital Gains and Losses

Benefit from 0% and 15% brackets


- Does it make sense to recognize long-term gains – max out on low cap gain rates
- If making gifts to family members, gift low basis stock if donee is in a lower tax bracket than you

# Timing of Income and Deductions

- Accelerate income into 2020 and defer expenses to 2021 if you expect to be in a higher tax bracket in 2021 (if not, do the opposite)
- Timing for fixed asset purchases - take advantage of 100% bonus depreciation – potentially creating NOL to carryback 5 years
- For individuals – bunch deductions to itemize in 2020 or in 2021? Which year would provide the better benefit? (Mortgage interest payment, medical expenses, charitable donations)

# Charitable Donations

- No RMD required in 2020 – but if over 70½ and still planning to donate to charity, do direct donation through IRA (QCD)
- Consider donor advised fund (timing depends on tax rates in 2020 vs 2021)
- Above the line deduction allowed in 2020 - \$300
- Moral compass vs tax compass

The background of the slide features a blurred image of a laptop and a smartphone. A hand is visible holding the smartphone, which displays a colorful interface. The entire scene is overlaid with a semi-transparent teal color.

# What You Should Know – Looking Beyond 2020



# Make Note

2018, 2019 and 2020 Pass-through entity losses may create NOLs for the individuals – need to consider if those losses should be carried back 5 years or elect to carry forward only.

Lifetime exemption for estate tax – very likely to be reduced, perhaps even earlier than 2026.

Planning for major gifts to maximize current exemption will be important.



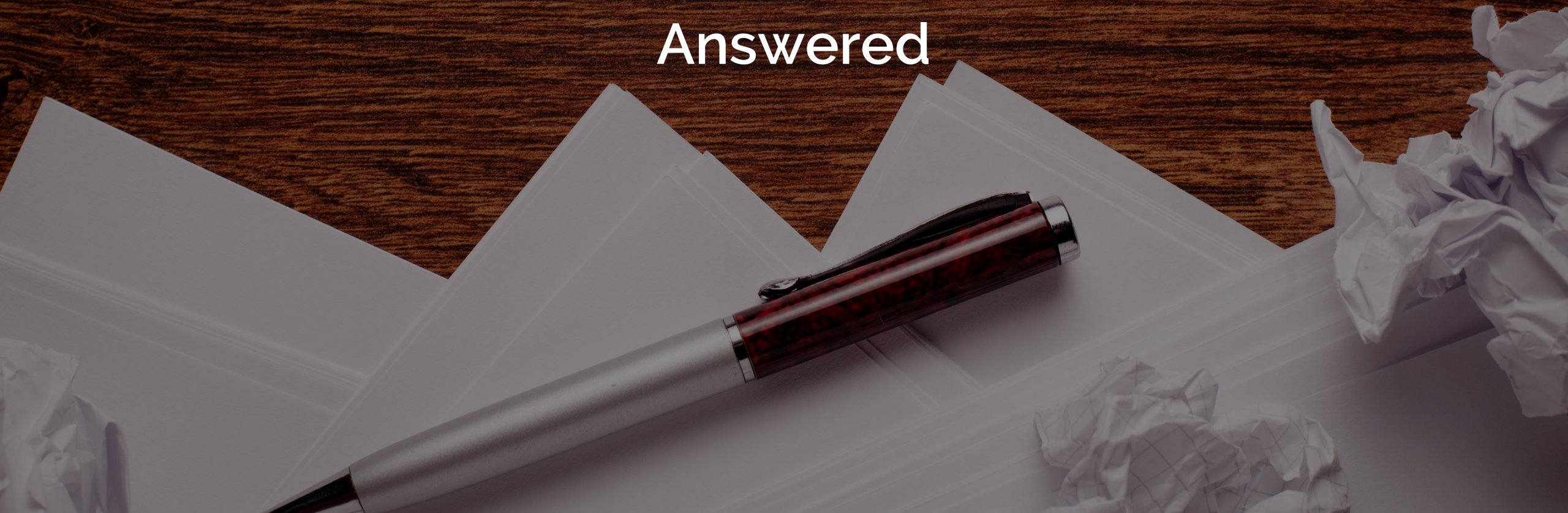
# Relief Packages

Many believe that “PPP Round 2” and other legislative relief packages will be enacted during the 1<sup>st</sup> and 2<sup>nd</sup> quarters of 2021.

The way many areas of the country are currently trending, it is not hard to imagine that COVID will again have a severe effect on the economy and further congressional relief packages are inevitable.

Business owners need to start planning for the worst and hoping for the best for the first six months of 2021.

# Your Questions Answered





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What is the future for  
the QBI deduction?  
Any chance that  
expenses for PPP loan  
forgiveness will be  
deductible?

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If the estate tax  
exemption goes down  
would it be retroactive  
to 2020?



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If a spouse has not  
contributed to an  
employer 403b, can  
they create and  
contribute to a Roth  
IRA and what would be  
maximum allowed?





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We sold the house and moved to Florida, can we write off moving expenses?

I became a consultant this year with no retirement option (wife has and we file jointly). Should I open SEP to lower taxes ?

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Should we be looking into R&D tax credits?



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I believe that due to COVID, we are not required to take an IRA distribution this year, is this true for beneficiary IRAs too?

Is it likely that capital gains will be taxed as regular income? Is there any hope that the "stretch" IRA will return?

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I turn 70 in 2021 and will be required to start mandatory IRA withdrawals in Jan 2022. Are there any changes to this requirement planned for 2021-2022? If so, how should I plan for this?



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Should seniors' strategy now be convert IRAs to ROTHs and make large charitable contributions to avoid higher future tax rates?

What are the tax consequences for PPP loan proceeds that are forgiven for an S-Corp?

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Does someone have the ability to carry 2020 losses back over previous years?

A person in a white shirt is seated at a wooden desk. They are holding a black smartphone in their left hand and gesturing with their right hand. A silver laptop is open in front of them. To the right, another person's hands are visible, holding a white pen and a tablet. On the desk, there is a white notebook, a pair of glasses, and a document with a blue bar chart. The text "Final Thoughts" is overlaid in the center.

## Final Thoughts

# We're Here.



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