

HILL TAX BRIEFING: Taxes in Focus Heading Into First 2020 Debate

By Colin Wilhelm, Kaustuv Basu and Patrick Ambrosio | September 29, 2020 6:11AM ET

Tax policy already figured to feature heavily in [tonight's first debate](#) between President Donald Trump and former Vice President [Joe Biden](#), even before Sunday's New York Times [report](#) detailing Trump's tax records.

"Until the New York Times unleashed their blockbuster report, I would have assumed that Biden would have reiterated his broad sweeping plans to reshape the tax code and economy," said Jim Manley, a former top adviser to retired Senate Majority Leader Harry Reid (D-Nev.) "But now, he's going to have to do that while finding ways to jab Trump for his unwillingness to pay his fair share of taxes."

Trump—who broke with tradition when he declined to release his tax returns during to the 2016 campaign, citing an ongoing IRS audit—dismissed the story as a "total fake."

"I paid many millions of dollars in taxes but was entitled, like everyone else, to depreciation & tax credits," Trump [tweeted](#) yesterday.

Meanwhile Biden's campaign quickly released an [attack ad](#) highlighting the Times report that Trump paid just \$750 in federal income tax.

The Times last night, in part two of its series, [dug deeper](#) into Trump's records, exploring the tax implications of the millions he earned from "The Apprentice" and related endorsements. He collected millions from speaking gigs and ad campaigns after the show's debut, the Times found.

Other Tax Elements: Observers also expect the debate to highlight the candidates' differences on tax policy.

Trump's second-term agenda includes few tax details, although it does include promises to build on the 2017 tax law with more tax cuts and expand the opportunity zones incentives that aim to drive investment to historically disadvantaged communities.

Meanwhile Biden's plan includes proposals to unravel significant portions of that law, known as the Tax Cuts and Jobs Act (TCJA), in part to pay for new or expanded programs.

"I think it will be some re-litigation of the TCJA and who benefited," said Rohit Kumar, a former senior aide to Senate Majority Leader [Mitch McConnell](#) (R-Ky.).

Kumar, now a principal with PwC in Washington, said there also may be some discussion on the need for additional pandemic relief. The [pre-announced list](#) of debate topics include both Covid-19 and the economy.

Though presidential debates have sometimes played a pivotal role in determining elections, a Monmouth [poll](#) released yesterday found that while 74% of those surveyed say they plan to watch the debate, 87% of respondents say it isn't at all likely to impact their choice.

"There was more volatility in the electorate in 2016 than there is today," Patrick Murray, director of the Monmouth University Polling Institute, said in a statement yesterday. "But these results underscore the fact that the audience for these debates are voters who already have a rooting interest in one side or the other."

Possible IRS Enforcement: Tax professionals flagged several details in the New York Times story as potentially of interest to the Internal Revenue Service.

But the agency would face an uphill battle in bringing civil or criminal charges against Trump based on the actions described in the article, said Josh O. Ungerman, a former senior trial attorney at the IRS and special assistant U.S. attorney at the Justice Department.

"That's going to be a real challenge," said Ungerman, now a partner at Meadows, Collier, Reed, Cousins, Crouch & Ungerman LLP.

A lot of the planning strategies laid out in the article, such as claiming depreciation deductions on real estate investments and taking advantage of business losses arising from Trump personally guaranteeing hundreds of millions of dollars in loans, are pretty standard and permitted under the law, Ungerman said.

"So if you have a problem with that, you might want to turn to Congress," he said.

[Read more from Laura Davison, Allyson Versprille, and Aysha Bagchi.](#)

JCT Review: Trump's long-lasting dispute with the IRS stemmed from a \$72.9 million refund, as detailed in the Times story. That meant that a small group of staff on the Joint Committee on Taxation reviewed it.

The panel reviews any payment before the IRS issues it if it's more than \$2 million for an individual or \$5 million for a corporation.

[Mike Dorning has more.](#)

Ways and Means ranking member [Kevin Brady](#) (R-Texas) called last night for an investigation into the source of the tax documents obtained by the Times.

Democrats Release Aid Bill

House Democrats last night [released](#) an updated \$2.2 trillion [aid proposal](#), which would provide a second round of \$1,200 checks to Americans, extend extra unemployment benefits through January, and re-up the Paycheck Protection Program.

Read a summary of the updated legislation [here](#).

While the text brings some clarity, it still is far higher than what Trump has recently said he'd be willing to accept. Democrats did lower their request for state and local aid: \$436 billion for one year of assistance, less than a previous demand for \$915 billion.

Democrats "want to lure the Republicans into negotiations," said Russ Sullivan, a former Democratic aide for the Senate Finance Committee, now chair of the national tax policy group for the firm Brownstein Hyatt Farber Schreck.

Speaker [Nancy Pelosi](#) (D-Calif.) and Treasury Secretary Steven Mnuchin spoke last night, and [plan to speak again](#) today.

What to Watch Today

Fintech Licensing: The House Financial Services Task Force on Financial Technology meets to examine the legal framework designating [who can lend and process payments in the fintech era](#).

ABA Fall Meeting: The American Bar Association tax section's annual fall [conference](#) kicks off today. IRS officials will speak on panels over the course of the conference, which runs through Friday. Topics on today's agenda include tax accounting, real estate, and criminal tax penalties.

Tax Court Judge Speaks: U.S. Tax Court Judge Mark Holmes is set to deliver the keynote speech at the start of a three-day [conference](#) hosted by the National Association of Enrolled Agents.

Supreme Court Pick: Amy Coney Barrett, Trump's pick for the Supreme Court, will begin meetings with senators on Capitol Hill today. Among her planned meetings: Senate Finance Committee Chairman [Chuck Grassley](#) (R-Iowa.).

[Laura Litvan has more.](#)

Beyond the Beltway

GM Plant Clawback: General Motors will now lose out on millions of dollars in tax incentives, under a clawback the Ohio Tax Credit Authority announced Monday.

Ohio will recoup the funds already paid out in a 2009 deal to create 200 jobs and retain 3,700 jobs at the now-shuttered Chevy Cruze plant, according to the [agreement](#) the authority voted for yesterday.

[Read more from Alex Ebert.](#)

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