

## TAX NEWS & VIEWS



### Election update: Tax implications of a Joe Biden presidency

*Most major news organizations have declared that former Vice President Joe Biden will emerge with at least 270 electoral votes and will become our next president. With that in mind, it's time for taxpayers to begin to consider the potential tax impacts of Joe Biden's tax agenda.*

**Host:** [Ian Solomon](#),  
Senior Manager, Deloitte

**Guests:** [Jon Traub](#) and  
[Shahira Knight](#)

**Ian:** From Deloitte Tax, welcome to the Tax News & Views podcast. On this podcast, we talk to specialists from Deloitte Tax about some of the latest business issues and developments. I am Ian Solomon and joining me today to talk about some of the tax implications of the outcomes of the US election are Jon Traub and Shahira Knight. Jon is a managing principal in Deloitte's Washington National Tax group, as well as the leader of Deloitte's Tax Policy group. Before joining Deloitte in 2012, he was the staff director for the Committee on Ways and Means of the US House of Representatives. Shahira is the deputy managing principal in Deloitte's Policy and Government Relations group and she has more than 20 years of experience in government, public policy, and public affairs. She previously served as the director of the White House Office of Legislative Affairs where she was the president's top liaison between the White House and Congress.

Jon, Shahira, thanks so much for coming on the podcast. The election was called by all the major media outlets over the weekend. Great to have you both here to talk about what this means for tax policy.

**Jon:** Good to be with you, Ian.

**Shahira:** Thank you.

**Ian:** All right, Jon, let's start with you. So, first of all, what are your overall reactions to the election results? And obviously the presidential results with Joe Biden, as well as where we're at with the House and the Senate?

**Jon:** Well, as you mentioned, Ian, it is clear the networks have called this race for Vice President Biden. We still have to go through recanvassing, recounts, and legal challenges,

and, of course, the formal counting of the votes cast by the state electors. So, it's not yet a done deal. But where we sit today, it leaves Democrats with some ability to shape tax policy at the legislative level, but less than they had hoped for. And it certainly would give President-elect Biden the abilities—the administrative authority—at Treasury to issue regulations and guidance that accomplishes some of his goals, but certainly not all of them that he can't get through Congress.

**Ian:** Shahira, what's your perspective here on the election results and what that might mean for tax policy?

**Shahira:** Sure. So, I think just to add on to what Jon said, the other thing to keep in mind is that where we stand, at least today, neither the House nor Senate has been decided yet. Even in the House, there are 23 outstanding races. Democrats are very close to crossing that 218 threshold that gives them control. And it's fully expected that they will get control. But the Senate is not decided yet. The Senate stands at 48-48 right now.

North Carolina and Alaska should be decided maybe later this week or next. But Georgia has two Senate races this year that are not decided, and they're actually going to a runoff on January 5. So, control of the Senate, we're not going to know until January.

Depending on the outcome of the Senate, it is still possible that we have a Democratic sweep, but Republicans really did outperform at the congressional level. They picked up seats in the House when they were expected to lose seats. They held a lot of competitive seats in the Senate. They may keep control of the Senate. And I think those dynamics, and particularly

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that they were very different from what was expected, could have an impact on how a lot of these members vote, particularly on issues like taxes going into the next two years.

**Ian:** Between now and those Georgia races you mentioned, there's still work to be done in the lame duck session. And I know that Leader McConnell has signaled that he would like to get another COVID relief package done. Where are we with that, and what might that package look like?

**Shahira:** It is pretty interesting because over the past couple of days, Leader McConnell and House Speaker Pelosi have both raised an interest in, number one, doing a big appropriations package in the lame duck session, which could definitely include COVID spending and COVID relief provisions in it. And they also both raised interest in doing another COVID-19 economic relief package in the lame duck session as well. So, there are, I think, positive signals on that.

However, it feels like they haven't moved a whole lot. They're still at odds about the size and scope of the package. But I think one of the big differences that we're going to see is that McConnell will likely step in and get more engaged in the negotiations right now.

So, I think where it stands right now are positive signals from both the House and Senate that they do want to move forward on something. But I think there is still some skepticism about whether or not they can reach agreement and what the president would be willing to sign.

**Ian:** Jon, beyond the COVID legislation that Shahira just mentioned, is there anything else from a tax perspective that we should be on the lookout for during the lame duck session here?

**Jon:** For sure, every year it seems we go through this exercise of trying to decide whether and under what circumstances to extend what is known as tax extenders—these are temporary tax provisions that Congress tends to kick down the road one to two years at a time. And there are a number of them expiring at the end of 2020 that there will be some substantial interest in dealing with during a lame duck. I think the ability of Congress to deal with them is likely limited by what happens

first on the COVID relief package, because it's sort of hard to see Congress doing tax provisions benefiting corporations for the most part if they haven't taken care of individuals who are suffering from the economic effects of the pandemic. But for sure, there will be some push in Congress to do something on those expiring tax provisions.

**Ian:** Obviously, the pandemic is going to be with us well into 2021 and if the recovery and the economy also remains sluggish, is there a chance that more will need to be done? And what would that look like?

**Shahira:** I think that the pandemic and economic recovery are going to be front and center early in January and February of next year no matter what. And so, I do think that there's going to be, number one, an appetite to do something, but we're going to see that Biden—he's already taking control. Today, he is talking about announcing a task force of scientists and health experts. And he's going to want to come out of the gate quickly and do something sort of—whether it's big or decisive—he will want to act on COVID-19 early next year.

And I think the difference that we're going to see is that right now, and especially before the election, there was a lot of posturing before the election and politics got involved. Next year, it's going to be time to buckle up and start legislating. And that means that they're going to have to negotiate on a bipartisan basis in earnest to get things done. So, I do think more is going to be done next year. What it looks like, I think it's hard to predict, but I do think that it's going to have to be bipartisan if the Republicans control the Senate or we're just going to be stuck where we are right now.

**Ian:** Jon, while tax legislation obviously originates in Congress, based on the tax plans that Vice President Biden discussed during the campaign, what do you think the priorities are going to be for a Biden administration starting in 2021?

**Jon:** Well, I think what Shahira said, the first priority out of the box is going to be to get the economy right sized and back on stable footing. And I do think that there's going to be interesting tension between the desire to do that and the desire to sort of legislate post-election that Shahira just mentioned, laid

against an increasing concern among Senate Republicans about the size and scope of the deficit. And so their capacity and willingness to pass a big package may be somewhat limited.

In terms of where Biden goes on taxes after that, I think he sort of has four big policy goals he's laid out there. He has lots of different policy goals, but the four big ones are climate change, healthcare, infrastructure, and college affordability. I don't have a real insight into which of those four would take first place in his prioritization.

But no matter which of those big four Biden chooses to work on next year first, again whether it's infrastructure, climate, healthcare, or college affordability, each of those plans would require the inclusion of substantial offsets to pay for the costs, and those we assume will include tax increases or proposals to increase taxes to offset those costs, which could include both corporate and individual changes that folks need to be paying careful attention to.

**Ian:** So now that the Biden administration is starting to plan, obviously the biggest thing there is who's going to be nominated for some of the cabinet roles, as well as other key roles in the administration. So, what's your perspective there, and what should taxpayers be looking for based on who maybe gets some of those roles and jobs?

**Shahira:** Sure, I think it was very famously said that personnel is policy, and I absolutely agree with that. The people who are appointed to lead different departments and agencies and cabinets have a very important impact on the policymaking process.

And so, it will be important to see who is nominated and appointed to be the secretary of Treasury or to head IRS or who is appointed to be head of domestic tax for international tax policy, because those are important policymaking roles. And a lot of the people that will likely be on a short list for a Biden administration are probably people who have a lot of experience in DC. They probably have a lot of history here. We will likely glean what their policy leanings are and what types of changes they might be looking to make.

And this is another area, honestly, where the Senate is really important because all of these

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positions need to be confirmed by the Senate. Now, even if Republicans have control of the Senate next year, I do not expect that Leader McConnell would try to block the nominations of President-elect Biden. That is not typical or normal. However, Biden needs at least 50 votes to confirm his nominees. And if Republicans control the Senate, that means that his nominees will have to have at least some bipartisan support. So, control of the Senate might have sort of a moderating effect on who he appoints to some of these positions. But it will be important to see who is elected in some of these key policymaking positions, both in tax and across the administration.

**Ian:** We have time for one last question here, and Jon, let's start with you. What do you think taxpayers should really be paying attention to over the next month and a half between now and the end of the year?

**Jon:** So I think that we'll be watching, obviously, in the short term for what happens on extenders, if they get a deal done there as part of a COVID relief wrap-up package to close out 2020, and then look for signals early on from the administration on what they'll prioritize next year. I would also be watching closely the outcome of the four uncalled Senate races this year. I mentioned Alaska and North Carolina, we should know relatively soon. Georgia we will know after runoffs in January.

**Shahira:** I agree with all of that. And I would also watch to see how productive the lame duck is, how much that gets done in the lame duck, because that will also determine how much is taken off the table for early next year. So, for example, if they really do succeed in doing all of the government funding bills in the lame duck, then that will be taken off the table for early next year and it'll free up

President-elect Biden to start working on other issues, whereas if it's not done in the lame duck, they're going to have to work on budget and government funding early next year. So, I think looking at the productivity of the lame duck session, what gets done, will help determine whether they can pivot and start focusing on new issues early next year or whether or not they still have to do a lot of unfinished business.

**Ian:** Jon, Shahira, always great to have you on the podcast. I know we'll be talking a lot over the next couple months. Thank you so much for coming on today right after the election's been called by the media.

**Jon:** A real pleasure, Ian. Have a great day.

**Shahira:** Thank you for having us on, Ian.

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