



# Post-Election Commercial Real Estate Tax Outlook

The U.S. presidential election has been called, with Donald Trump securing the position as president-elect.<sup>1</sup> Throughout his campaign, a wide range of tax policies have been announced. Despite the sparse details and varying degrees of practicality with his campaign's proposals, along with an uncertain House makeup, it is widely anticipated that the focus of D.C. in 2025 will be on tax policy, including addressing certain expiring provisions of the Tax Cuts and Jobs Act ("TCJA"). Based on the information that is currently available, FTI Consulting's Real Estate Solutions practice has compiled a short list of proposed tax policies that are most relevant to the commercial real estate industry, which developers, investors and asset managers should closely follow in the coming year.

- **Bonus Depreciation** — Permanently restore the 100% bonus depreciation provisions of the TCJA for tax years beginning January 1, 2026, which began phasing out for tax years beginning in 2023.<sup>2</sup>
- **199A Pass-Through Deductions** — Make the Section 199A pass-through deduction and noncorporate loss limitations permanent; if not, it is set to expire at the end of the 2025 tax year.<sup>3</sup>
- **Interest Deductibility** — Restore the Earnings Before Interest, Tax, Depreciation and Amortization ("EBITDA")-based interest expense limitation, instead of EBIT that came into effect for tax years beginning January 1, 2022.<sup>4</sup>
- **Corporate Tax Rate** — Lower the corporate tax rate from 21% to 20% and reinstate a Domestic Production Activity Deduction to reach an effective corporate tax rate of 15% for domestic manufacturing.<sup>5,6</sup>
- **IRA Tax Credits** — Repeal major areas of the Inflation Reduction Act, specifically surrounding sustainable energy tax credits.<sup>7</sup>
- **Tariffs** — Although not an income tax, create both universal and protectionist tariff regimes aimed at financing various income, payroll and estate tax cuts, as well as retaliating against foreign adversaries.<sup>8,9</sup>

Equally relevant to real estate asset managers and investors will be the proposals that are no longer on the table with a Trump presidency.

- **Carried Interest** — Closing the “carried interest loophole” was targeted in President Biden’s Fiscal Year 2025 Budget, which would have marked a significant change to how carried interest is currently taxed for asset managers.<sup>10</sup> President-elect Trump did not propose any tax policies related to the tax treatment of carried interest during his campaign.
- **Capital Gains** — Vice President Harris proposed taxing long-term capital gains at a rate of 28% for individuals making more than \$1,000,000 annually.<sup>11</sup> President-elect Trump did not propose any tax policies related to the capital gains tax rate during his campaign.
- **Net Investment Income Tax (“NIIT”)** — Vice President Harris proposed a 1.2% increase in the NIIT, which would apply to most sources of investment income for individuals surpassing certain Modified Adjusted Gross Income (“MAGI”) limitations.<sup>12</sup> President-elect Trump did not propose any tax policies addressing NIIT during his campaign.
- **Corporate Tax Rates** — Vice President Harris proposed increasing corporate tax rates by 7%, to a rate of 28%.<sup>13</sup> As noted above, President-elect Trump has proposed lowering the corporate tax rate.

Despite the unknowns, it is all but certain that tax policy will take center stage for legislators in 2025. As such, developers, investors and asset managers in the commercial real estate industry should keep apprised of tax developments on the Hill to ensure they are positioned for financial success.

#### ASHALATA SHETTIGAR

Managing Director  
+1 973.852.8223  
ashalata.shettigar@fticonsulting.com

#### LELAND COLLINS

Senior Director  
+1 240.968.5858  
leland.collins@fticonsulting.com

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## Endnotes

- <sup>1</sup> The Associated Press, “Trump is elected the 47th president,” The Associated Press (November 6, 2024), <https://apnews.com/live/trump-harris-election-updates-11-5-2024#00000193-0109-d414-a79f-1f1dbfa80000>.
- <sup>2</sup> York, E., “Donald Trump Tax Plan 2024: Details and Analysis,” Tax Foundation (November 6, 2024), <https://taxfoundation.org/research/all/federal/donald-trump-tax-plan-2024/>.
- <sup>3</sup> Id.
- <sup>4</sup> Id.
- <sup>5</sup> Faler, B. “Trump says he wants 20 percent corporate tax rate,” Politico Pro (June 13, 2024), <https://subscriber.politicopro.com/article/2024/06/trump-says-he-wants-20-percent-corporate-tax-rate-00163358>.
- <sup>6</sup> Whalen, J., Rubin, R., Cutter, C., & Deng, C., “Trump Proposal to Cut Tax Rate for U.S. Manufacturers Spurs Flurry of Questions,” *The Wall Street Journal* (September 5, 2024), [https://www.wsj.com/economy/trump-proposal-to-cut-tax-rate-for-u-s-manufacturers-spurs-flurry-of-questions-24ac5cee?st=cg50nooubxssy39&reflink=desktopwebshare\\_permalink](https://www.wsj.com/economy/trump-proposal-to-cut-tax-rate-for-u-s-manufacturers-spurs-flurry-of-questions-24ac5cee?st=cg50nooubxssy39&reflink=desktopwebshare_permalink).
- <sup>7</sup> DiGangi, D., “Future of IRA, shape of permitting reform hinge on upcoming election, experts say,” Utility Dive (October 30, 2024), <https://www.utilitydive.com/news/inflation-reduction-act-permitting-reform-legislation-congress-elections/730332/>.
- <sup>8</sup> “Trump favors huge new tariffs. How do they work?,” PBS News (September 27, 2024), <https://www.pbs.org/newshour/economy/trump-favors-huge-new-tariffs-how-do-they-work>.
- <sup>9</sup> Picciotto, R., “Trump floats ‘more than’ 60% tariffs on Chinese imports,” CNBC (February 4, 2024), <https://www.cnbc.com/2024/02/04/trump-floats-more-than-60percent-tariffs-on-chinese-imports.html#:~:text=Trump%20confirmed%20that%20he%20would,%24250%20billi on%20in%20China%20tariffs>.
- <sup>10</sup> “Budget of the U.S. Government, Fiscal Year 2025,” U.S. Government Publishing Office (March 2024), [https://www.whitehouse.gov/wp-content/uploads/2024/03/budget\\_fy2025.pdf](https://www.whitehouse.gov/wp-content/uploads/2024/03/budget_fy2025.pdf).
- <sup>11</sup> Dore CFP®, K., “Harris wants a 28% capital gains tax rate for top earners. Here’s what advisors are telling clients,” CNBC (September 6, 2024), <https://www.cnbc.com/2024/09/06/harris-biden-capital-gains-tax-election.html>.
- <sup>12</sup> Id.
- <sup>13</sup> Picchi, A., “Harris and Trump both want major tax changes. Here’s what they’re proposing — and the impact on you.,” CBS News (November 5, 2024), <https://www.cbsnews.com/news/kamala-harris-trump-tax-cuts-election-2024-what-to-know/>.