Year-End Tax Planning
December 2016

Executive Summary

Tax planning at year-end always presents challenges, especially in an election year unlike any other that we've seen. As of the date of this memorandum, it is not clear whether the current "lame-duck" Congress will extend certain expiring tax provisions. Even if it does, it remains to be seen whether any such legislation will be trumped by comprehensive tax reform next year. Sweeping tax changes are anticipated, as President-elect Donald Trump made tax reduction a centerpiece of his economic policy during the campaign.

Among other things, President-elect Trump has said he wants to (i) lower and consolidate individual income tax rates, (ii) expand tax breaks for middle class families, (iii) reduce corporate tax rates to spur growth, (iv) allow offshore funds to return to the US at a one-time low tax rate, and (v) repeal and replace the Affordable Care Act. Such legislation seems more likely, given that an incoming Republican President will have the support of a Republican controlled 115th Congress. Between now and Inauguration Day, taxpayers will continue to learn more about President-elect Trump's tax priorities. Democrats are unlikely to support every proposal and may filibuster; and Republicans may insist upon certain revenue offsets for fear of compounding the deficit.

For now, our fundamental year-end advice remains similar to advice from before the election: defer the recognition of taxable income into 2017, and accelerate deductible expenses or investment losses into 2016. Within this memo, you'll find a summary of year-end planning considerations we have been evaluating and/or implementing, summaries of some of the material tax proposals that commentators believe the Trump Administration and Congress may work to enact in 2017, and tables with key rates and exemption amounts reflecting inflation adjustments set to go into effect between 2016 and 2017.

Income Tax & Alternative Minimum Tax Planning

- Compare 2016 and 2017 marginal tax rates (considering Alternative Minimum Tax) and evaluate benefits of accelerating or deferring income and/or deductions
- Evaluate the situs of trusts and state tax implications based upon the grantor tax status and anticipated trust distributions
- Monitor expired tax breaks and last-minute planning opportunities (to the extent lawmakers extend expired provisions)
- Evaluate and facilitate state income tax credit planning opportunities
- Consider impact of the phase-out of itemized deductions and whether to bunch deductions

IRAs & Charitable Planning

- Facilitate annual IRA contributions and Required Minimum Distributions and related tax withholding
- Facilitate charitable contributions (e.g., utilization of RMDs from IRAs and appreciated securities)

Investment & Estate Planning

- Recognize unrealized capital losses (subject to wash-sale rules) to offset capital gains
- Facilitate annual exclusion gifts and utilization of remaining lifetime exemptions
- Accelerate intra-family sales/gifts to take advantage of valuation discount opportunities to transfer wealth more efficiently before proposed regulations are enacted curtailing such techniques

Detailed Review of Year-End Planning Considerations

Proposed Section 2704 Regulations

Currently, due to various restrictions placed on a limited partner of a Family Limited Partnership or non-managing member of a Family LLC, interests that are gifted are valued less than the pro rata value of the entity's net asset value. Thus, discounts for lack of control and lack of marketability apply, reducing the value of the gifted shares for estate and gift tax purposes. Additionally, a potential buyer (e.g., such as a family trust) will pay less for an interest that is subject to restrictive agreements or for non-voting interests.

- The proposed 2704 Regulations would eliminate the ability to claim these discounts for transfer tax purposes among family members and family entities. It is too early to tell whether these proposed regulations will become final under a Trump administration.
- The IRS is still accepting comments and has yet to issue further guidance. If Estate, Gift and GST Taxes are repealed, these proposed regulations could become obsolete.

Netting Process for Gains/Losses

Throughout the year, Colony Family Offices has reviewed portfolios to determine appropriate securities that qualify for tax loss harvesting based on the following IRS mandated "netting" process (in the order listed), where applicable:

- Net short-term gains and short-term losses
- Net long-term gains and long-term losses
- Net short-term gain/loss against net long-term gain/loss
- Taxpayers incur higher taxes on net short-term gains (after netting against net long-term gains/losses based on normal ordinary income tax brackets)
- Taxpayers incur more favorable tax on net long-term gains (after netting against net short-term gains/losses based on preferential rates that apply to net long-term gains)
- Regardless of whether net short or net long term losses are projected, taxpayers may only deduct up to $3,000 of excess net losses against ordinary income each year
- All unused net losses are carried forward and may be applied against future tax years

Income & Expense Deferral/Acceleration

During the course of the year, Colony Family Offices proactively worked to identify one or more of the following strategies to defer income and accelerate deductions for clients, where applicable:

- Hold/sell appreciated assets and harvest losses to offset gains factoring in perceived tax rate changes
- Accelerate income to utilize available carry forward losses
- Defer or accelerate payment of bonuses before January
- Accumulate/declare dividends (especially C corporation owners)
- Delay/accelerate debt forgiveness
- Delay/accelerate Roth IRA conversions
- Pay bills in 2016/postpone receipts until 2017
- Match passive activity income and losses
- Pay last-quarter state income taxes and property taxes before December 31st rather than waiting until 2017 (unless doing so would create negative AMT consequences)
- Accelerate/delay charitable gifts and/or medical expenses
- Consider charitable gifts of appreciated securities rather than cash to avoid imbedded capital gains
- Purchase state income tax credits to reduce overall state income taxes

Alternative Minimum Tax (AMT)

The AMT is a separate tax calculation that requires taxpayers to add back certain deductions that would otherwise be deductible against their regular tax calculation. The AMT tax rate is generally lower than the highest regular income tax rate but the base upon which the tax is applied is higher due to the addback of various deductions. While there are several factors that could contribute to a taxpayer being subject to AMT, a combination of the following preferences typically trigger an AMT liability:

- Significant long-term capital gains
- Exercise of Incentive Stock Options
- Substantial state and local income tax deductions
- Personal property and/or real estate taxes
- Investment advisory fees
- Accelerated depreciation deductions

To the extent that a taxpayer is subject to AMT, a common practice is to consider deferring certain deductions (preference items) into the subsequent year and/or accelerating income into the current year that becomes subject to lower AMT tax rates versus higher regular ordinary income tax rates.

"Extender" Items

Last year, the PATH Act ("Protecting Americans from Tax Hikes") permanently extended many tax incentives that were previously temporary. However, not all "extenders" were extended beyond 2016. Others were extended beyond 2016 but only with the intention that they might eventually be replaced by broader, more comprehensive tax reform. The table below highlights some of the more notable tax provisions of the PATH Act.

Highlights of PATH Act Signed into Law on December 18, 2015	
Individuals	- Permanent extension for deduction for state and local sales taxes
	- Permanent extension and modification of deduction for certain expenses incurred by teachers
	- Above-the-line deduction for qualified tuition and related expenses (subject to limits) extended thru 2016
	- Deduction for mortgage insurance premiums (deductible as qualified interest) extended thru 2016
	- Purchase of computer equipment and technology considered qualified expenditure from 529 account
	- Exclusion of discharge of principal residence indebtedness from gross income extended thru 2016
Charitable	- Enhanced charitable deduction for contributions of food inventory made permanent
	- PATH Act permanently allows tax-free distributrions from IRAs to charity at age $70^{1/2}$
	- Basis adjustment to the stock of S corporations making charitable contributions of appreciated property made permanent
	- Permanent deduction for contributions of certain capital gain property for conservation purposes
Businesses	- Permanent research and development tax credit
	- Five year extension of work opportunity tax credit (enhanced for employment of long term unemployed workers)
	- Permanent Section 179 expensing limit of $500,000 with $ 2 million investment before phase-out (indexed for inflation in 2016)
	- Special tax rules applicable to qualified small business stock made permanent
	- Reduction in S corporation recognition period for built-in-gains tax to 5 years made permanent
	- Five year extension for bonus depreciation subject to phase-down schedule
	- Fifteen year straight line cost recovery for qualified leasehold, restaurant and retail improvements made permanent
Energy	- Extension of credit for construction of energy-efficient new homes thru 2016
	- Energy-efficient commercial buildings deduction extended thru 2016
	- Production tax credit for wind energy extended with phase-down schedule thru 2019
	- Extension of solar investment tax credit with phase-down schedule thru 2021
	- Incentives for alternative fuel and alternative fuel mixtures extended thru 2016
Community	- Allocation of up to $3.5 billion in new markets tax credits thru 2019
	- Empowerment zone tax incentives extended thru 2016

*Source: CCH Incorporated (Federal & State Tax News Highlights, December 21, 2015)

Net Investment Income Tax (NIIT)

The NIIT is a Medicare surtax of 3.8 percent imposed on the lesser of Net Investment Income (NII) or Modified Adjust Gross Income (MAGI) above a specified threshold. Distributions from IRAs, pensions, 401(k) plans, tax-sheltered annuities, and eligible Code Sec. 457 plans are excluded from NII and NIIT.

NII includes various types of investment income reduced by certain investment-related expenses, such as: investment brokerage fees, royalty-related expenses, and state and local taxes allocable to items included in NII. Taxpayers that are subject to NIIT may find the following planning opportunities helpful:

- Differentiate income derived from an active business and passive income that is subject to NIIT
- Consider recognizing unrealized losses to offset capital gains
- Evaluate closely-held business interests owned by non-grantor trusts and whether or not the trustee's active participation can be utilized when calculating the NII for the trust

Summary of Trump's Tax Proposals

Comparison of 2016 Presidential Candidates' Tax Positions

When forecasting the potential tax discussion points of each party over the next few years, it may be helpful to compare and review the positions taken by Hillary Clinton and Donald Trump during the 2016 election cycle.

Individual Income & Deductions		
Description	**Democratic Proposals**	**Trump/GOP Proposals**
Regular Income Tax Rates	No change except for top income level. Buffett rule: Minimum 30% effective rate above $1 million	Compress rate brackets: 12%, 25% and 33%. This plan mirrors the House GOP Tax Reform Blueprint released in June 2016. Trump or the GOP have not specified the income levels at each bracket yet.
Capital Gains Tax Rates	Top 20% rate raised based on holding period: (i) 39.6% for assets held less than 2 years, (ii) 36% for assets held 2 - 3 years with 4% reduction per year to 20% at year 6	No change from 0%, 15% and 20% rates. Repeal 3.8% Medicare surtax on Net Investment Income
Deductions	28% tax benefit cap for higher income levels	$100K cap for single filers; $200K cap for joint filers
Business Income & Deductions		
Description	**Democratic Proposals**	**Trump/GOP Proposals**
Income Tax Rates	No tax rate proposal	Lower top rate from 35% to 15% for corporations and pass-thru income reinvested into business
Deductions	100% small business expensing up to $1 million. Limit use of like-kind exchanges as loophole	Enhanced expensing for manufacturers. Limit deductions in return for lower rates

Source: CCH Incorporated and its affiliates

Trump's First 100 Days

During the campaign, President-elect Trump released an outline detailing his plans for the first 100 days of his administration. The following tax-related proposals were listed:

- **The Middle Class Tax Relief and Simplification Act** – As the chart above summarizes, the tax rate brackets would be compressed into 3 brackets. This proposal would provide middle class families with two children a 35% tax cut and lower the business tax rate from 35% to 15%. President-elect

Trump described this as an "economic plan designed to grow the economy 4% per year and create at least 25 million new jobs." Other salient features of this proposal include:

- Standard deduction would increase to $15,000 for single filers and $30,000 for joint filers. Under current law, the 2017 standard deductions are $6,350 for single filers and $12,700 for joint filers
- "Spending rebates" to lower-income families for childcare expenses by increasing the Earned Income Tax Credit
- All personal exemptions would be eliminated as well as the head of household filing status

- **Affordable Childcare and Eldercare Act** – This proposal would allow individuals to deduct childcare and eldercare expenses from their taxes and provide employers that provide on-site childcare with an increased business tax credit. President-elect Trump also advocates the creation of Dependent CARE Savings Accounts (DCSAs). These new tax-favored vehicles would represent savings accounts for dependent care expenses. The government would match contributions, subject to certain contribution limits.

- **Repeal and Replace Affordable Care Act ("Obamacare")** – Trump has advocated not only repealing and replacing Obamacare, including the "shared responsibility tax" for failure to purchase health insurance, he has also pledged to repeal the 3.8% Medicare surtax on Net Investment Income. Details related to coverage for pre-existing conditions and whether children up to age 26 can continue to be included under their parents' plans have not yet been discussed.

- **American Energy & Infrastructure Act** – During the campaign, President-elect Trump described an aggressive plan to leverage public-private partnerships and private investments through tax incentives to spur $1 trillion in infrastructure investments over 10 years. An important revenue enhancer of this plan calls for repatriation of corporate profits held offshore at a "one-time" reduced tax rate.

Other Potential Tax Proposals Likely During Trump Administration

The following proposals represent additional tax legislation that could be enacted by the GOP-controlled Congress during the first two years of Trump's administration:

- **Estate, Gift & GST Tax Repeal** – Many GOP officials in Congress are advocating full repeal of Estate, Gift and GST Taxes. During the campaign, President-elect Trump said he was in favor of full repeal but said he was inclined to disallow "stepped-up basis" at death to shelter otherwise taxable gains of more than $10 million under the income tax. Currently, any asset that passes through an estate receives a tax basis equal to date of death value, a significant advantage when the asset is eventually sold by heirs. President-elect Trump has said that he would consider providing exemptions for small businesses and family farms.

- **Alternative Minimum Tax (AMT) Repeal** – During the campaign, President-elect trump proposed to repeal the AMT. Nina Olsen, a representative for the National Taxpayer Advocacy Group of the IRS has already recommended that Congress permanently repeal the AMT and there appears to be bipartisan support.

- **Carried Interest** – President-elect Trump proposed during his campaign to enact legislation that would tax carried interest as ordinary income. This proposal would align the tax rates for private equity and hedge fund managers with other business owners and would eliminate their ability to avoid paying more than the top 20% capital gains rate on profits from the conduct of an active trade or business.

Key Information for 2017 Planning

Income & Net Investment Tax Rates

The following tables reflect applicable ordinary income, long and short-term capital gains, qualifying dividends and net investment income tax brackets for 2016 and 2017 tax years.

2016 Federal Income Tax Brackets					
Single	Married Filing Jointly	Married Filing Separate	Head of Household	Estates & Trusts	Marginal Rate
Up to $9,275	Up to $18,550	Up to $9,275	Up to $13,250	NA	10%
$9,276 - $37,650	$18,551 - $75,300	$9,276 - $37,650	$13,251 - $50,400	Up to $2,550	15%
$37,651 - $91,150	$75,301 - $151,900	$37,651 - $75,950	$50,401 - $130,150	$2,551 - $5,950	25%
$91,151 - $190,150	$151,901 - $231,450	$75,951 - $115,725	$130,151 - $210,800	$5,951 - $9,050	28%
$190,151 - $413,350	$231,451 - $413,350	$115,726 - $206,675	$210,801 - $413,350	$9,051 - $12,400	33%
$413,351 - $415,050	$413,351 - $466,950	$206,676 - $233,475	$413,351 - $441,000	NA	35%
$415,051 and above	$466,951 and above	$233,476 and above	$441,001 and above	$12,401 and above	39.6%

2017 Federal Income Tax Brackets					
Single	Married Filing Jointly	Married Filing Separate	Head of Household	Estates & Trusts	Marginal Rate
Up to $9,325	Up to $18,650	Up to $9,325	Up to $13,350	NA	10%
$9,326 -$37,950	$18,651 - $75,900	$9,326 - $37,950	$13,351 - $50,800	Up to $2,550	15%
$37,951 - $91,900	$75,901 - $153,100	$37,951 - $76,550	$50,801 - $131,200	$2,551 - $6,000	25%
$91,901 - $191,650	$153,101 - $233,350	$76,551 - $116,675	$130,201 - $212,500	$6,001 - $9,150	28%
$191,651 - $416,700	$233,351 - $416,700	$116,676 - $208,350	$212,501 - $416,700	$9,151 - $12,500	33%
$416,701 - $418,400	$416,701 - $470,700	$208,351 - $235,350	$416,701 - $444,550	NA	35%
$418,401 and above	$470,701 and above	$235,351 and above	$444,551 and above	$12,501 and above	39.6%

2017 Top Federal Income Tax Rates	
Ordinary earned income, not including short-term capital gains or passive income [1]	39.6%
Net investment income (interest, short-term capital gains, non-qualified dividends and other passive income) [2]	43.4%
Long-term capital gains [3]	23.8%
Qualified dividends [4]	23.8%

Notes:

1 Medicare surcharge of 0.9% applied to wages and self-employment income that exceeds $200K for singles and $250K for couples

2 Includes interest, dividends, royalties, net rental income and other passive income

3 Includes 3.8% surtax on net investment income over $200K for singles and over $250K for couples

4 Includes 3.8% surtax on net investment income over $200K for singles and over $250K for couples

Source: Internal Revenue Service

Long-term capital gains and qualifying dividends generally taxed at maximum rate of:	2016	2017
Taxpayers in top (39.6%) tax bracket	20%	20%
Taxpayers in 25%, 28%, 33%, and 35% tax rate brackets	15%	15%
Taxpayers in tax rate bracket 15% or less	0%	0%

Exemptions and Estate, Gift & GST Tax Rates – 2016 and 2017 Tax Years

The following tables reflect personal and dependency exemptions, AMT exemptions and phase-outs and Estate, Gift and GST Exemptions and Tax Rates for 2016 and 2017 tax years.

Exemptions/itemized deductions	2016	2017
Personal & dependency exemptions	$4,050	$4,050
Phaseout threshold for exemptions and itemized deductions	$311,300 (MFJ) $285,350 (HOH) $259,400 (Single) $155,650 (MFS)	$313,800 (MFJ) $287,650 (HOH) $261,500 (Single) $156,900 (MFS)

** Exemptions and certain itemized deductions are phased-out equal to the lesser of: 3% of AGI in excess of the threshold levels or 80% of certain itemized deductions.*

Alternative Minimum Tax (AMT)	2016	2017
Maximum AMT exemption amount	$83,800 (MFJ) $53,900 (Single/HOH) $41,900 (MFS)	$84,500 (MFJ) $54,300 (Single/HOH) $42,250 (MFS)
Exemption phaseout threshold	$159,700 (MFJ) $119,700 (Single/HOH) $79,850 (MFS)	$160,900 (MFJ) $120,700 (Single/HOH) $80,450 (MFS)
26% rate applies to AMT income (AMTI) at or below this amount (28% rate applies to AMTI above this amount)	$186,300 ($93,150 if MFS)	$187,800 ($93,900 if MFS)

** Exemptions for the AMT are phased out as taxpayers reach high levels of alternative minimum taxable income (AMTI). Generally, the exemption amounts begin to be phased-out once an individual's AMTI exceeds the threshold levels above.*

Calendar Year	Estate Tax Exemption (Less Lifetime Gift Tax Exemption Utilized)	Gift Tax Exemption	Generation Skipping Transfer Exemption	Tax Rate
2016	$5,450,000	$5,450,000	$5,450,000	40%
2017	$5,490,000	$5,490,000	$5,490,000	40%

** In addition to the foregoing exemptions, annual exclusion gifts for 2017 remain $14,000 ($28,000 for married couples who elect to split their gifts)*

Source: Internal Revenue Service

Retirement Plan and IRA Key Numbers

The following tables reflect IRS elective deferral limits, IRA contribution limits and income phase-out ranges for traditional and Roth IRAs.

Elective Deferral Limits	2015	2016	2017
401(k), 403(b), 457(b), Profit-Sharing Plans	Lesser of $18,000 or 100% of participant's compensation ($24,000 if age 50 or older)[2]	Lesser of $18,000 or 100% of participant's compensation ($24,000 if age 50 or older)[2]	Lesser of $18,000 or 100% of participant's compensation ($24,000 if age 50 or older)[2]
SEPs	Lesser of $53,000 or 100% of participant's compensation	Lesser of $53,000 or 100% of participant's compensation	Lesser of $54,000 or 100% of participant's compensation
SIMPLE 401(k) plans and SIMPLE IRA plans[1]	Lesser of $12,500 or 100% of participant's compensation ($15,500 if age 50 or older)	Lesser of $12,500 or 100% of participant's compensation ($15,500 if age 50 or older)	Lesser of $12,500 or 100% of participant's compensation ($15,500 if age 50 or older)

1 Must aggregate employee deferrals to all 401(k), 403(b) and SIMPLE plans of all employers; 457(b) contributions are not aggregated.
2 Special catch-up limits may also apply to 403(b) and 457(b) plan participants.

IRA contribution limits	2015	2016	2017
Traditional and Roth IRAs	Lesser of $5,500 or 100% of earned income ($6,500 if age 50 or older)	Lesser of $5,500 or 100% of earned income ($6,500 if age 50 or older)	Lesser of $5,500 or 100% of earned income ($6,500 if age 50 or older)

Income phaseout range for determining deductibility of traditional IRA contributions for taxpayers:	2015	2016	2017
1. Covered by an employer-sponsored plan and filing as:			
Single/Head of household	$61,000 - $71,000	$61,000 - $71,000	$62,000 - $72,000
Married filing jointly	$98,000 - $118,000	$98,000 - $118,000	$99,000 - $119,000
Married filing separately	$0 - $10,000	$0 - $10,000	$0 - $10,000
2. Not covered by an employer-sponsored retirement plan, but filing joint return with a spouse who is covered by a plan	$183,000 - $193,000	$184,000 - $194,000	$186,000 - $196,000

Income phaseout range for determining ability to fund a Roth IRA for taxpayers filing as:	2015	2016	2017
Single/Head of household	$116,000 - $131,000	$117,000 - $132,000	$118,000 $133,000
Married filing jointly	$183,000 - $193,000	$184,000 - $194,000	$186,000 - $196,000
Married filing separately	$0 - $10,000	$0 - $10,000	$0 -$10,000

Source: Internal Revenue Service

Spousal IRA Planning

A contribution to a Traditional or Roth IRA is allowed only if the taxpayer has compensation from earned income. An exception exists for non-working spouses as long as the couple has at least $11,000 of combined earned income. Unless deduction limits apply because the taxpayer's income is too high, a couple may qualify for up to an $11,000 deduction if the working spouse contributes $5,500 to their own IRA and another $5,500 to an IRA created for their non-working spouse. Deductible contributions for 2016 are allowed until the return due date (April 2017 plus extensions).

Contributions to Non-Deductible Traditional IRAs & Roth Conversions

If you make too much money to contribute to a Roth IRA but wish to make a Roth contribution, you may be able to make a non-deductible contribution to a Traditional IRA and then immediately convert the account to a Roth IRA. The tax impact of this strategy is the same as contributing directly to a Roth IRA without the income limitations described above.

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