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WASHINGTON POLICY STRATEGY

Potomac Perspective

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2025 is shaping up to be a big year for tax policy. There is a potential fiscal cliff as several of the 2017 tax cuts expire. Their expiry roughly coincides with another debt ceiling debate. We explain what parts of the tax code sunset and how the “permanent” section of the tax code, such as corporate tax rates, could be revisited. This looming tax debate is among the reasons why the 2024 presidential election is important.

A year out from the election, we take a look at the state of the race. We currently view Donald Trump as a slight favorite in 2024, but we will be watching the bellwether state of Kentucky next week for a sign of how 2024 might play out.

WHY 2024 MATTERS: 2025 TAX DEBATE

In recent conversations with clients, questions about the 2024 election have been front and center. Every election is important for policy, but **the potential of a fiscal cliff in 2025 gives added significance to next year's election.** At the end of 2025, key provisions of the Jobs and Tax Cuts Act of 2017 (JTCA) expire. Among the expiring provisions are:

- Lower individual income tax rates;
- A \$10,000 cap on the state and local tax deduction;
- A higher exemption for the estate tax; and
- Tax rules for pass-through entities.

Also, the debt ceiling will need to be increased in early 2025. **Even though the corporate income tax rate does not reset in 2025, the confluence of a debt ceiling hike and the possibility of extending some expiring provisions of the JTCA probably means corporate taxes will be part of a broader debate over fiscal and tax policies in 2025.** The winner of the 2024 election will have the ability to make a big impact on tax policy.

AS GOES KENTUCKY, SO GOES THE NATION?

Off-year elections rarely grab the market's attention, but maybe they should.

Next week, Kentucky will elect a governor. In the last five cycles (and seven of the past eight cycles), the party that has won the Kentucky gubernatorial election won the presidency in the following year. **Kentucky might be a bellwether to which few people pay attention.** As we wait for a sign from Kentucky, we look at the current state of the 2024 presidential race.

STATE OF THE 2024 PRESIDENTIAL ELECTION

Republican Primary – Trump's to Lose

A series of criminal prosecutions of former President Donald Trump that began in the spring of 2023 have catapulted him to a big lead in the Republican primary race. **Mr. Trump leads nationally (by over 46 points according to the RealClearPolitics average)**

as well as in the first two states. According to RCP, Mr. Trump leads by over 31 points in Iowa and New Hampshire. Trump's lead over his GOP rivals has been stable for months, and there is no reason to believe Trump will blow the lead.

The Republican field could consolidate in the coming months. Former Vice President Mike Pence recently suspended his campaign. Fundraising challenges could force other Republicans to follow Mr. Pence, but consolidation might not matter. Candidates who might leave the race have such insignificant polling numbers, so their departure is unlikely to materially benefit any remaining candidate(s). Also, some supporters of other candidates will back Mr. Trump as their second choice if their preferred candidate drops out of the race. Consolidation of the GOP field might help the remaining non-Trump candidates, but it will probably not fundamentally change the direction of the race.

Even if the Republican race tightens in the coming weeks, Mr. Trump will likely be helped in early 2024 when headlines related to the various prosecutions reemerge. The trial in the January 6 case is currently scheduled to begin on March 4, the day before the Super Tuesday primaries. Headlines from that case (and others) will likely dominate news cycles and drown out coverage of Trump's competition making it difficult for them to get out their message.

If the theory of Trump's insurmountable lead is wrong, it appears that former Governor and U.N. Ambassador Nikki Haley is best positioned to challenge him. Ms. Haley seems to be gaining some traction in polls, especially in New Hampshire. Florida Governor Ron DeSantis's poll numbers have slowly eroded, nationally and in New Hampshire. DeSantis's decline seems to have helped Haley, but she still trails Mr. Trump by over 30 points in New Hampshire. Haley might be the Republican candidate who can catch Trump (and who is showing signs of gaining on him), but she has lots of ground to make up, and it is questionable that there are enough non-Trump votes within the GOP for her to catch him.

Finally, there has been speculation that another Republican candidate, such as Virginia Governor Glen Youngkin, might enter the race. These conjectures are based more on fantasy than reality, and we discount the possibility of last-minute entrants having a legitimate shot at winning the Republican nomination. A late entrant would have to tap into an anti-Trump sentiment within the Republican Party where others have failed. It is questionable whether there are enough non-Trump Republican voters to beat him.

Democratic Primary – It's Biden's as Long As He Wants It

Unless President Joe Biden changes his mind about running, he is the overwhelming favorite to win the Democratic nomination. Democratic voters seem to have concerns about Mr. Biden's age and ability to serve a second term, but no viable alternative has emerged to challenge him for the nomination.

Mr. Biden could change his mind (that has always been a possibility) about running for reelection, and if he does so, we think it is likely he would wait until the last possible moment before making an announcement. Waiting for as long as possible would delay turning himself into a lame duck president and would give Vice President Kamala Harris, who we view as Mr. Biden's preferred successor, a leg up on the nomination. As long as Mr. Biden remains in the race, no other Democrat can organize a campaign or raise money. Ms. Harris could inherit the Biden campaign apparatus and would likely have the Democratic National Committee behind her. She would have a big (albeit not insurmountable) advantage over other candidates. Those advantages, however, would probably not dissuade other Democrats from running. California Governor Gavin Newsome has been running what looks like a shadow campaign and it seems likely he would enter the race if Mr. Biden dropped out.

GENERAL ELECTION

For now, we assume 2024 will be a replay of 2020. The election is still a year away, and it is difficult to confidently forecast the election outcome this far out. Future events could alter the race's outcome, but there are early warning signs for the Biden campaign, and **we currently view Mr. Trump as a very slight favorite.**

Both Trump and Biden suffer from weak favorability ratings. According to RCP, 54.9 percent of voters view Mr. Biden unfavorably compared to 56.1 of voters who view Mr. Trump unfavorably. That is a wash. However, Democrats could suffer an enthusiasm gap. Some progressives may have become disillusioned with Mr. Biden and might vote for third party candidates (especially the Green Party) in sufficient numbers to impact results on key states. There are also questions about enthusiasm among young and black voters. Black turnout in the recent Louisiana governor's race was reportedly low, which could be a concern for the Biden campaign. Furthermore, there could be fissures in the Democratic coalition. Arab-Americans are a small but vital constituency, especially in key states like Michigan. There are approximately 200,000 Arab-American voters in Michigan, and many in this constituency have been critical of Mr. Biden's support for Israel in the current conflict in Gaza. It is unlikely those voters would vote for Mr. Trump, but some might not vote and low Arab-American turnout in Michigan could tilt the state to Mr. Trump.

Swing voters could also be concerned about Mr. Biden's age and ability to serve a second term. Small shifts among these voters in key states could have an outsized influence in the election outcome.

State polling is sporadic at this point in the general election campaign, and the few polls that have been conducted fail to provide a clear picture of how third-party candidates can impact individual states. However, recent polling conducted by Bloomberg/Morning Consult showed Mr. Trump leading in Arizona, Georgia, and Pennsylvania and showed a tied race in Michigan.

Mr. Trump will face his own challenges. It is unprecedented for a presidential candidate to be criminally indicted – much less facing four indictments. While the prosecutions help Trump among Republicans, they will likely hurt him in the general election, but it is too early to know exactly how much. Like President Biden, former President Trump has high disapproval ratings, and the Biden campaign will try to take advantage of the public's disapproval of Mr. Trump. In an era where voters seem to be more motivated to vote against one candidate rather than motivated to vote in favor of a candidate, Biden campaign attacks could prove to be effective.

Another factor in 2024 will be the presence of several third-party candidates. Again, it is too soon to gauge what impact they will have on the race, mostly because it is unclear where third party candidates might show the most strength. Third party candidates who draw voters away from the two major parties in a state like California will not impact that state's election. However, third party candidates could determine the outcome in competitive states. In 2016, Donald Trump won Wisconsin by 22,748 votes. The Libertarian candidate won over 106,000 votes, and the Green Party's candidate won over 31,000 votes. It is unclear how Libertarian voters would have split, but it is reasonable to assume that the bulk of supporters for Green Party nominee Jill Stein would have backed Hillary Clinton if the Green Party was not an option. No third-party candidate has a realistic chance at winning the presidency, but Wisconsin demonstrated that third-party candidates can influence election outcomes.

In addition to the criminal prosecutions that will confront Mr. Trump, there will be several attempts to keep him off states' ballots based on Section Three of the Fourteenth Amendment, which bars certain officeholders who engaged in insurrection or rebellion,

from being elected to certain federal offices. Even if a trial-level court decides to bar Mr. Trump, we doubt such a ruling will survive an appeal for two reasons. First, as a matter of policy, we doubt the courts will bar a candidate who has not been criminally convicted of the crime of rebellion or insurrection from holding office. Mr. Trump has yet to be convicted on such a charge. Second, the text of the relevant section of the Fourteenth Amendment does not explicitly mention the President among the office holders who, having violated their constitutional oath, should then be barred from office. The text mentions members of federal and state legislatures as well as “an officer of the United States.” There will likely be vigorous debate over the meaning of “officer,” but we expect courts will ultimately rule that the term does not include the President.

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