



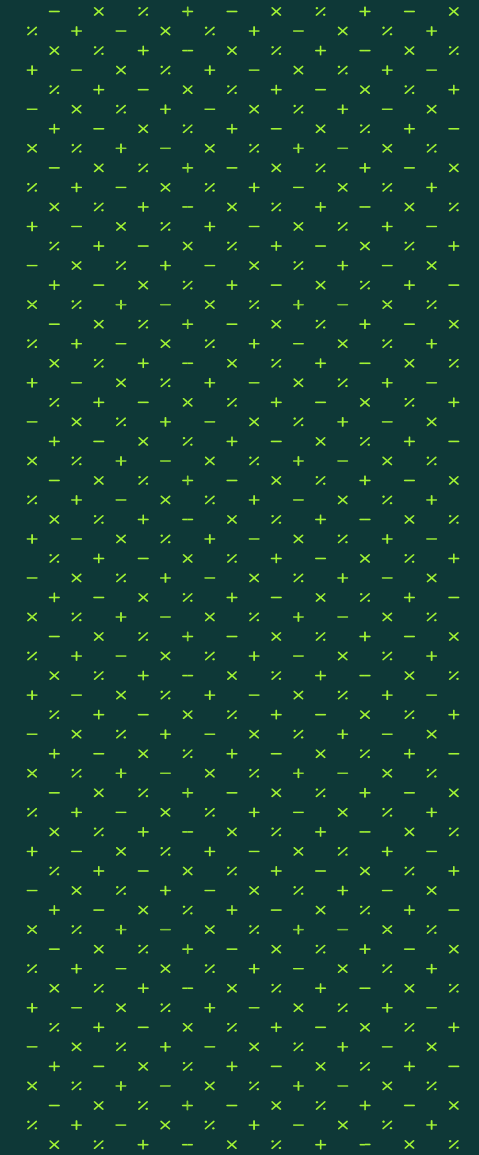
MOSSADAMS

# Post-Election 2020 Tax Planning Strategies

12/8/2020

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Kirk Faris, Tax Senior Manager



# Presenter(s)

Kirk Faris, Tax Senior Manager

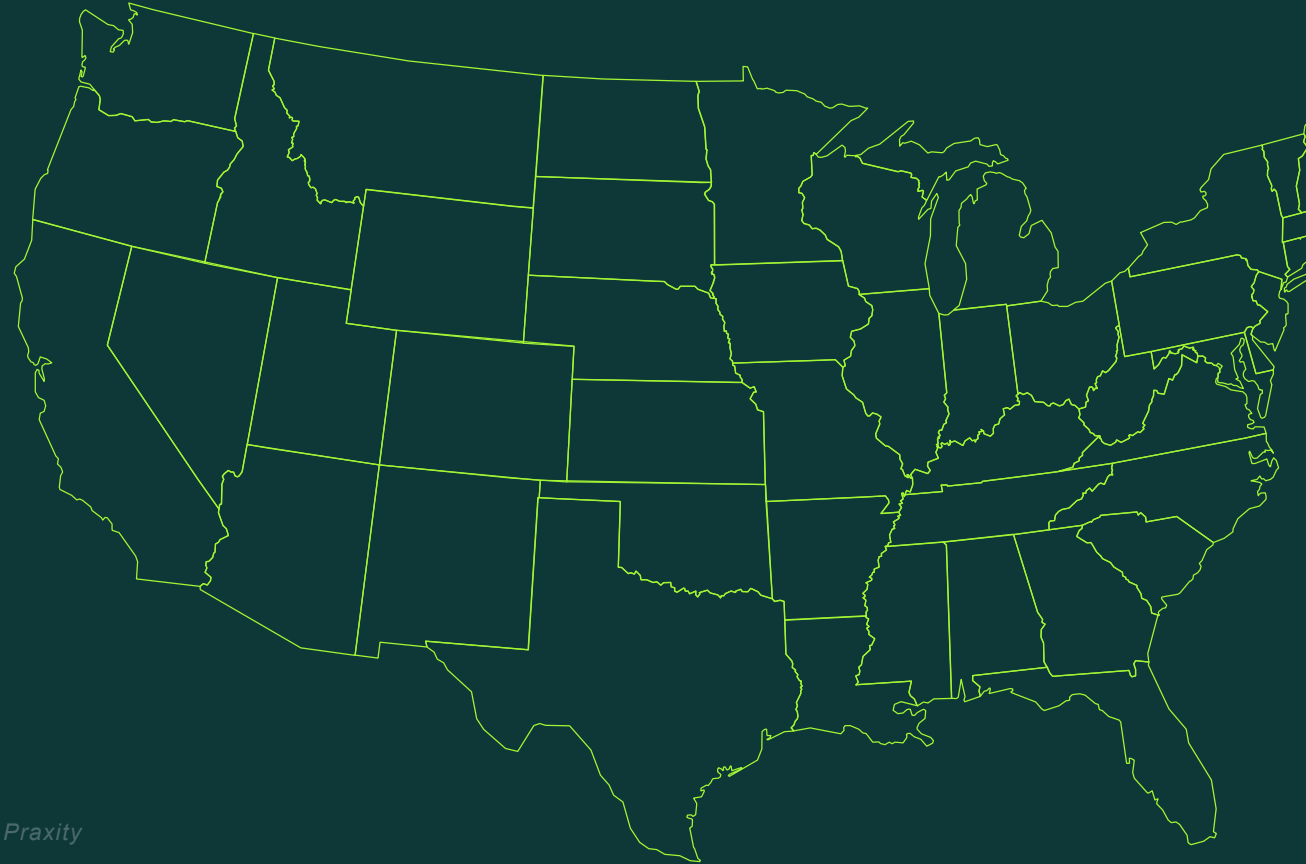


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- ▶ 3,400+ professionals
- ▶ \$768M in revenue earned
- ▶ 30+ industries served
- ▶ 110+ countries served through *Praxity*





# Today's Topics

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- Where Are We Today?
- Proposed Tax Changes (2021)
- Pandemic Economic Relief



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Where Are We Today?

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# Where are we today? (from a tax policy perspective)

- Congressional “Lame Duck” period
  - >269 Electoral Votes certified at state level for Pres. Elect Joe Biden
  - On-going contest of election results by President Donald Trump
  - Existing Congress still operating until Winter Recess (tentatively scheduled to start on 12/21)
  - On-going discussions re: more potential economic relief
- Georgia Senate run-off election key to future tax policy (1/5/2021)
  - Current projected Congress = 50 (R), 48 (D)
  - If Georgia elects 2 (D), Vice Pres. Elect Kamala Harris is tie-breaking vote
  - In other words, Georgia 2 (D) would shift control of the Senate to Democrats
- Barring the unexpected, new Administration to be inaugurated on 1/20/2021





# Proposed Tax Changes (2021)

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# Business

	CURRENT LAW	JOE BIDEN
<b>CORPORATE TAX RATE</b>	21%	<ul style="list-style-type: none"> <li>• 28% corporate tax rate.</li> <li>• For corporations reporting more than \$100 million of annual book income, enact a 15% “minimum tax” on book profits, reduced by any foreign taxes paid or loss carryovers allowed.</li> </ul>
<b>QUALIFIED BUSINESS INCOME (QBI) DEDUCTION</b>	Taxpayers other than C corporations are allowed a 20% deduction of QBI from pass-through entities or qualified real estate investment trust (REIT) income, with some limitations. Set to expire December 31, 2025.	Phase out the deduction for taxpayers earning more than \$400,000.
<b>ACCELERATED BONUS DEPRECIATION</b>	100% bonus for eligible property through 2022 with phase out starting in 2023.	No specific plan announced, but generally supports reversing 2017 TCJA provisions that benefit corporations.



# Business *(continued)*

	CURRENT LAW	JOE BIDEN
<b>CREDIT JOBS IN THE UNITED STATES</b>	NA	10% Made in America tax credit for companies that create jobs for American workers or that increase manufacturing wages above the pre-COVID-19 baseline.
<b>MANUFACTURING CREDIT</b>	NA	Enact a Manufacturing Communities Credit that promotes revitalizing, renovating, and modernizing existing (or recently closed) facilities, requiring strong labor standards and a prevailing wage for workers.
<b>WORK OPPORTUNITY TAX CREDIT (WOTC)</b>	Businesses can have a nonrefundable tax credit for a portion of wages paid to certain new employees who qualify as members of disadvantaged groups.	Expand the WOTC to include military spouses.



# Business *(continued)*

	CURRENT LAW	JOE BIDEN
<b>COMMUNITY DEVELOPMENT</b>	New markets tax credit (NMTC) is available for taxpayers who hold a qualified equity investment in low-income communities. The NMTC limitation for 2020 is \$5 billion. No allocation for after 2020.	Expand and make the NMTC program permanent.
<b>FOSSIL FUELS AND RENEWABLE ENERGY</b>	Several deductions exist for businesses that invest in fossil fuels, including a deduction for intangible drilling costs paid or incurred by operators of oil and gas wells and a deduction for the depletion of minerals and oil and gas extraction.	<ul style="list-style-type: none"> <li>• End fossil fuel subsidies.</li> <li>• Reinstate or expand various tax credits designed to reduce carbon emissions, such as deductions for emissions-reducing investments in residential and commercial buildings, the solar investment tax credit, and credits for the purchase of electric vehicles.</li> </ul>
<b>REAL ESTATE</b>	<ul style="list-style-type: none"> <li>• Taxes on gains of real property are deferred if the property exchanged is “like-kind.”</li> <li>• Owners of certain residential property occupied by low-income tenants may claim a tax credit that’s a percentage of the qualified basis of the property over a 10-year period.</li> </ul>	<ul style="list-style-type: none"> <li>• Remove like-kind exchange deferral.</li> <li>• Expand the low-income housing tax credit.</li> <li>• Create \$15,000 tax credit for first-time home buyers.</li> <li>• Create renter’s tax credit to help low-income families.</li> </ul>





# International

	CURRENT LAW	JOE BIDEN
<b>GLOBAL INTANGIBLE LOW-TAXED INCOME (GILTI) AND BASE EROSION AND ANTI-ABUSE TAX (BEAT)</b>	GILTI taxes 10.5% of US shareholder's income from controlled foreign corporations (CFCs) with a deduction of 37.5% for foreign-derived intangible income (FDII) plus 50% of the GILTI. Minimum BEAT for certain taxpayers is 10% and 12.5% for tax years beginning after 2025.	<ul style="list-style-type: none"> <li>• Raise GILTI rate to 21% and impose it on a country-by-country basis.</li> <li>• Eliminate GILTI exemption for qualified business asset investment (QBAI).</li> </ul>
<b>TAX TREATMENT OF US CORPORATIONS THAT RE-DOMESTICATE JOBS OR MOVE JOBS OVERSEAS</b>	Foreign-derived intangible income (FDII) deduction and anti-inversion regulations.	<ul style="list-style-type: none"> <li>• Create a 10% Made in America tax credit applicable to qualifying expenses incurred to return production to the United States, revitalize manufacturing plants, and increase wages paid to US manufacturing workers.</li> <li>• Impose a 10% surtax on corporations that send manufacturing and service jobs overseas when goods are ultimately sold back into the United States. This could raise the effective corporate tax rate on associated activity to 30.8%.</li> <li>• Establish a claw-back provision to require companies to return public investments and tax benefits when they close down jobs in the United States and send them overseas.</li> </ul>



# Individuals

	CURRENT LAW	JOE BIDEN
<b>INDIVIDUAL TAX RATE</b>	Top rate is 37%, expiring after 2025.	Raise top marginal tax rate to pre-TCJA rate of 39.6% for income over \$400,000.
<b>CAPITAL GAIN RATE</b>	Top rate is 20%. Additionally, 3.8% net investment income tax (NIIT) for income over \$200,000 (single) and \$250,000 (married filing jointly).	Remove preferential rate for capital gains and qualified dividends for taxpayers with income over \$1 million by taxing them at ordinary rates. Would retain 3.8% NIIT.
<b>DEDUCTIONS</b>	Standard deduction for married filing jointly is \$24,800, expiring after 2025. Itemized deduction for state and local taxes is capped at \$10,000. TCJA suspended the personal exemption and most itemized deductions through 2025.	Would limit itemized deductions at 28% of value for taxpayers in a marginal tax bracket that exceeds 28% and restore overall itemized deduction limitation, also known as the Pease limitation. Generally supports eliminating the cap on the state and local tax deduction.
<b>ESTATE TAXES</b>	For 2020, estate and gift tax exemption is \$11.58 million. This is scheduled to revert to a pre-TCJA indexed amount of \$5 million (indexed for inflation) after 2025. Transfers of appreciated property at death get a stepped-up basis.	<ul style="list-style-type: none"> <li>• Eliminate step-up basis on assets inherited at death.</li> <li>• Indicated preference to reduce the estate and gift exemption and increase the tax rate.</li> </ul>



# Individuals *(continued)*

	CURRENT LAW	JOE BIDEN
<b>QUALIFIED OPPORTUNITY FUND (QOF)</b>	Taxpayers may elect to defer recognition of, and avoid recognition of future appreciation related to, capital gain from certain sales or exchanges of property by investing the gain in a QOF.	Reform QOF rules to focus on creating jobs and development in low-income communities, partnering with not-for-profit and community organizations, and provide transparency on investments.
<b>CHILDCARE AND DEPENDENT CARE TAX CREDIT</b>	<ul style="list-style-type: none"> <li>• Nonrefundable credit to partially offset expenses related to caring for children under age 13 or a disabled dependent living in a household.</li> <li>• Credit is worth up to 35% of up to \$3,000 of expenses or \$6,000 for multiple dependents. Phased down to 20% for higher incomes.</li> </ul>	<ul style="list-style-type: none"> <li>• Increase dependent care credit to \$8,000. Increase refundable credit to 50% for childcare expenses up to \$8,000 per child or \$16,000 for more than one child for families making less than \$125,000 a year.</li> <li>• Phase out credit for families making \$125,000–\$400,000 a year. Investigate ways to make credit advanced.</li> </ul>





# Individuals *(continued)*

	CURRENT LAW	JOE BIDEN
<b>STUDENT LOANS AND EDUCATION</b>	Loan forgiveness is typically included in income unless an exception applies, typically because an individual worked for a certain period of time in certain professions.	<ul style="list-style-type: none"><li>• Student loans could be cancelled tax-free, after borrowers are enrolled in the income-based repayment plan for 20 years.</li><li>• Offer \$10,000 of undergraduate or graduate student debt relief for every year of national or community service, up to five years.</li></ul>
<b>CHILD TAX CREDIT</b>	The child tax credit (CTC) provides up to \$2,000 per child under age 17 (60% refundable). Other dependents, including children ages 17–18 and full-time college students ages 19–24, can receive a nonrefundable credit of up to \$500 each, which is phased out for higher incomes.	Increase the CTC up to \$3,000 for children 17 or younger and a \$600 bonus credit for children under six. The CTC could also be made fully refundable, removing the \$2,500 reimbursement threshold and 15% phase-in rate. Phased out for higher incomes.



# Other Tax Provisions

	CURRENT LAW	JOE BIDEN
<b>PAYROLL TAX</b>	12.4% payroll tax is applied on worker's wages up to \$137,700 for 2020, with tax split between employer and employee.	Impose payroll tax on those earning more than \$400,000. Wages between \$137,700 and \$400,000 wouldn't be subject to payroll tax.
<b>RETIREMENT INCENTIVES</b>	<ul style="list-style-type: none"><li>• Most workers can contribute up to \$19,500 a year to a 401(k) account (an additional \$6,500 if age 50 or higher).</li><li>• The deferred salary isn't included in taxable income until withdrawn. Not all employers offer qualified retirement plans. Minimum distributions are required when a taxpayer turns 72.</li></ul>	<ul style="list-style-type: none"><li>• Help small businesses cover the costs of setting up "automatic 401(k)" plans for workers without access to pensions or 401(k) plans.</li><li>• Allow caregivers not earning wages to make catch-up contributions to retirement accounts.</li><li>• Change the current deduction for retirement contributions to a credit.</li></ul>





# Other Tax Provisions *(continued)*

	CURRENT LAW	JOE BIDEN
<b>HEALTH CARE AND LONG-TERM CARE</b>	<ul style="list-style-type: none"><li>• Low-income taxpayers may be able to claim a tax credit to help pay premiums for purchasing health insurance under the Affordable Care Act (400% income cap).</li><li>• Long-term care insurance premiums are eligible medical care expenses for purposes of the medical deduction.</li></ul>	<ul style="list-style-type: none"><li>• Eliminate the 400% income cap on tax credit eligibility and lower the cost of coverage from 9.86% of income to 8.5%. Middle-class families would receive a premium tax credit to help pay for coverage.</li><li>• Impose a tax penalty on drug manufacturers that abuse product pricing and limit price increases to inflation. Terminate pharmaceutical corporations' tax break for advertisement spending.</li><li>• Create \$5,000 tax credit for informal caregivers and other caregiver benefits.</li></ul>





# Pandemic Economic Relief

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# Pandemic Economic Relief (Federal)

- Back to Congress, the never-ending negotiations continue...
  - Recent Proposed \$908B Relief package
    - More PPP money (if you suffered a decline in gross receipts)
    - Allow PPP tax deductions
    - Enhanced unemployment benefits (similar to Spring/Summer)
    - Still fighting over payments to state and local governments + business COVID liability protection
- Craft Beverage Modernization Act Renewal?
  - Reduced alcohol excise taxes on a tiered basis for 2018 and 2019, renewed for 2020
  - TBD on 2021 (watch year-end budget bill and tax extenders package)



# Pandemic Economic Relief (State)

- State of California
  - California Main Street Small Business Hiring Credit
    - <100 employees at end of 2019
    - 50%+ reduction in gross receipts (Q2 2020 vs Q2 2019)
    - Increase headcount between 7/1/2020 – 11/30/2020
    - Credit = \$1,000 per net increase in FTE employees
    - **Open for applications now. Program will close once allocation committed**
  - Penalty and Interest relief for CDTFA payments
    - Automatic 3-month extensions for taxpayer filing less than \$1M in sale tax on the return
      - Up to \$5M in taxable sales
    - Expanded opportunities to request interest-free payment arrangements



# Pandemic Economic Relief (Other)

- Pay attention to Local and Community Opportunities!
  - Sonoma County, CA
    - Business Stabilization Grant Program (currently closed, more opportunities may open)
    - \$2,500 - \$15,000 was allocated to each business
  - LA Regional COVID Fund
    - \$5,000 - \$15,000 Grants
    - Rounds 4-6 recently closed, more opportunities may open soon
  - GoFund Me Grants
    - <https://www.gofundme.com/c/cause/covid19-relief>



# Pandemic Economic Relief (Reminders)

- **Existing Opportunities (from March 2020 CARES Act)**
  - Employee Retention Tax Credits (if not using PPP)
  - Net Operating Loss Carrybacks (2018-2020, five-year carryback)
  - 100% Bonus Depreciation for “Qualified Improvement Property”
    - Ex: taproom improvements
  - Optional Deferral of Employer Social Security Taxes
  - COVID Hardship Withdrawals from 401k and Other Retirement Plans
  - Loosening of “Excess Business Interest” and “Excess Business Loss” rules



# Resources

## COVID-19 Alerts, Insights & Guidance

- MOSS ADAMS CRAFT BEER INSIGHTS
- [HTTPS://MOSSADAMS.COM/INDUSTRIES/WINE-BEER-AND-SPIRITS/CRAFT-BEER](https://mossadams.com/industries/wine-beer-and-spirits/craft-beer)
- MOSS ADAMS COVID-19 CONTENT MAP
- [HTTPS://MOSSADAMS.COM/COVID-19-IMPLICATIONS](https://mossadams.com/covid-19-implications)

## Upcoming Webcasts & Events

- All events | <https://mossadams.com/events>



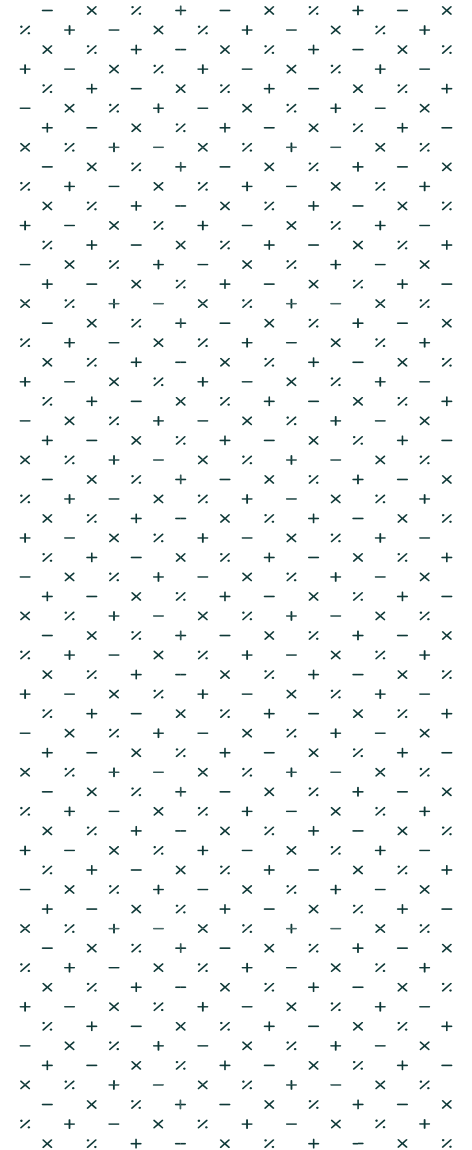


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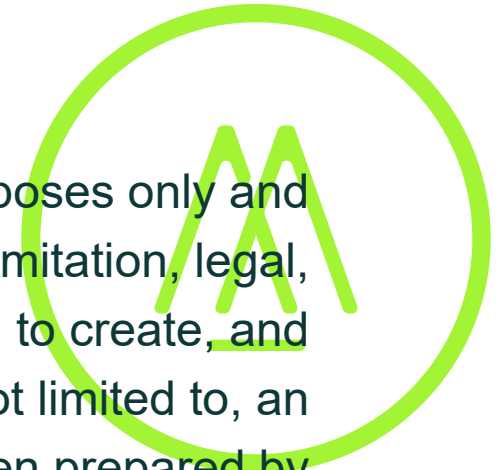
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