WRNewswire
An AALU Washington Report

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Wednesday 31, August 2016 WRN 16.08.31

Special Report: Analyzing the Clinton and Trump Tax Reform Proposals

Donald Trump recently released a new tax reform plan that differs significantly from his original tax reform proposal. With the campaign for the Presidency approaching its final stretch, this Newswire reviews the Clinton and Trump tax reform proposals, and what they could mean for the life insurance industry.

Trump – The New Tax Plan

On August 8th, Donald Trump announced his new tax plan at the Detroit Economic Club, saying his proposal would be the "biggest tax revolution since the Reagan Tax Reform." The plan is significantly lighter on details than his previous proposal released in 2015, which is no longer available on his website.

The Republican Presidential nominee had indicated he would be issuing a significantly revised tax package that hews more closely to traditional Republican tax policy views, and Trump's proposal moves toward the House Republican Tax Reform Blueprint released on June 24th. He has also retained veteran establishment conservatives such as Stephen Moore and Larry Kudlow as advisors on economic issues—including tax reform.

Trump's plan adopts a three rate structure for individual income—12 percent, 25 percent, and 33 percent—which is the same rate structure that House Republicans adopted in their Blueprint. [Add link to WR on Blueprint] Trump proposes that all businesses—from freelancers to Fortune 500 companies—pay the same 15 percent on their business income. His plan goes farther than the House Republican Blueprint, which proposes a 20% top rate for C-corporations.

However, Trump does not agree with all aspects of the tax reform plan advanced by House Republicans, explaining during his speech that, "While we will develop our own set of assumptions and policies, agreeing in some areas but not in others, we will be focused on the same shared goals and guided by the same shared principles: jobs, growth and opportunity."

Trump's original plan was estimated to cost the government $10 trillion over 10 years in lost revenue, according to several Washington think tanks. At this point, it is unclear how much Trump's new plan might cost given the lack of specificity in the proposal. Trump advisor Stephen Moore has indicated that details are unlikely to be forthcoming any time soon.

Trump continues to call for the repeal of the estate tax. Based on his statements about the issue to date, we presume that means repealing the estate, gift, and generation-skipping transfer taxes, though it is unclear whether Trump would also provide a stepped-up basis, as was the case with the House estate tax repeal bill.

Hillary Clinton Tax Plan

The stated aim of Hillary Clinton's tax plan is to make the tax code fairer for middle-class Americans, explaining that, "Far too often, our tax code is rigged in favor of multi-millionaires and billionaires who can exploit loopholes and shelter income in order to avoid paying their fair share."

Hillary Clinton is campaigning on a platform that includes a focus on addressing income inequality, and as President is likely to pursue an agenda that will put increased scrutiny on the tax treatment of "the wealthy," CEOs, and corporations.

For taxpayers making more than $1 million annually, Clinton's plan would institute two policies to raise their rates. The first imposes the so-called "Buffett Rule," requiring these taxpayers to pay an effective tax rate of at least 30 percent. The second proposal would implement a "fair share surcharge," a 4% additional tax on earnings above$5 million annually.

As Clinton explains, "This surcharge is a direct way to ensure that effective rates rise for taxpayers who are avoiding paying their fair share, and that the richest Americans pay an effective rate higher than middle-class families."

Finally, Clinton's tax plan includes closing the so-called "Romney Loophole." 2012 Republican presidential nominee Mitt Romney accumulated between $21 million and $102 million in his individual retirement account during his 15 years with Bain Capital, according to Bloomberg. Clinton wants to eliminate the provision that allows taxpayers to accumulate larger IRA balances.

Clinton's plan would also restore the estate tax parameters to 2009 levels. As part of her proposal, Clinton would lower the exemption to $3.5 million per individual, $7 million per couple, and raise the top rate to 45 percent.

Specific Life Insurance Industry Provisions

Importantly for the life insurance industry, Trump appears to have abandoned his proposal to tax inside buildup. According to a document posted on his campaign website, Trump's 2015 plan proposed to "phase out the tax exemption on life insurance interest for high-income earners."

Of course, no provision in the Tax Code excludes, exempts, or deducts inside buildup from gross income or imposes a preferential rate on gains actually received—a point that the Joint Committee on Taxation (JCT) affirmed last year when it removed inside build-up from its tax expenditure list.

Clinton suggests she would close down the uses of grantor retained annuity trusts (GRATs). Her plan would crack down on "methods people use to make their estates appear to be worth less than they really are."

The Obama Administration has consistently sought to tighten the rules around GRATs, and Clinton suggests she would attempt to do the same. In its fiscal year 2017 budget, the Administration proposed GRATs have a minimum term of 10 years and a maximum term of the life expectancy of the annuitant plus 10 years. The changes to the treatment of GRATs in the Administration's budget raise $20 billion over a decade. While it is very unlikely that changes to GRATs will occur during this Congress, AALU will continue to closely monitor this issue.

So what would a Clinton Presidency mean for the life insurance industry?

A Clinton victory in November would make achieving comprehensive tax reform in 2017 or 2018 difficult since we are more likely to see a continuance of divided government. That said, Clinton has been touting support from establishment Republicans in her campaign, and could potentially try to achieve a "grand bargain" on tax reform and entitlement cuts. Thirty years ago, President Reagan worked with Congressional Democrats to pass the Tax Reform Act of 1986, and it's possible we could see a bipartisan proposal. However, given the historical animosity between Clinton and Republicans, and the ideological chasm between Republican and Democrat lawmakers more generally, once the election (and Trump) is in the rearview mirror it would be unlikely that President Clinton and the Republican House will find common ground on comprehensive tax and entitlement reform. Further, the success of Sen. Bernie Sanders (I-VT) in the Democratic primary could keep Clinton from reaching too far across the aisle. Many Members and staff are optimistic that a smaller tax reform deal may be reached that is focused on international tax policies and additional infrastructure spending.

So what would a Trump Presidency mean for the life insurance industry?

A Trump Presidency, on the other hand, is a more uncertain proposition. He has bucked the Republican establishment throughout his campaign, and his stances on some economic issues such as trade have been more typical of a progressive Democrat rather than a Republican standard-bearer. The "unknown" factor around Trump raises questions about the specific policies that he would pursue and implement as President, including those impacting the life insurance community.

The key question is this: would Trump, as President, move towards the policies of Speaker Paul Ryan and House Republicans, or remain a maverick and pursue his own agenda? If, however, a Trump presidency is accompanied by Republican control of both chambers of Congress, we fully expect Trump and Republican leadership in congress to pursue comprehensive tax and entitlement reform under reconciliation procedures (which allow a simple majority to pass legislation in the Senate without the option of a filibuster). This tax reform package would likely include repeal of the estate tax and more dramatic individual and corporate rate reduction, and runs the risk of requiring greater offsets, which would put the tax treatment of the life insurance industry under greater scrutiny.

If Trump governs as a typical Republican, and works with Congressional GOP members to advance their tax priorities, then comprehensive tax reform would be a strong possibility. However, if he pursues his own agenda, then the chances for comprehensive tax reform under a Trump Presidency would be diminished—though remain higher than under a Clinton Presidency.

What about the estate tax?

This picture is more straightforward than that surrounding the post-election chances for tax reform. Trump has consistently supported repealing the estate tax. While he has not provided any details regarding a step up in basis, it is likely that he would find common ground with Congressional Republicans, and estate tax repeal would become a real possibility in his first term should Trump become President.

On the other hand, estate tax reform becomes much less likely under a Clinton Presidency. With the House expected to remain Republican, it is hard to see a scenario where you would see agreement between the White House and Congress on this issue, other than in some technical changes.

AALU will continue to follow the development of the Clinton and Trump tax plans closely, and will update the membership on any relevant details.

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