WHITE PAPER

2017 YEAR END PLANNING CONSIDERATIONS IN LIGHT OF THE TAX CUTS AND JOBS ACT

BY KIM D. GARCIA, CPA/PFS, PRINCIPAL

While there has been a lot of speculation about tax reform and changes that may be forthcoming, taxpayers must prepare for end of year planning based on the laws in effect today. This paper will address a variety of planning considerations in light of current tax law as well as the potential for changes which may come in 2018.

continued on next page ›

2017 Tax Rates

TAX RATES ON ORDINARY INCOME	SINGLE TAXPAYERS	MARRIED FILING JOINT TAXPAYERS	TAX RATES ON QUALIFIED DIVIDENDS AND LONG-TERM CAPITAL GAINS
10%	$0 to $9,325	$0 to $18,650	0%
15%	$9,325 to $37,950	$18,650 to $75,900	0%
25%	$37,950 to $91,900	$75,900 to $153,100	15%
28%	$91,900 to $191,650	$153,100 to $233,350	15%
33%	$191,650 to $416,700	$233,350 to $416,700	15%
35%	$416,700 to $418,400	$416,700 to $470,700	15%
39.6%	Over $418,400	Over $470,700	20%

Additional Taxes

The 3.8% tax on investment income is still a factor. This tax applies to investment income of taxpayers with adjusted gross income of more than $200,000 ($250,000 for joint filers). Generally, the tax applies to interest, dividends, capital gains, annuities, rents and royalties and passive activities. It does not apply to wages, self-employment income, retirement distributions and active trade or business income.

For wage earners and self-employed taxpayers, there is an additional .9% FICA tax on earnings subject to the same income limits of $200,000 and $250,000.

continued on next page ›

Proposed Changes

HOUSE PROPOSAL:

TAX RATES ON ORDINARY INCOME	SINGLE TAXPAYERS	MARRIED FILING JOINT TAXPAYERS
12%	$0 to $45,000	$0 to $90,000
25%	$45,001 to $200,000	$90,001 to $260,000
35%	$200,001 to $500,000	$260,001 to $1,000,000
39.6%	Over $500,000	Over $1,000,000

SENATE PROPOSAL:

TAX RATES ON ORDINARY INCOME	SINGLE TAXPAYERS	MARRIED FILING JOINT TAXPAYERS
10%	$0 to $9,525	$0 to $19,050
12%	$9,526 to $38,700	$19,051 to $77,400
22.5%	$38,701 to $60,000	$77,401 to $120,000
25%	$60,001 to $170,000	$120,001 to $290,000
32.5%	$170,001 to $200,000	$290,001 to $390,000
35%	$200,001 to $500,000	$390,001 to $1,000,000
38.5%	Over $500,000	Over $1,000,000

These rates will apply for tax years beginning after 2017.

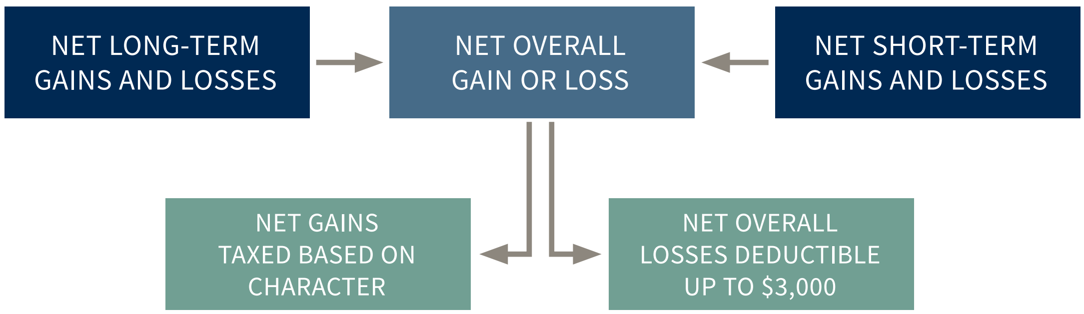
It appears that the 3.8% additional tax on investment income and the .9% additional FICA tax on wages will continue to apply.

continued on next page ›

Planning for Capital Gains and Losses

Sales of assets within an investment portfolio generate capital gains and losses. Long-term gains and losses are generated from the sale of assets held for longer than one year. Short-term gains and losses are generated from assets held for one year or less. Long-term gains are taxed at the preferential rates in the chart above. Short-term gains are taxed as ordinary income. Gains and losses must be netted to determine the resulting overall gain or loss:

NETTING RULES:



- **Short-term transactions are netted against each other to determine the overall short-term gain or loss.**
- **Long-term transactions are netted against each other to determine the overall long-term gain or loss.**
- **Net losses of either type may offset either type of net gain.**
- **If the overall netting results in a gain, it will be taxed according to the rate for the type of resulting gain.**
- **If the overall netting results in a loss, up to $3,000 may be deducted against ordinary income.**
- **Any excess loss may be carried over indefinitely to future tax years.**

Tax loss harvesting is an effective way to generate additional losses prior to the end of a tax year. However, this must be done with caution to avoid violation of the wash sale rule. The wash sale rule provides that a taxpayer who sells a security at a loss must wait more than 30 days to repurchase the security or the loss will be disallowed. The wash sale rule applies to transactions before and after the date of sale. The disallowed loss will be added to the basis of the remaining shares. The loss disallowance does not apply to stock acquired by gift, inheritance or in a nontaxable exchange.

continued on next page ›

In reviewing opportunities for tax loss harvesting, it is critical to assess individual tax lots of a security rather than looking at the entire position as some lots may generate losses while others would generate a gain.

For the charitably inclined, the use of appreciated stock for charitable giving is another means of avoiding the realization of capital gains.

Proposed Changes

HOUSE AND SENATE PROPOSAL:

TAX RATES ON CAPITAL GAINS	SINGLE TAXPAYERS	MARRIED FILING JOINT TAXPAYERS
0%	$0 to $38,600	$0 to $77,200
15%	$38,601 to $425,800	$77,201 to $479,000
20%	Over $425,800	Over $479,000

Exemptions and Deductions

Each person is allowed a personal exemption in the amount of $4,050 in 2017. This exemption applies to each taxpayer and to each of the taxpayer's dependents. Personal exemptions are subject to phase-out if AGI exceeds $313,800 for married taxpayers filing jointly or $261,500 for single taxpayers.

Additionally, taxpayers may choose to take a standard deduction or may itemize deductions. For 2017, the standard deduction is:

- **$6,350 for single taxpayers**
- **$12,700 for married taxpayers filing jointly**

Additional standard deductions are allowed for taxpayers who are age 65 or older, or blind, or both. Married taxpayers receive an additional deduction of $1,250 in 2017 and single taxpayers receive $1,550.

If the allowable itemized deductions exceed the amount of the standard deduction, the taxpayer may deduct the larger amount.

Important Notes And Disclosures

continued on next page ›

However, there is an overall limitation on deductibility for taxpayers who have adjusted gross income in excess of certain amounts. The applicable amounts in 2017 are $261,500 for single taxpayers and $313,800 for joint filers. The limitation is that overall itemized deductions must be reduced by the lesser of:

1. **3% of the excess of adjusted gross income over the applicable amount or**
2. **80% of the amount of otherwise allowable itemized deductions**

Below is a list of deductions available subject to the limitations that apply:

DEDUCTION	OVERALL LIMITATION	DEDUCTIBLE FOR AMT
Medical and Dental Expenses	Amount in excess of 10% of AGI (7.5% if 65 or older)	Yes but only amount in excess of 10% of AGI for all taxpayers
State and Local Income or Sales Tax	No Limit	No
Real Estate Taxes	No Limit	No
Personal Property Taxes	No Limit	No
Home Mortgage Interest Expense	Debt cannot exceed $1,100,000 including home equity debt	Only acquisition indebtedness - not home equity debt
Investment Interest Expense	Limited to Investment Income	Yes, as recalculated for AMT income
Charitable Contributions	Limited to 50% of AGI	Yes
Casualty or Theft Losses	Amount in excess of 10% of AGI	Yes
Miscellaneous Itemized Deductions (tax prep fees, investment mgt. fees)	Amount in excess of 2% of AGI	No

continued on next page ›

Proposed Changes

The proposed tax framework provides for a significant increase in the standard deduction as follows:

- **$24,000 for married taxpayers filing jointly**
- **$12,000 for single taxpayers**

In connection with this increased standard deduction, the existing personal exemptions would be eliminated. The Senate plan would retain the additional standard deduction for the blind and elderly. Exemptions for dependents would be consolidated into an expanded child tax credit and a new family tax credit with some differences between the House and Senate plans.

DEDUCTION	HOUSE PROPOSAL	SENATE PROPOSAL
Medical and Dental Expenses	Not deductible	Amount in excess of 10% of AGI (7.5% if 65 or older)
State and Local Income or Sales Tax	Not deductible	Not deductible
Real Estate Taxes	Deductible up to $10,000	Not deductible
Personal Property Taxes	Not deductible	Not deductible
Home Mortgage Interest Expense	Future debt cannot exceed $500,000 and no home equity debt	Maintains current limit of $1,000,000 and no home equity
Charitable Contributions	Limited to 60% of AGI	Limited to 60% of AGI
Casualty or Theft Losses	Deductible only for certain disasters	Deductible only for certain disasters
Miscellaneous Itemized Deductions (tax prep fees, investment mgt. fees)	Not deductible	Not deductible

continued on next page ›

State and Local Taxes

State and local taxes are currently an allowable itemized deduction. However, they are not allowed as a deduction in calculating taxable income for purposes of the Alternative Minimum Tax. Generally, if tax rates are expected to decrease in 2018, it would be advantageous to pay estimated state income taxes prior to the end of 2017. However, it is important to evaluate the impact of the deduction on the Alternative Minimum Tax, if applicable.

Proposed Changes

The tax reform proposal provides for the elimination of the deduction of state income taxes. The complete elimination of the Alternative Minimum Tax is also proposed.

Charitable Contributions

Contributions of cash or property to charitable organizations are eligible itemized deductions and are subject to an overall limitation of 50% of adjusted gross income. Amounts contributed in excess of the amount allowable in a tax year may be carried forward for up to 5 years.

The amount deductible in a tax year depends upon the type of organization receiving the contribution and the type of property being contributed. The table below describes the general deduction limitations:

TYPE OF ORGANIZATION	CASH	APPRECIATED PROPERTY
Public Charities & Private Operating Foundations	50% of AGI	30% of AGI
Private Non-Operating Foundations	30% of AGI	20% of AGI

There is an additional limitation for gifts of appreciated property. Such property must be subject to long-term capital gain treatment if it were to be sold by the taxpayer. If a sale of the property would generate ordinary income or short-term capital gain, the deduction is limited to the taxpayer’s basis in the property.

Individuals who have attained age 70-1/2 may make charitable contributions directly from their IRA up to $100,000 per year. Any amounts paid directly from the IRA to charity are excluded from gross income. Contributions to private foundations and donor advised funds do not qualify under this provision.

continued on next page ›

Proposed Changes

The 50% limitation for cash contributions to public charities and private operating foundations would be increased to 60%. The 5 year carryforward would still apply to contributions in excess of the 60% limitation.

Estate and Gift Tax Planning

The current estate and gift tax rate is 40%. However, every individual is entitled to a lifetime gift tax exemption of $5,490,000 (rising to $5,600,000 in 2018). Any amount not utilized during life may be applied to transfers at death. Transfers may also be subject to generation-skipping transfer tax which is also 40%. Careful planning should be done to minimize these taxes. One of the key considerations is the tax basis of the asset being transferred. Assets transferred during life will have a carryover basis for the donee. This means that the recipient will have the same basis in the asset that the donor had. Conversely, assets transferred upon death have a basis of fair market value at the date of death. Therefore, it is critical to examine the relevant income tax brackets of the donor and donee when making gifting decisions.

In addition to the lifetime exemption, every individual has an annual gift tax exclusion of $14,000 (rising to $15,000 in 2018) which is applied per recipient. Together, a married couple may give $28,000 to as many recipients as they choose without being subject to gift tax.

Amounts paid for medical and educational expenses are also excluded from gift tax if the payment is made directly to the provider and not to the beneficiary.

Proposed Changes

	HOUSE PROPOSAL	SENATE PROPOSAL
Estate Tax	Double exemption and eliminate tax for deaths after 2024 while retaining the step-up in basis	Double exemption but does not provide for future repeal
GST Tax	Double exemption and eliminate tax for deaths after 2024	Double exemption but does not provide for future repeal
Gift Tax	Lower tax rate from 40% to 35% for gifts made after 2024	Double exemption but does not provide for lower tax rate

continued on next page ›

Conclusion

While there are many uncertainties surrounding tax reform, there is still valuable planning that can be done to minimize 2017 income taxes and address wealth transfer goals.

This paper is intended to be educational in nature and does not replace the need for analysis of individual circumstances.

ATLANTA

400 Galleria Parkway, Suite 1400
Atlanta, GA 30339
Phone: 770.226.5333

GREENSBORO

300 N Greene Street, Suite 2150
Greensboro, NC 27401
Phone: 336.217.0151

MEMPHIS

6075 Poplar Avenue, Suite 900
Memphis, TN 38119
Phone: 901.761.7979

NASHVILLE

3102 West End Avenue, Suite 600
Nashville, TN 37203
Phone: 615.386.7302