

The results from the 2024 election are in, and although we still have weeks remaining before the 119th Congress takes office and the new president is inaugurated, there is some clarity about an election that has been called the most important in our lifetime and even in US history.

Each election brings about the possibility of change. Indeed, it is no exaggeration to say that the 2024 election has significant implications for estate planning due to potential proposed changes in estate taxes, capital gains, and wealth transfer regulations.

Estate Planning Issues That a New Administration and Congress Could Address

According to many commentators, 2025 could be the most critical year for tax legislation since the 2017 enactment of the Tax Cuts and Jobs Act (TCJA). If several TCJA reforms are not extended, more than \$4 trillion in tax increases will take effect January 1, 2026.¹ And if Congress acts to extend the tax cuts of the TCJA, it could be forced to explore new tax increases to offset them.²

- **Estate and gift tax exemption:** Under the TCJA, the lifetime estate and gift tax exemption, currently \$13.61 million per individual or \$27.22 million per married couple, is scheduled to revert to \$5 million adjusted for inflation on January 1, 2026, if Congress does not act.
- **Capital gains tax:** There could be changes to the way appreciated assets are taxed. The TCJA lowered taxes on long-term capital gains; current law allows heirs to inherit property without paying capital gains taxes on the appreciation that occurred during the deceased owner's lifetime because the basis of those assets was adjusted at the original owner's death.

These are not the only estate planning-related issues the incoming government could take up. **Other issues include retirement accounts, trust rules, interfamily asset transfers, and deductions or incentives for charitable giving.**

Policies can affect estate planning both directly and indirectly. For example, the expiring 20 percent qualified business income deduction for pass-through entities within the TCJA, along with the TCJA's lower individual income tax rates, resulted in tax savings for many small-business owners.³ The estate tax exemption and treatment of capital gains are also crucial to many clients, including small-business owners engaged in succession planning, which impacts estate planning.

Specific policies and their possible effects on an individual's estate planning goals should be discussed with an experienced attorney.

¹ KPMG report: Tax provisions expiring in 2025 affecting individuals and families, KPMG (Sept. 4, 2024), <https://kpmg.com/us/en/taxnewsflash/news/2024/09/tnf-kpmg-report-tax-provisions-expiring-in-2025-affecting-individuals-and-families.html>.

² Watching the sunset: Tax provisions expiring in 2025, p. 3, KPMG (Sept. 4, 2024), <https://kpmg.com/kpmg-us/content/dam/kpmg/taxnewsflash/pdf/2024/09/tnf-report-expiring-provisions-2025-final-sep4-2024.pdf>.

³ Huaqun Li, *How the TCJA Affected Legal Business Forms*, Tax Foundation (June 19, 2024), <https://taxfoundation.org/blog/tcja-pass-through-business-tax-reform/>.

What to Expect from the President and Congress

The gap between campaign vows and governance realities can be vast. Politicians make big promises on the campaign trail. A review of 18 studies of campaign promises found that political parties fulfilled two-thirds of their promises.⁴

How the president and Congress will govern is far from certain, but what candidates said on the campaign trail, as well as proposals made in party platforms and budgets, offer a blueprint for what we can expect heading into 2025.

President Donald Trump

Returning to the White House for a second term, Donald Trump has laid out an economic and tax plan that builds on policies from his first term. The Tax Foundation says that Trump will seek to make permanent the individual and estate tax cuts of the TCJA and lower the corporate income tax rate from 21 percent to 20 percent or, for companies that make their products domestically, 15 percent.⁵

Trump has also proposed replacing the individual income tax with tariffs, uncapping the state and local tax (SALT) deduction, and exempting Social Security benefits from income taxes.⁶ Also, according to the 2024 Republican party platform, the party, including Trump, is in favor of cutting taxes broadly (“large tax cuts for workers”) and mentions extending the TCJA provision that doubled the standard deduction.⁷

The Republican Party Will Have the Majority in Both Houses of Congress

Republican tax policy experts and members have made several proposals in recent months and years that should be monitored in the 119th Congress.

Of particular note is the FY 2025 budget from the Republican Study Committee (RSC), a prominent conservative congressional caucus, highlighting how many in the party would like to govern in their upcoming terms. The budget contains 285 individual bills and initiatives from 192 members.⁸

The RSC budget would eliminate the federal estate tax and index the capital gains tax to inflation.

⁴ François Pétry & Benoît Collette, *Do They Walk Like They Talk?: Speech and Action in Policy Processes* 65 (Louis M. Imbeau ed., 2009), https://www.google.com/books/edition/Do_They_Walk_Like_They_Talk/GeBerBIPvm8C?hl=en&gbpv=1&dq=do+they+walk+like+they+talk.

⁵ Erica York, et. al., *Donald Trump Tax Plan Ideas: Details and Analysis*, Tax Foundation (Oct. 14, 2024), <https://taxfoundation.org/research/all/federal/donald-trump-tax-plan-2024/>.

⁶ Emily Wilkins and Kevin Breuninger, *Trump floats eliminating U.S. income tax and replacing it with tariffs on imports*, CNBC (June 13, 2024), <https://www.cnbc.com/2024/06/13/trump-all-tariff-policy-to-replace-income-tax.html>.

⁷ 2024 Republican Party Platform, The American Presidency Project (July 8, 2024), <https://www.presidency.ucsb.edu/documents/2024-republican-party-platform>.

⁸ The Republican Study Committee, <https://rsc-hern.house.gov/media/press-releases/rsc-releases-fy25-budget-proposal-fiscal-sanity-save-america> (last visited Oct. 31, 2024).

Plans from President Trump and the GOP do not explain in detail how they would offset the cost of TCJA extensions.

A Great Time to Review Your Estate Plan

Aside from the changes that can occur after an election, it is important that you review and update your estate plan every three to five years or when you have experienced a major life event (such as a marriage, divorce, birth, death, job change, or move).

Although it remains to be seen how the legislative agendas of the new president and Congress will play out, it seems all but assured that changes are on the way that may impact estate planning for Americans across the wealth spectrum. We are committed to keeping you informed so you can have an up-to-date plan that meets your and your loved ones' needs.

Estate planning is multifaceted and highly individualized, making it crucial to work with an estate planning attorney who can help you navigate legal changes and ensure your plan aligns with your long-term goals. Call us to schedule a meeting to review your existing estate plan or craft a new one.