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Another Trump Term May Change Tax Treatment of Retirement Plans

From ESG investing in 401(k) plans to the solvency of Social Security, industry experts say the outcome of the election may have significant consequences for retirement policy.

Reported by REMY SAMUELS

With President-elect Donald Trump securing another term as president, retirement industry experts believe there will be various implications on retirement plans and policy in the coming four years, including the risk of changes to the deferred-income-tax treatment of most retirement plan contributions, sources said.

How to Pay for Tax Cuts and Jobs Act?

While Republicans have secured control of the Senate and may yet retain control of the House of Representatives, Michael Kreps, a principal in Groom Law Group, says leadership will likely prioritize tax legislation. Large portions of 2017's Tax Cuts and Jobs Act are set to expire, and Kreps says there are already discussions about how to extend the law's provisions. He predicts that Congress will want to pay for at least a portion of the cost of those extensions, which means coming up with trillions of dollars of offsets.

"There should be no question that the tax incentive for retirement savings is at risk," Kreps says. "People forget that we narrowly avoided 'Rothification'—meaning mandatory Roth deferrals—in 2017. Members of Congress will say they support the retirement system, and they do, but when push comes to shove, someone's ox will have to be gored if they want to pay for extending the tax cuts."

Beyond the tax question, Congress managed to pass major retirement legislation—the Setting Every Community Up for Retirement Enhancement Act of 2019—during Trump's first presidency, itself a politically divisive time. However, many leaders in the retirement industry say it remains uncertain what sort of new, significant policy proposals will come out of the second Trump term.

Kreps says it is difficult to predict what to expect from a Trump administration, because little is known about the administration's retirement priorities.

"There are plenty of policy proposals out there from Trump-aligned organizations, including Project 2025, and most of those proposals are consistent with longstanding Republican policy positions," Kreps says. "However, the big takeaway from the first Trump administration was just how unpredictable things [were]. … In my view, the big question for a Trump [Department of Labor] is whether there will be a change in how the agency works with the regulated community."

'More Adversarial' Relationship with DOL

Kreps explains that there was a shift in enforcement and regulatory approach at the DOL early in the administration of former President Barack Obama, as it prioritized creating policy through enforcement and "big ticket regulatory initiatives," such as the fiduciary rule, while avoiding industry engagement on sub-regulatory guidance like advisory and individual prohibited transaction exemptions. Kreps says this approach largely stayed the same through the terms of Trump and President Joe Biden.

"I think it's fair to say that DOL's relationship with the retirement industry is more adversarial than it was for the first 35 years of [the Employee Retirement Income Security Act]," Kreps says. "We will have to see whether that continues in 2025 or whether new political leadership will try to make some fundamental changes at the agency."

Kreps notes that Representative Virginia Foxx, R-North Carolina—the chair of the U.S. House Committee on Education and the Workforce—has repeatedly expressed concerns with the DOL's tactics.

Olivia Mitchell, a professor of insurance risk management and the executive director of the Pension Research Council at the Wharton School of the University of Pennsylvania, says preserving lower tax rates will decrease the attractiveness for participants to save in tax-qualified retirement accounts. If Social Security benefits and tips are not taxed, as promised by Trump during his campaign, and if Social Security benefits are increased, as promised, Mitchell argues that these will also dampen the demand for retirement saving.

"On the other hand, massive tariff increases and mounting federal deficits will boost inflation and depress economic growth, making it far more difficult for workers to save and invest effectively for retirement," Mitchell notes.

Lessons From 1st Trump Era

Kevin Crain, executive director of the Institutional Retirement Income Council, argues that the first Trump administration offered indicators as to what a second term may bring regarding retirement savings and retirement income.

During the first administration, from 2017 to 2021, there were explicit statements of support for the 401(k) system and the passage of the SECURE Act, which Crain says expanded retirement savings access, promoted in-plan retirement income options and recognized longevity trends.

"Executive orders also promoted easier access to retirement plans for small businesses," Crain says. "I would expect that general support to continue in a second administration."

However, Andrew Oringer, a partner in Wagner Law Group, says it remains to be seen if there will be any significant policy proposals coming out of a second Trump administration, one that will likely have control of both houses of Congress.

"Even if there is control, the current need for 60 votes in the Senate [to avoid a filibuster] is a challenge for anything controversial," Oringer says. "Talk of major revamping of the retirement system had started to come out of the Biden administration, so I'm not sure that's the road we're about to go down."

ESG Factors Likely to Take a Back Seat

While many thought that Biden's rule permitting consideration of environmental, social and governance factors when investing in defined contribution plans could survive judicial scrutiny, even after the overturning of the *Chevron* standard, Oringer says it is unknown whether the Trump administration will seek to go back to the Trump-era rule or will simply "seek to take the Biden rule off the books."

"In any event, the hostility toward ESG that will be coming out of the Trump administration will not be encouraging to those fiduciaries that want to take ESG into account," Oringer says.

Mitchell and Crain also agreed it is likely a Trump administration will extinguish other plans for ESG investing.

What of Social Security?

Teresa Ghilarducci, a professor of economics at the New School for Social Research, says the election result will have big consequences for retirement plans and retirement security.

"Social Security will cut itself—no political action is needed—in eight to nine years when revenue falls short, and benefits across the board will be cut 25%," she predicts. "At the very least, private savings has to make up for that loss and more."

Ghilarducci emphasizes the importance of legislation like the bipartisan Retirement Savings for Americans Act, introduced by Senator John Hickenlooper, D-Colorado, in 2023, which would require all American workers without a workplace plan to be in a savings plan.

“It’s up to the Republican Party to be on the side of workers and prevent Social Security insolvency and to expand retirement security to all American workers,” Ghilarducci says.

Tags ESG, President Trump, presidential election, Social Security, Tax Cuts and Jobs Act

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