

# GRANITE POINT TAX GROUP, LLC



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**We have faced uncertainty about the future of the tax code before, of course, but nothing like this! Let's take a look at what might (or might not) happen during the Trump administration.**

## **Obamacare**

Many of the "drivers" of the Affordable Care Act, such as the individual and employer mandates and the premium tax credit, lie in the tax code. Therefore it stands to reason that any repeal, replacement, or modifications to the Act will impact our tax forms. A complete repeal would presumably bring an end to the following:

- The Shared Responsibility surtax
- The Premium Tax Credit (and the advance for low-incomers)
- The 0.9% Additional Medicare Tax
- The 3.8% Net Investment Income Tax
- The 10% (instead of 7.5%) AGI threshold for medical expenses
- The 2.3% tax on medical devices
- The 10% tax on tanning services
- The \$2,500 cap on FSA payins
- The 40% tax on "Cadillac" health plans, currently set to start in 2020
- And a few smaller provisions

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## **PATH Act**

Last year's Protecting Americans from Tax Hikes act was mostly a temporary extension of earlier tax breaks, and most of those extensions are set to expire at the end of 2016. If Congress is too busy to re-extend them, we may see the demise of these:

- Exclusion from income of forgiven home mortgage debt. Generally when a debt is canceled outside of bankruptcy, the forgiven debt is taxable income. For the past several years, however, mortgages of up to \$2 million on primary residences have been excluded from this rule.
- Energy credits. The 30% credit for solar, wind, or geothermal systems is on the chopping block, along with several smaller credits for energy-efficient windows, doors, insulation, etc.
- PMI deduction. Folks who are unable to pay 20% or more equity on the purchase of their home are generally required by lenders to pay for Private Mortgage Insurance. In recent years, this PMI has been deductible as mortgage interest.
- Biodiesel, alternative fuels, and electric vehicles have seen recent tax incentives which may disappear soon.
- Special Depreciation Allowance. So called "50% Bonus" depreciation has been immensely popular, so it would be surprising to see this one go, but it is possible.

## **Estate Tax**

Mr. Trump has been steadfastly opposed to the estate tax (or "death tax" if you prefer). We would not be surprised to see a strong push to eliminate or weaken it. There is a catch, however; under the current rules, estates over \$5.45 million are generally subject to the tax, but beneficiaries of *all* estates receive a step-up in basis of inherited assets to current fair market value. The practical effect of this is that the sale of assets soon after death will generate little or no taxable gain to the beneficiaries. If Trump's plan eliminates this step-up, as he has already suggested, the sale of the family property could generate a nasty tax surprise as the basis for calculating taxable gain on the sale would be the *original* owner's cost basis! Small estates, perhaps as large as \$10 million in total value, could be exempt. Or not – who knows. Of all the possible changes on the horizon, this is the one that we are watching most closely, as it is tied to some very real social implications. The estate tax was originally implemented to prevent or reduce dynastic family fortunes such as those of the Rockefellers and Vanderbilts (and dare we say Trumps?) that a capitalist economy naturally produces. We may be entering a new Gilded Age.

## **Tax Rates**

To discuss future tax rates at this point would be pure conjecture, but given the GOP dominance in Congress and the overall gist of Trump's campaign speeches, it seems safe to assume we'll be seeing a reduction in top rates and probably a reduction in business tax rates. High income individuals can probably expect their tax rate to drop a few percentage points. Corporations are likely to see something similar. For everyone else...it's difficult to say. It will largely depend on how his tax cuts are financed; if they are to be revenue neutral, the lower and middle classes may actually see tax *increases* through increased rates or reduced credits or both. If, on the other hand, his cuts are debt financed by adding them to the deficit, perhaps everyone will enjoy a reduced burden.

One interesting idea he has floated is a 25% tax rate on all business income, including “pass-through” entities such as S-Corps and partnerships, and even sole proprietors. We haven’t seen details on how this would work yet, but it is interesting nonetheless. We assume this strictly impacts income tax, not self-employment tax (the 15.3% tax the self-employed pay to Social Security and Medicare).

## Other Possible Changes

The 9% Domestic Production Activities deduction stands a good chance of falling victim to any reduction in overall corporate tax rates.

And several tax treaties with other nations have been lingering for years. Perhaps a business-friendly President will provide the push needed to move those through. Chile, Poland, and Hungary are included in this group.

Will we finally see the end of the Alternative Minimum Tax, as Trump has promised? We can only hope!

And if we’re allowed to really go wild with our conjecture, it doesn’t seem too far-fetched to think we could see even more reductions in IRS’ budget, along with a decreased zealotry for locating and taxing offshore assets.

Last but not least, the famous “carried interest provision” Trump railed against during the debates. A quick primer on this one: When people are paid for services, that income is considered earned income and is taxed at regular tax rates. But when people make money by selling assets for more than they paid for them, that is capital gain. If the assets were held more than a year that gain is afforded a lower tax rate to account for the fact that some portion of the gain was simply a reflection of inflation. But what happens when a person’s job is to sell assets at a gain and in exchange they get to keep a portion of the profit? That is carried interest and under current law is taxed as capital gain. Changing that law would impact approximately 2,000 hedge fund managers and other very-high-income individuals. Will that law be changed? Your guess is as good as ours.

## In Other News...

### Here are a few things we DO know:

The Foreign Bank Account Report (FINCEN 114, formerly TDF 90) is now due **APRIL 15** instead of June 30. There is an extension available, but it is NOT the same form as the extension for your personal income tax return! We expect this will catch more than a few folks off guard.

Penalties are increasing for 1099-Misc forms. Anyone operating a business (including rentals) who pays a contractor \$600 or more in cash or checks throughout the year must send both the contractor and the IRS a 1099-Misc form to report the payments. Maximum penalty is now \$260 per incomplete, incorrect, or missing form.

The R&D credit can now be claimed against payroll taxes (instead of income tax) for small businesses within their first five years of business. Pretty neat!

Private debt collection is returning. Apparently the IRS didn’t learn the first time around, so they are giving it another shot. If your taxes are in arrears, now might be a good time to contact IRS and get a payment plan in place.

The provision allowing RMDs from IRAs (if this applies to you, you'll know what that means) to be sent directly to charities has finally been made permanent. This can be useful for both upper-incomers whose AGI limits their deductions as well as lower-incomers who do not itemize deductions.

Partnership tax returns (Form 1065) are now due **March 15** (September 15 on extension) along with corporate returns. Finally!

### **In our hot real estate market, let's not forget about 1031 exchanges**

Tax deferred exchanges became rare during the Great Recession when property sales did not create a lot of gain. But now that our local real estate markets have seen 10% annual appreciation for several years in a row, gains are back! These gain deferral rules only apply to rentals and other business property and require you to exchange one piece of real estate for another. If you are thinking about selling your business real estate to change locations or upgrade from, say, a single family residence to a duplex or triplex, a 1031 exchange may allow you to make this change without having to pay tax on the sale of your original property. Technical rules apply, so you need to plan well in advance to take advantage of these tax deferral provisions.

### **Security and Privacy**

Security and Privacy issues are always on our mind because our clients entrust us with a great deal of their personal information. This year we upgraded our server as well as our security software, and we enlisted the help of a new IT service provider who provides 24 hour monitoring of our computer systems. We use encryption software when we send sensitive documents like tax forms via e-mail. We also have a number of accounts we can set up for clients with Secure Drawer that allows for the exchange of documents through a secure portal. Clients frequently send us tax documentation as an attachment to e-mail. E-mail is undeniably convenient for this purpose, but it is not secure. Most documents will still be useable if you black out account numbers and social security numbers, so if you have a scanner and use it frequently, why not buy a black marker and leave it right next to your scanner and use it freely. Although passing out of favor, sending documents by fax is actually more secure than e-mail, so feel free to fax us documents to our dedicated fax line.

### **Pictures of Documents are a No-No**

Speaking of documents you send to us, please refrain from sending cell phone pictures of documents. This seems like a convenient way to get us needed information, but from our end it is extremely difficult to convert to a useable paper document for our files. If this is the only feasible method available to you, please consider using an app that acts as a scanner and follow their instructions regarding resolution, framing, photo angle, lighting, etc.

## **Thank You**

**Thank you** so much for your continued trust and patronage. It means a great deal to us that we can provide our families with a healthy balance between income and time spent together. It wouldn't happen without you!

