

# Tax Planning for a Biden Administration

The 2020 election could have tremendous financial implications, and this webinar will provide you some ideas, tips and tools to act on before year-end to minimize your income and estate tax liabilities.

Presented By:



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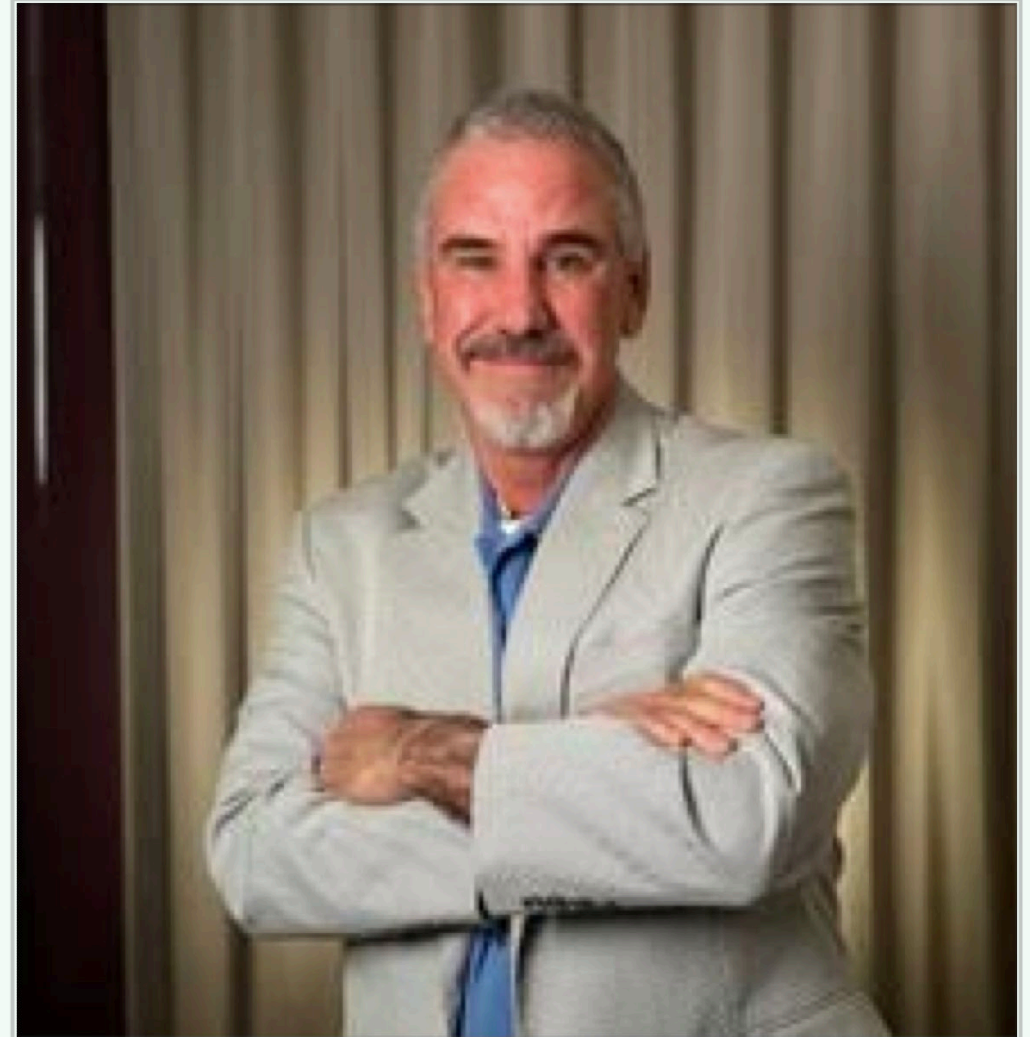
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# MICHAEL CORDOVA

SENIOR LOAN OFFICER - GUILD MORTGAGE

- 36 years of mortgage origination experience
- Specializes in FHA, VA, and conventional home loan financing
- Michael transforms clients lives one mortgage plan at a time



# REGINA FILIPPONE

ATTORNEY-AT-LAW - LAW OFFICES OF REGINA  
FILIPPONE

- Has been a lawyer since 1993
- Would rather be playing with dogs
- Has a strong local network of professionals
- Believes most problems can be solved with a bada\*\* attitude and ice cream



# JUSTICE MASTRIONA

INSURANCE AGENT - FARMERS INSURANCE

- Specializes in small businesses and high net worth individuals
- Born and raised in the South Bay
- Office has over 150 years of experience and 8 licensed staff members
- Member of Toppers, Championship, President's Council achievement clubs



# DAN LUVISI

MANAGING PARTNER - MARKETPLACE CAPITAL GROUP

- Former Bank Subsidiary President, 35 years' experience
- Owner-User Commercial 85% LTV Purchase and Refinances
- SBA 504 – 90% LTV 25 year fixed fully amortized
- Multifamily 5 units & up 5,7,10,15 & 30 year fixed terms
- Flex Bank Program



# BOB GOMEZ

WEALTH MANAGEMENT - UBS FINANCIAL SERVICES

- Comprehensive, Goals Based Financial Planning
- Guide Clients in Defining and Achieving their Financial Goals
- Institutional Investment Process
- Alternative Investments and Private Equity
- Long-Term Care Risk Management



# MICHAEL CODY CPA MBT

## LIEB, CODY & COMPANY CERTIFIED PUBLIC ACCOUNTANTS

- Certified Public Accountant with over 20 years of experience
- Works with with individuals, as well as small and large businesses assisting them with their financial, accounting and tax needs.
- He is a graduate of Rowan University in Glassboro, NJ with a Bachelor's degree in accounting. He is also a graduate of the University of Southern California with Master's Degree in Business Taxation.
- Mike, his wife Eva, and his two boys are residents of Rancho Palos Verdes and very active in their local school and community.
- Mike's firm is made up of ten professionals (five CPAs, two Enrolled Agents, one bookkeeper and two office assistants.) The firm enjoys the daily interactions with the business owners, high-net worth individuals and retirees alike and looks forward to be able to exceed your tax and accounting needs.



Year-End Tax  
Planning in 2020  
Including Planning for a  
Biden  
Administration

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# Disclaimer

The following seminar is for discussion and educational purposes only. You should consult your personal tax and financial advisors regarding anything discussed in this seminar before you make any decisions.

# ZOOM MEETING AGENDA

1. COVER BIDEN'S TAX PROPOSALS
2. 2020 YEAR END PLANNING IDEAS
3. QUESTIONS AND ANSWERS

*(Enter your questions in the chat section. We will try to cover at end. If not, I will follow-up after the presentation)*

# Year-End Planning in 2020 A Tumultuous Election Year



# General Democratic Party Tax Policy Themes

1. Additional payroll taxes on high-earners
2. Increase the marginal rate imposed on high-income individuals
3. Increase the capital gains rate imposed on high-income individuals
4. Limit itemized Deductions (Cap at 28%)
5. Tax wealth generally; various ideas include an annual wealth tax & greater estate & gift taxes – Eliminate Stepped up Basis.
6. Increase the corporate income tax rate
7. Institute a Corporate Minimum Tax (Amazon Rule)
8. Financial Risk Fee on Large Banks
9. Small Business Deduction Limit
10. First Time Home Buyers and Renters Tax Credits
11. Increase Child and Dependent Care Tax Credits

# Retro-Activity Risk

- Congress may have the ability to enact retro-active tax legislation thereby limiting the ability to front-run changes
- **Retroactive taxation** of transactions is possible if rationally related to a legitimate legislative. Pension Benefit Guaranty Corporation v. R. A. Gray & Co., 467 U. S. 717 (1984); United States v. Carlton, 512 U.S. 26 (1994).

# Former Vice President Biden Tax Policy Proposals

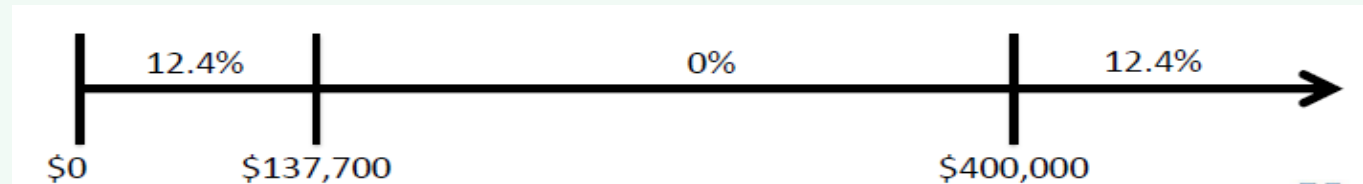
## Additional payroll taxes on high-earners

Proposal to Expand Social Security Tax

–Applies to earned income over \$400,000

–The established 12.4% rate & employee/employer split retained

- Creates a tax-free gap between the Social Security base and the \$400,000 threshold



# Former Vice President Biden Tax Policy Proposals

- Solutions for Business Owners if Social Security Tax is Expanded

## **S-corporation dividends**

- S-corporation dividends are not subject to employment taxes
- As a solution, this assumes Congress does not close this “loophole” & the reduced salary is a “reasonable wage”

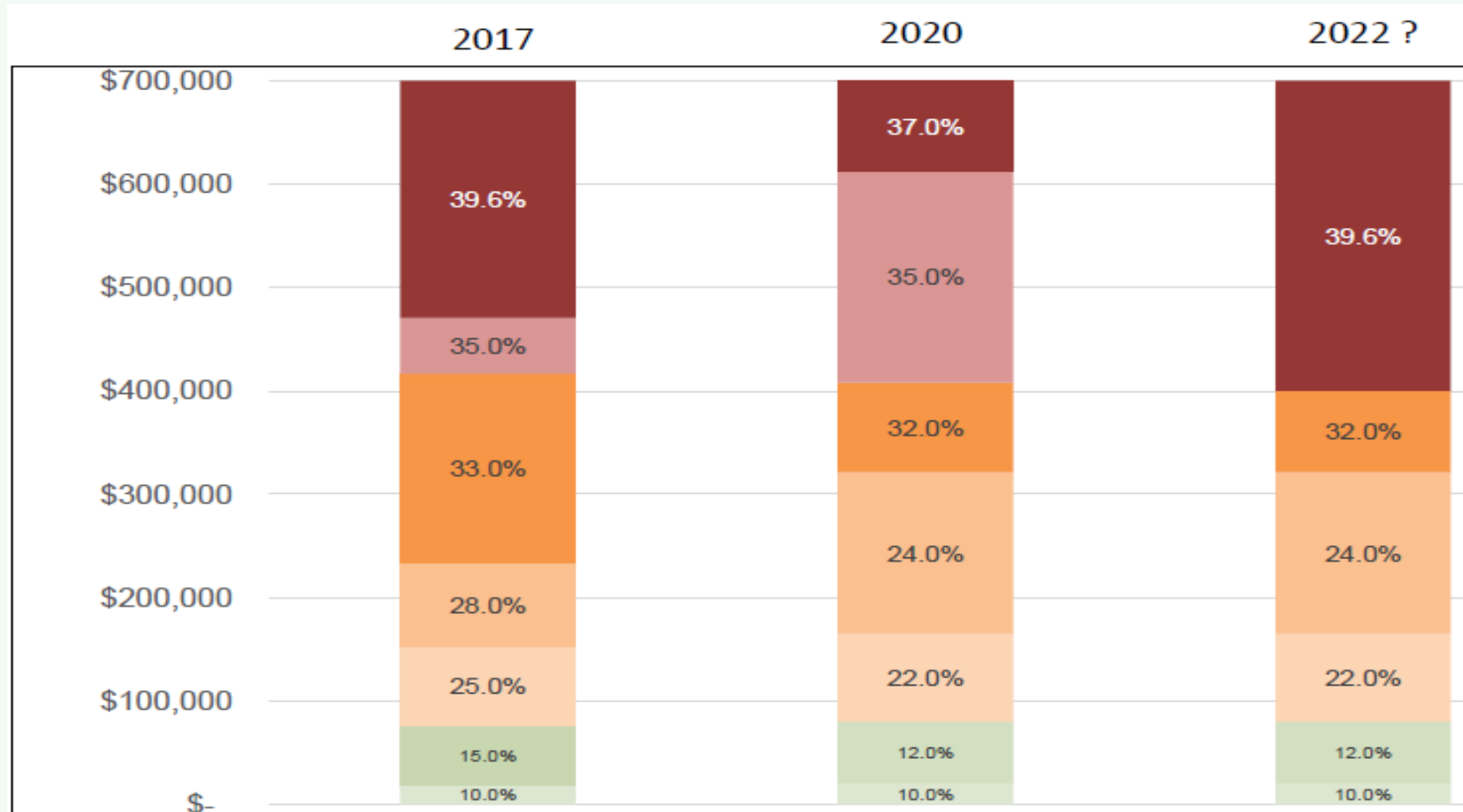
# Former Vice President Biden Tax Policy Proposals

## **Increase the marginal rate imposed on high-income individuals**

- Proposal to Restore the 39.6% marginal rate
- –Would apply to income over \$400,000
- –Unclear how it is affected by filing status



# Married Filing Jointly Tax Brackets



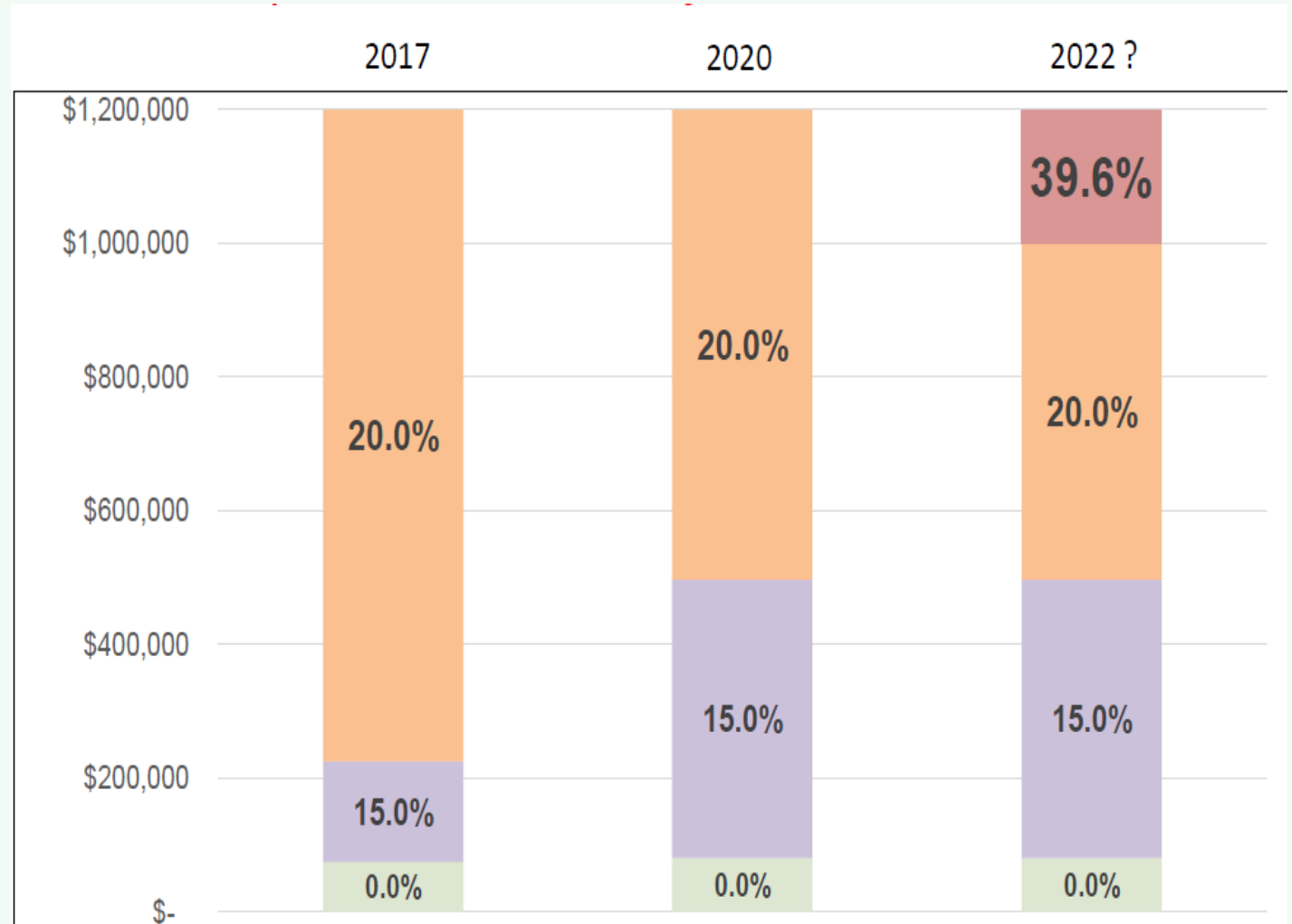
# Former Vice President Biden Tax Policy Proposals

## Increase Taxes on Capital Gains

Proposal to eliminate the preferential rate for long-term capital gains and qualified dividends on income over \$1,000,000

- Most significant proposal & a fundamental shift
- Basically an increase from 20% to 39.6%
- Expect many people to sell assets if it's set to take effect
- **Consider, for example, how risky funding a substantial sale CRT may be in 2020.**

# Married Filing Jointly Capital Gain & Qualified Dividend Rates



# Former Vice President Biden Tax Policy Proposals

## Proposal to CAP Itemized Deductions to a 28% Tax Benefit

- Exact Calculation method unclear however perhaps itemized deductions would be reduced by ratio.
- For example, someone with \$40,000 of itemized deductions subject to 39.6% marginal rate would reduce the deductible amounts as follows.
- $\$40,000 \times 28\% / 39.6 = \$28,282$

# Former Vice President Biden Tax Policy Proposals

## **Proposal to Restore the 3% Pease limitation**

Would apply if income exceeds \$400,000

Recall, the old Pease Limitation:

- Applied after \$313,800 (2017 MFJ) AGI threshold
- Reduced itemized deductions by 3% of AGI over the threshold, up to 80% of itemized deductions
- Standard deduction available if greater
- Reduction only applied to charitable, SALT, mortgage interest, and miscellaneous itemized deductions only

# Former Vice President Bi den Tax Policy Proposals

## **Proposal to eliminate the Section 1014(a) Basis Adjustment at the – “The STEP-UP”**

- Most significant proposal & a fundamental shift in the taxation of wealthy individuals
- Unclear whether the proposed 39.6% rate would apply to gains in excess of \$1,000,000 at death
- Unclear whether the proposal includes an income tax deduction for estate tax paid (or vice versa)
- Presumably, gifting assets would also be a recognition event
- Expect huge gifts & sales if it's set to take effect

# Former Vice President Biden Tax Policy Proposals

## **Eliminate capital gains rate – deeper thinking**

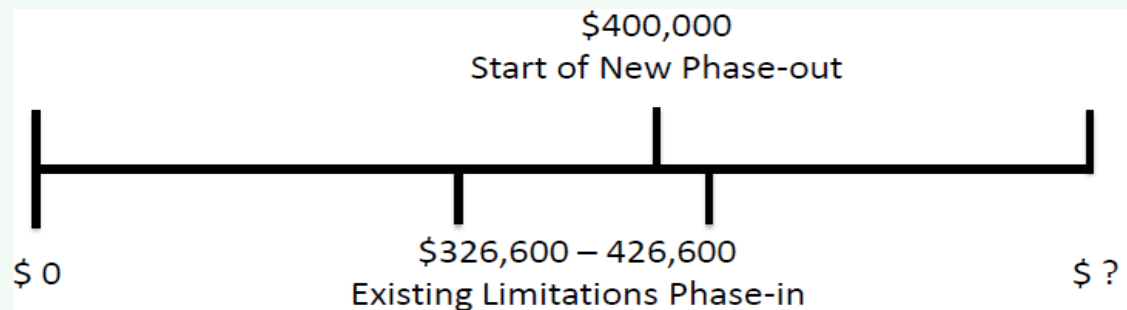
- A 39.6% capital gains rate will encourage longer holding periods
- If the “step-up” in basis at death is retained, many people will be substantially more encouraged to hold onto assets until death
- If the “step-up” in basis at death is repealed in-favor of a forced-recognition event, people will be encouraged recognize gains before death to:
  - (1) Find better investments and
  - (2) Avoid a 39.6% applying in the year of death instead of a 20% rate during life, for example

# Former Vice President Biden Tax Policy Proposals

## Proposal to Add a New Section 199A Deduction Phaseout

Would apply if income exceeds \$400,000

There are few other details; Assumably, it is merely another limitation on the availability of the deduction for non-SSTBs





# Former Vice President Biden Tax Policy Proposals

## **Other Tax Ideas for Individuals**

- Increase the Child and Dependent Care Tax Credit from \$6,000 to \$8,000
- Expand the ACA premium credit
- Expand the EITC for childless workers over 65
- New renewal energy tax credits
- First time home buyers tax credit
- Renters credit for those who are “housing cost burdened”
- Expanded retirement savings credit
- New Market Tax Credits (NMTC)

# Former Vice President Bi den Tax Policy Proposals

## **Business Income Tax Increase**

Increase corporate tax rate from 21% to 28%

## **Minimum Tax on Corporate Income**

Amazon Tax – 15%

## **Financial Risk Fee on Large Banks**

Pool of funds for a failed financial institution

# Former Vice President Bi den Tax Policy Proposals

## **Other Business Tax Ideas**

- New corporate minimum tax
- Double the GILTI rate
- Manufacturing Communities Tax Credit – would reduce the tax obligations of businesses in communities which experience major layoffs
- New Market Tax Credit – expand & make permanent

# Where Does Kamala Harris Stand on Tax Policy?

1. Raising the top marginal income tax rate on the top 1 percent (up to 39.6 percent from 37 percent)
2. Implementing a 4 percent “[income-based premium](#)” on households making more than \$100,000 annually to pay for her version of “Medicare for All”
3. Creating a new refundable [tax credit \(the LIFT Act\)](#) that would be available to low- and middle-income taxpayers, designed to increase [after-tax income](#) to address the rising cost of living
4. Raising [capital gains tax](#) rates at the same rates as ordinary income, though it is unclear if Harris would do so only on a subset of taxpayers.
5. Raising the [corporate income tax](#) rate of 21 percent, established in the [Tax Cuts and Jobs Act \(TCJA\)](#), up to 35 percent
6. [Expanding the estate tax](#) to cover increased teacher compensation
7. [Imposing a financial transaction tax](#) (FTT) on stock trades at 0.2 percent, bond trades at 0.1 percent, and derivative transactions at 0.002 percent

# **Biden Administration Checklist**

# Year-end Planning A Checklist of Ideas to Prepare for a Biden Administration

## Bracket Management

- Accelerate bonuses to avoid rate increases
- Accelerate recognition events to avoid rate increases
- Defer business expenses to capture a greater benefit if rates increase
- Consider what reinstatement of the AMT would mean

## Itemized Deduction Timing

- Carefully consider property tax payments
- Defer to capture a greater benefit due to higher rates
- Defer in-case the \$10,000 SALT deduction cap is repealed
- Accelerate to avoid additional itemized deduction limits

## Carefully consider charitable contribution timing

- Defer to capture a greater benefit due to higher rates
- Accelerate to avoid additional itemized deduction limits

# Year-end Planning A Checklist of Ideas to Prepare for a Biden Administration

## Gain & Loss Harvesting

- Harvest gains to avoid rate increases
- Defer harvesting losses to offset rate increases
- Consider flexible gain recognition strategies

## Retirement Planning

- Roth conversions before rates increase
- Net Unrealized Appreciation (NUA) rollout before rates increase
- Diversify concentrated positions before rates increase

## Executive Planning

- Reconsider NQCD funding to avoid rate increases & increased payroll taxes
- Consider ISO exercise in case the AMT returns in-force
- Consider NQSO exercise to avoid rate increase & increased payroll tax

## Estate Tax Planning

- Consider large lifetime gifts
- Capture the large estate tax exemption
- Avoid a forced recognition event

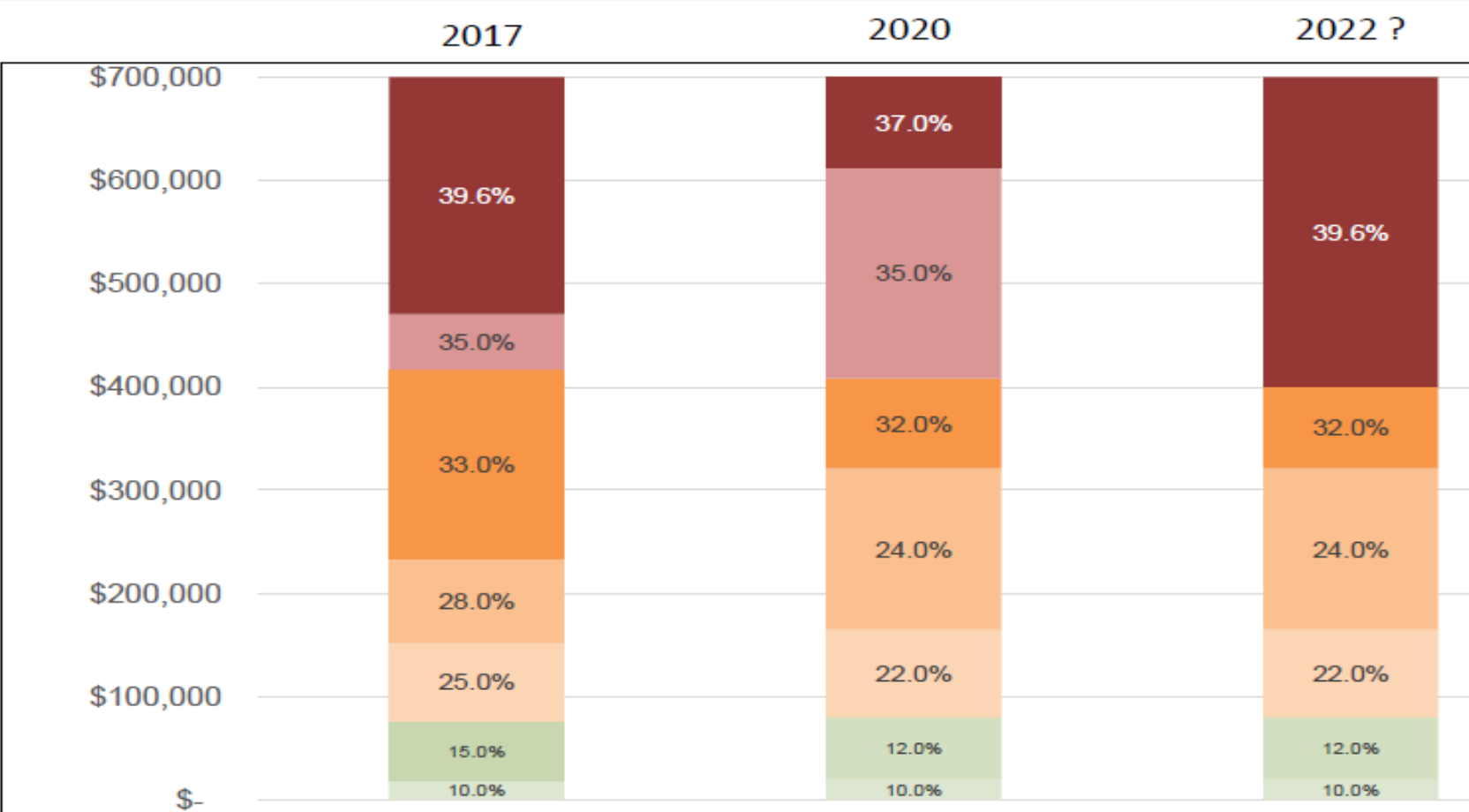
# Year-End Planning in 2020





# Married Filing

## Jointly Tax Brackets



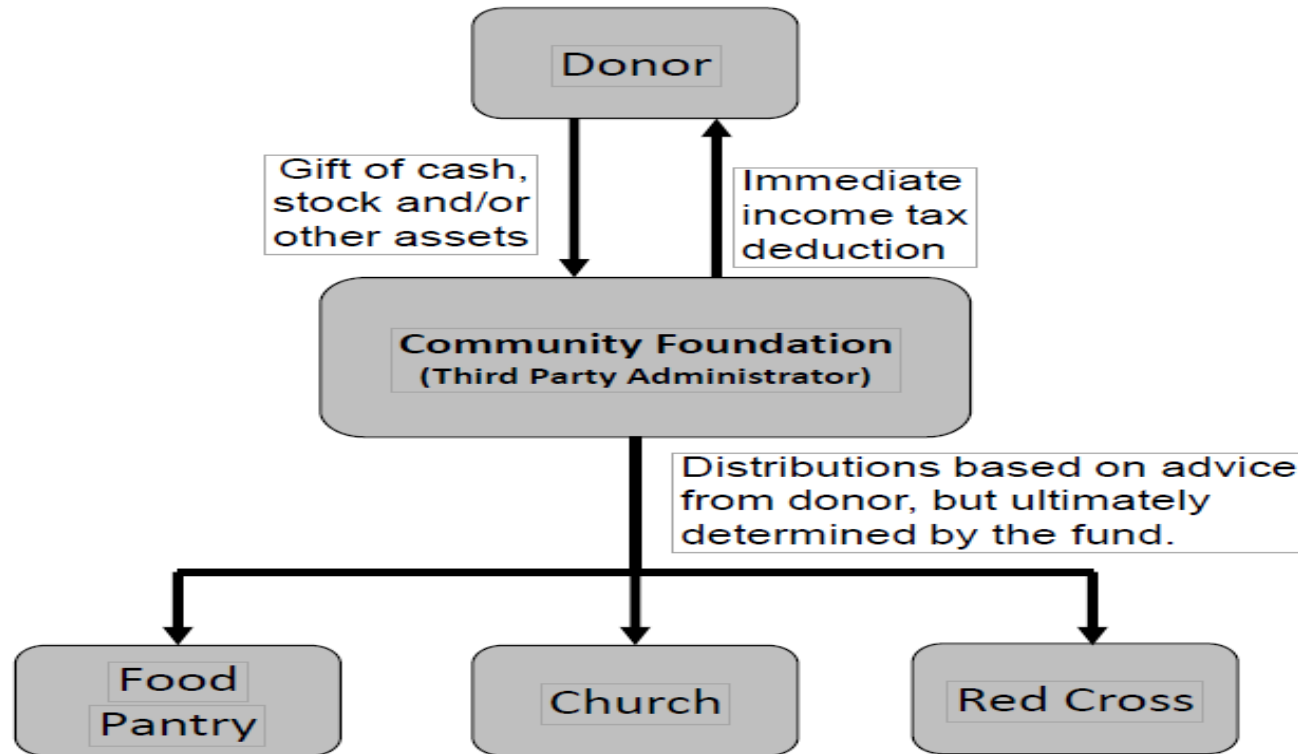
# Tax Rates

## Standard Deductions

2020	<b>CURRENT STANDARD DEDUCTION</b>			
	<b>S</b>	<b>MFJ/QW</b>	<b>MFS</b>	<b>HOH</b>
	\$ 12,400	\$ 24,800	\$ 12,400	\$ 18,650

- *OLD RULE WAS TO ACCELERATE DEDUCTIONS*
- *NEW RULE IS TO TIME DEDUCTIONS*
  - *Charitable deductions (lump together, Donor Advised Fund)*
  - *Medical Expenses*

# Donor Advised Fund



- Donors with a high income year
- Donors who give to charity but do not benefit from itemized deductions
- Donors who do not want to setup a private foundation (cant justify costs)
- Donors who do not want the burden of administering a private foundation.

# Bracket Management

## Harvest Capital Gains

- Taxpayers expected to be in a higher tax bracket in the future.
- Sell assets in current year, pays tax and steps up basis
- Repurchases the same or similar assets/securities.
- Shifts capital gain from higher future rate to current lower rate.

*Analysis needs to be done to see if paying tax now is worth it or not*

# Bracket Management

## Harvest Capital Losses

- Selling Assets at a loss to offset capital gains
- Reduce or eliminate tax on current capital gains

**Again, Analysis needs to be done to see if makes sense**

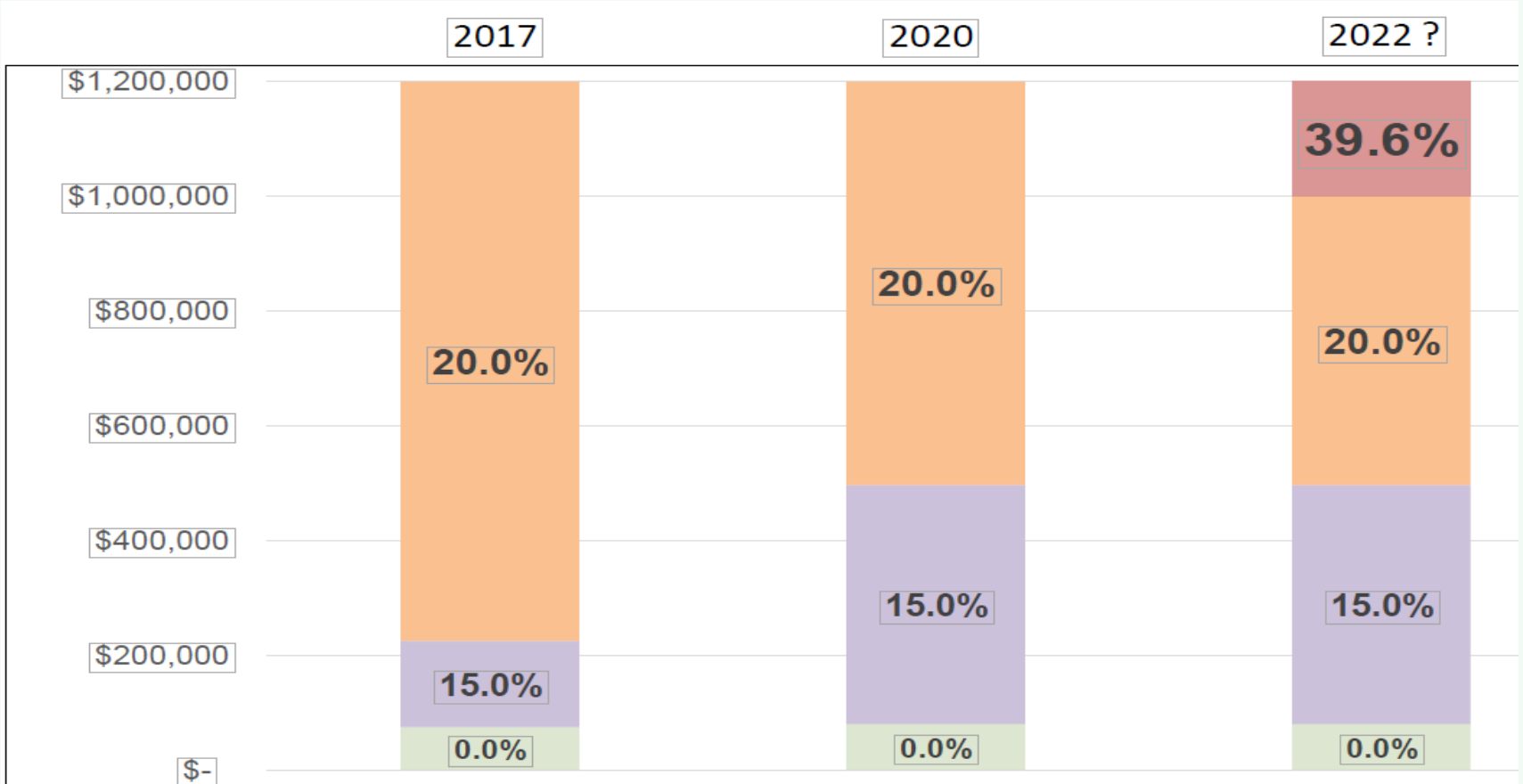
**Warning: Remember the wash sale rule prevents taxpayers from repurchasing a substantially similar security within 30 days of selling at a loss**

# Biden - New Tax Policy Capital Gains

- Proposal to eliminate the preferential rate for long-term capital gains and qualified dividends on income over \$1,000,000.
  - Most significant proposal & a fundamental shift
  - Basically an increase from 20% to 39.6%
  - Expect many people to sell assets if it's set to take effect
- Will encourage longer holding periods
- StepUP Basis retained = will encourage to hold onto assets until death
- StepUP Basis repealed = forced recognition event, people will be encourage to recognized gains before death to find better investments and possible pay lower rate (20% rate instead of 39.6%)

# Capital Gain and Qualified Dividend Rates

## Married Filing Jointly



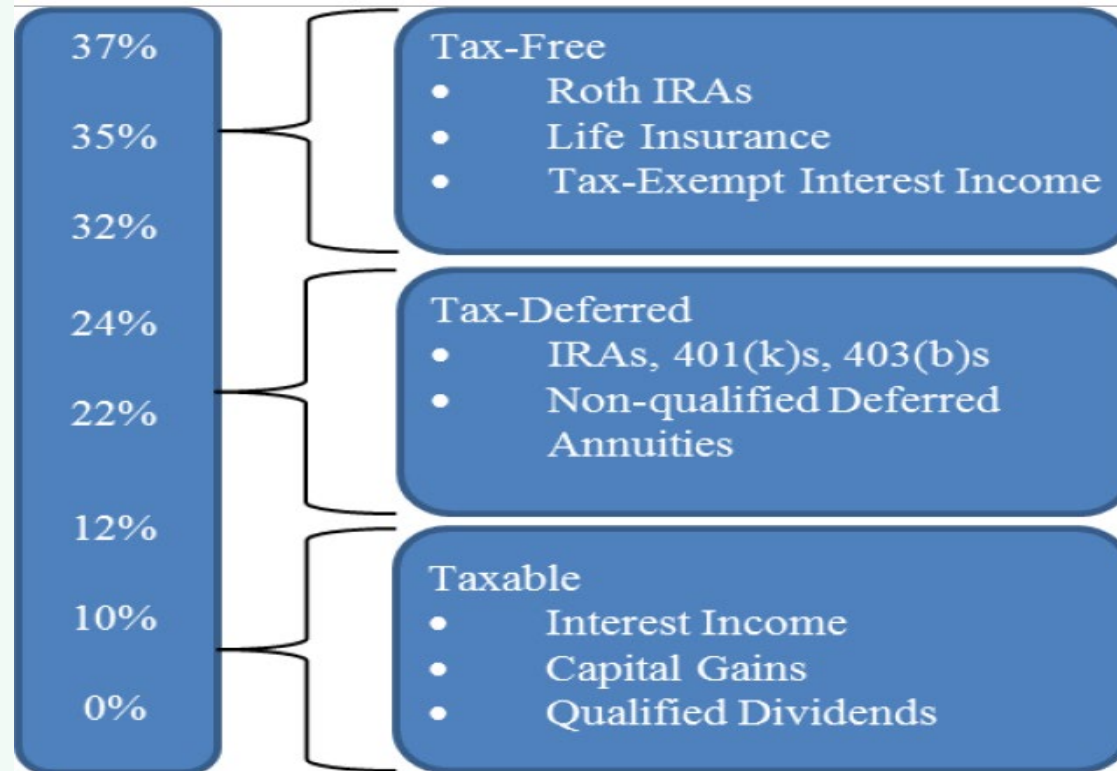
# Bracket Management

## Retirement Plan Funding

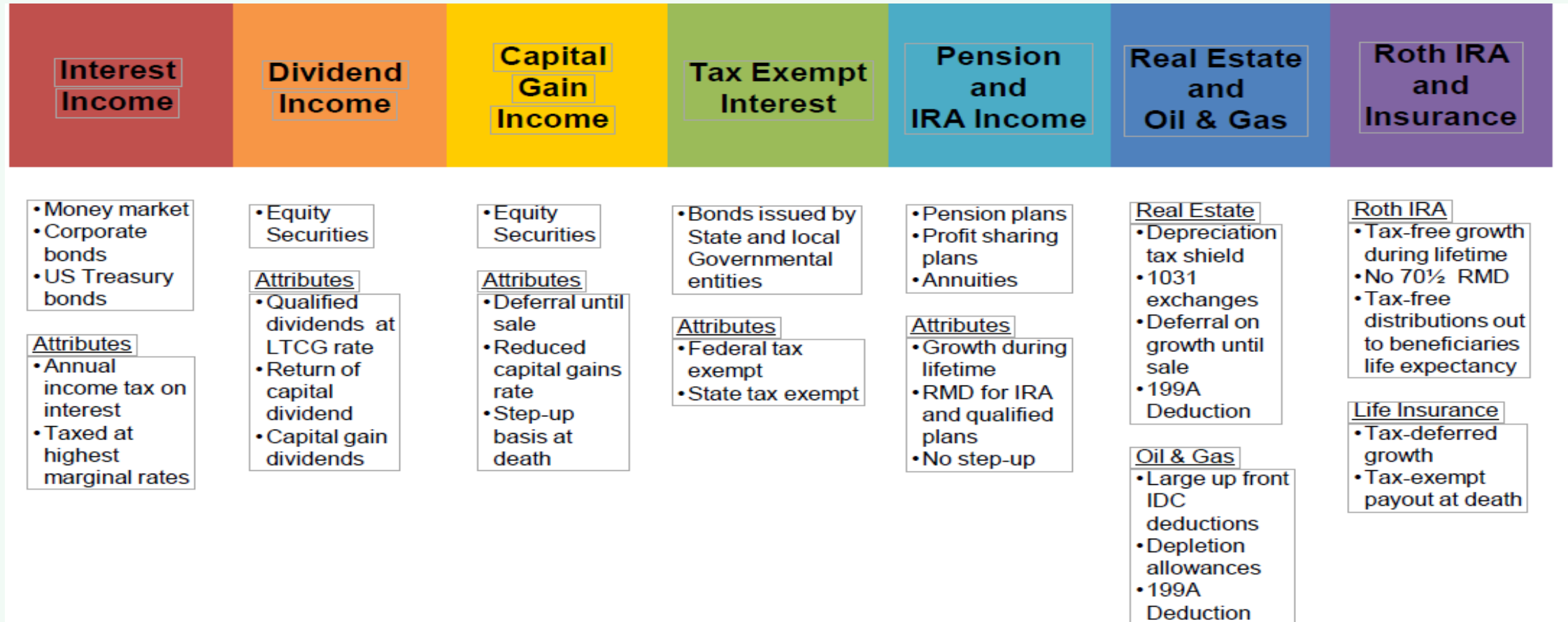
- 401K and IRAs
- IRA contributions allowed up until April 15 for the previous tax year
- Deductible contributions can be valuable to help reduce the impact of phase outs
- Lack of annual tax drag is valuable



# Asset Location



# Asset Location



# ROTH IRA CONVERSIONS

## Reasons for Converting to a Roth IRA

1. Client has special favorable tax attributes that need to be consumed – Donations, Medical, Tax Credits, NOLS.
2. The client expect the converted amount to grow significantly
3. Current marginal income tax rate is likely lower than at distribution
4. Cash outside the qualified account is available to pay the income tax due to the conversion
5. The funds converted are not required for living expenses, or otherwise, for a long period
6. The client expects their spouse to outlive them and will require the funds for living expenses
7. The client expects to owe estate tax

***Need to run the numbers. Want to keep as much of conversion in current tax brackets***

# SECURE ACT

## ***Modification of Required Minimum Distribution Rules for Designated Beneficiaries***

***Basically, requires all IRA and Qualified Plans to be distributed within 10-years of death (for non spouse beneficiary)***

# Opportunity Zones

- “Qualified opportunity zones” are certain designated low-income census tracts.
- On [cdfifund.gov](http://cdfifund.gov) you can find an interactive map showing the areas which qualify.
- The tax incentives for investing in qualified opportunity zones include:
  - Deferral of unrecognized gain
  - Reduction or elimination of unrecognized gain

# TRUST and ESTATE TAXES

- The TCJA doubled the Basic Exclusion Amount and GST exemption in 2018-2024 (\$10,000,000 in 2011 dollars)
- In 2025 the exemptions revert to pre-TCJA law (5,000,000 in 2011 dollars)
- Should the Democrats do well in the 2020 elections, we should expect exemption to substantially decrease

# TRUST and ESTATE TAXES

## IDEAS

- Continue annual exclusion gifts (\$15,000 exemption in 2020)
- Continue medical & education gifts
- Tax-free gifts to use higher exemptions
- Portability elections to preserve exemptions (1<sup>st</sup> to die)
- Incomplete Gift Non-Grantor Trusts – ING
  - Useful to avoid income taxation in the settlor's resident state

# TRUST and ESTATE TAXES

## IDEAS

- Decanting Ideas
  - Turn a grantor trust into a non-grantor trust
  - Turn one non-grantor trust into several (e.g. one for each beneficiary)
  - Add a Power of Appointment (or other terms to force inclusion) in order to capture the basis “step-up”



# Possible California tax increases coming

- AB 1253 (Santiago) is not law yet, but if enacted the bill would impose the following additional taxes retroactively for taxable years beginning on or after January 1, 2020:
  - 1% on income over \$1,181,484, but not over \$2,362,968;
  - 3% on income over \$2,362,968, but not over \$5,907,420; and
  - 3.5% on income over \$5,907,420.
- These increases would mean the California tax rate on income over \$1 million would go from 13.3% to 14.3%, and California's maximum rate would increase to a staggering 16.8%.
- Although the bill initially sets \$1 million, \$2 million, and \$5 million as the thresholds, later in the bill those numbers are increased for inflation.
- The bill is now pending a hearing in the Senate Governance and Finance Committee, and requires a two-thirds vote of both houses of the Legislature to be enacted.
- To view the full text of AB 1253, go to:
- [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB1253](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1253)

# 2020 Action Steps

# 2020 Action Steps

## *Checklist*

### Bracket Management

- Bonuses
- Recognition events
- Business expenses
- AMT awareness

### Itemized Deduction Timing

- Medical expenses
- Property tax
- Charitable contributions
- Casualty & theft losses

### Significant Financial Events Next Year

- Recognition events
- New investments
- Re-allocation plans
- Vesting

### Major Life Events Next Year

- Family changes
- Job changes
- Moving

# 2020 Action Steps

## *Checklist*

### Retirement Planning

- Fund IRAs
- Fund 401Ks
- Fund Pension Plans

### Education Planning

- Fund 529 Plans

### Executive Planning

- Review NQCD
- Review NQSOs/ISOs
- Review Concentrated Positions

### Estate Tax Planning

- Plan Lifetime exemption gifts
- Plan annual exclusions gifts
- Plan Medical Gifts
- Plan Tuition Gifts

# BONUS CHECKLIST

## 41 – 2020 Year End Planning Ideas

- **Bracket Management Strategies**

- #1: Bracket Management
- #2: Capital Gain Harvesting
- #3: Harvesting Capital Losses
- #4: Trusts as S Corporation Shareholders: ESBT vs. QSST

- **Income Smoothing Strategies**

- #5: Substantial Sale Charitable Remainder Trust (CRT)
- #6: Retirement Charitable Remainder Trust
- #7: Roth IRA Conversions
- #8: Oil and Gas Investments
- #9: Two-Year Installment Sale Strategy
- #10: Nonqualified Tax Deferred Annuities
- #11: Borrowing from Permanent Life Insurance Policies

- **Income Shifting Strategies**

- #12: Income Shifting Charitable Remainder Trust
- #13: Family Limited Partnership (FLP)

- **Reducing Taxable Income Strategies**

- #14: Tax-Aware Investing
- #15 Incomplete Gift, Non-Grantor (ING) Trusts
- #16: Captive Insurance Companies

- **Specific Net Investment Income Tax Strategies**

- #17: Inter Vivos Charitable Lead Annuity Trust (CLAT)
- #18: Grouping Business Activities to Create Material Participation and Avoid the NIIT
- #19: Choice of Filing Status to Avoid the 3.8% NIIT

# BONUS CHECKLIST

## Top 41 – 2020 Year End Planning Ideas

- **Wealth Transfer Strategies**

- #20: Intra-Family Loans
- #21: Grantor Retained Annuity Trust (GRAT)
- #22: Dynasty Trust
- #23: IDGT Sale
- #24: Domestic Asset Protection Trust (DAPT)
- #25: Spousal Limited Access Trusts

- **IRC Section 199A Planning**

- #26: IRC § 199A Overview
- #27: Managing IRC § 199A Limitation Amounts
- #28: Choice of Entity Decision After the TCJA--Converting a Pass-Through Entity to a C Corporation
- #29: Using Multiple Trusts to Enhance the Benefits of IRC 199A
- #30: Aggregating Trades Businesses to Inc the § 199A Deduction

- **Ten More Must Know Strategies for 2020**

- #31: Trust Decanting
- #32: S-Election to Save Employment Taxes
- #34: Trusts Named as IRA Beneficiaries
- #35: Sale to an Intentionally Defective Grantor Trust (IDGT) with a Self-Cancelling Installment Note (SCIN) Hedge
- #36: Qualified Small Business Stock
- #37: Opportunity Zones
- #38: Puerto Rico Tax Incentives
- #39: Timing the NQSO Exercise Decision
- #40: Cost Segregation
- #41 BONUS IDEA: Distribution Planning for Non-Spousal Inherited IRAs Following the SECURE Act