

5 Ways to Win Under the Trump Administration

On January 20, 2017, Donald J. Trump became the 45th President of the United States of America. Here are five ways advisors can win under the new administration:

#1] Prepare for the DOL Rule as if it's a Foregone Conclusion

Since President Trump's win in the election, many financial advisors and others in the industry have predicted the death of the DOL's Fiduciary Rule by one means or another. Some believe that Congress will pass a law that will nullify it; others believe the courts will strike it down; and still others believe President Trump will use his executive power to direct the DOL to change its course or delay the rule indefinitely. Certainly, there are no shortage of ways that the long-awaited Fiduciary Rule could fail to apply beginning April 10, 2017, but planning as though that's a definite is a big mistake. Advisors should not ignore the Rule or assume that it won't be here. While that may very well end up being the case, there are many reasons to assume it's here to stay:

- a. President Trump** and many in his administration are on record supporting a repeal of the Fiduciary Rule, but a new President, and particularly one who lost the popular election, only has so much political capital to push through his agenda. With that in mind, one has to question how important the Fiduciary Rule's repeal is to the President. Is it really a high-priority item? And if not, or if it simply doesn't happen by the April 10th deadline, what then? The only answer is to plan now as if it's going to be here. April 10th isn't that far away!
- b. It's good business practice anyway.** Does the Fiduciary Rule add a bunch of red tape to an industry that is already one of the most regulated in the nation? Yes. Are there aspects of the Rule that are ambiguous? Sure. Are there parts of the Rule that could be improved? Without a doubt.

But having said of all that and taken in its totality, the Fiduciary Rule is a step forward for the financial profession. Doing what's in a client's *best interest* just makes sense. At its heart, compliance with the DOL Rule revolves around two core concepts: do the right thing for clients and be prepared to prove it. If you think that standard is too lofty for you, then you need to ask yourself if you should really be handling people's life savings.

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Whether or not the Fiduciary Rule Stays, all advisors should be sure to implement certain business practices designed to protect and benefit clients that it has brought to the forefront. These include properly evaluating a rollover and disclosing to a client the key benefits and drawbacks of such a move, benchmarking fees vs. your peers, and trying to minimize the impact of conflicts of interest.

#2 Get Ready for Roth Conversions, Especially for High-Income Clients

It is widely expected that the Republican-controlled Congress, together with President Trump, will make significant changes to the current tax code. While the exact changes have yet to be determined – there are a lot of differences between the Congressional Republicans' plan and that of President Trump – one thing that appears to be a foregone conclusion is a reduction of the top federal income tax bracket. If that becomes reality, Roth conversions for those previously in the highest bracket would instantly become more valuable. In addition, President Trump has proposed eliminating the 28% and 33% tax brackets. Should he get his way, clients who previously found themselves in those brackets would suddenly find themselves paying “just” a 25% rate and could also greatly benefit from Roth conversion planning.

While there is a host of factors that play into whether someone should make a Roth conversion, the driving force behind such decisions should be the expected tax rate at the time of conversion vs. the expected tax rate at the time the assets would otherwise be distributed. Many top economists and tax policy advocates feel that any significant reduction in the federal income tax rates will lead to massive deficits and further add to our national debt. If that happens, higher tax rates in the future would be a near certainty. On the other hand, President Trump has repeatedly touted that his tax and other economic policies will usher in an unprecedented period of growth for the U.S. economy. Should that happen, the stock market is likely to see continued growth, and where else would a client want to have that growth occur than in a tax-free account?

#3 Prepare Clients for the Loss of the Stretch IRA

When Congress created the IRA more than 40 years ago, the dominant force behind its creation was a desire to help Americans save for retirement. Over time, however, thanks to the post-death required minimum distribution (RMD) rules that favor young beneficiaries, IRAs have taken on a new principal role as a wealth transfer vehicle for many clients. That hasn't sat well with many in recent years, particularly former President Obama and those in his administration. For years, President Obama's budget included a provision to eliminate the stretch IRA, but it repeatedly

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failed to get off the ground. Then, in 2016, the Retirement Improvements and Savings Enhancements (RISE) Act of 2016 changed all of that. The bill, which contained a provision eliminating the stretch for many beneficiaries of large IRAs, got pretty far down the legislative path, including being “scored.” Ultimately, it didn’t make it to a vote, but the fact that it made it that far scared many people. With Republicans now in control of both Congress and the White House, many have speculated that the stretch IRA is safe again. That may indeed be the case, but it’s also easy to envision a scenario where the death of the stretch gets thrown in to a bill as a bargaining chip or as a way to help keep a bill revenue neutral.

Those clients primarily using an IRA, particularly a non-Roth IRA, as a wealth transfer vehicle, may want to give some thought as to whether or not they should continue funding such vehicles in lieu of other options. Life insurance, for instance, may make more sense if the stretch IRA goes away. Even investing in a taxable account could prove to be the better wealth transfer move, particularly for those clients investing in growth stocks (low annual taxable dividends) and those that anticipate nominal turnover (minimizing capital gains).

In other scenarios, if a client *really* wants their beneficiaries to stretch distributions, there may be a way to create a pseudo-stretch if the real one ceases to exist. The strategy, in a nutshell, would be to have clients leave their IRAs to a charitable remainder trust set up to distribute its contents over the trust beneficiaries’ life expectancies. In many cases, such beneficiaries would receive at least as much from the charitable trust as they would have from a stretch IRA over the course of their lifetime. However, this planning approach isn’t without its downside. Leaving IRA assets to a charitable trust essentially forces the pseudo-stretch, so if a trust beneficiary has a need for a lump sum, they’re out of luck. And of course, trusts can be costly to both set up and maintain.

#4 Get Ready to Super-Charge Clients’ Irrevocable Trusts

Both Congressional Republicans and President Trump have called for a complete repeal of the estate tax. Whether that ultimately happens is still up for debate, literally. One thing that is even more uncertain at present time is the future of the gift tax. If the gift tax is ultimately repealed along with the estate tax, advisors should immediately review all high-net-worth clients’ estate plans to see if it makes sense to begin removing assets from each client’s estate via gifts. Just because the estate tax doesn’t exist now (if that indeed turns out to be the case) doesn’t mean that it won’t be back in the future. To the contrary, the U.S. has, on more than one occasion, repealed an estate (or estate-like) tax, only to see it come back again.

For the wealthiest of clients looking to transfer assets as efficiently and safely as possible,

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it's hard to imagine a scenario where shoveling assets, hand over fist, into irrevocable trusts, for life insurance or just "plain old investing," would not make sense. Intentionally defective grantor trusts (IDGT), in particular, may become increasingly valuable. Such trusts allow clients to shift assets out of their estate for estate tax purposes but also allow them to include the income generated by such trusts on their own personal income tax returns. In the no-estate-tax, lower-income-tax planning world that could well become reality under the Trump administration, this strategy could pay huge dividends for clients, especially the very wealthy if things change again down the road (as they inevitably will).

#5 Get Ready for a Portfolio Overhaul

If there's one thing we can count on over the next four years, it's change. With that in mind, advisors may need to make more alterations than usual to clients' portfolios to keep them on track. Such adjustments may be spurred by changes in public policy that make certain segments of the market more or less attractive than in years past, but they may also be necessary for non-investment-specific reasons. If, for instance, President Trump is able to push his tax policy through Congress, investments such as bonds may become more attractive to certain clients, as the gap narrows between the ordinary income tax rate on bond interest and the long-term capital gains rate they may currently pay on qualified-dividend-producing investments. Similarly, municipal bonds could become less valuable to clients as tax rates fall.

With so much in flux, top-level advisors may want to increase the frequency of reviews with existing clients, particularly top level clients, so that they can react quicker to whatever changes ultimately come down the pike. If big changes occur, you'll be able to capitalize with clients in a timely manner. If they don't occur, your clients will still appreciate your added attention at a time when many Americans of all political affiliations are concerned about the future of our economy and country as a whole.

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