WITHUMSMITH+BROWN'S
PRESIDENTIAL TAX COMPARISON

As of 6.4.2012

COMPARISON OF KEY TAX CONSIDERATIONS	PRESIDENT OBAMA	MITT ROMNEY
Individual Income Tax Rates [i]	Top rates of 33% and 35% will be replaced with top rates of 36% and 39.6% for MFJ taxpayers with AGI > $250,000. For all taxpayers, the 10%, 15%, 25% and 28% brackets would remain.	New brackets of 8%, 12%, 20%, 22.4%, 26.4%, and 28%.
Long-Term Capital Gains Rate [i]	Return to 20% for MFJ taxpayers with AGI > $250,000; 15% for everyone else.	0% for taxpayers with AGI < $200,000; 15% for everyone else
Top Qualified Dividends Rate [i]	Return to 39.6% for MFJ taxpayers with AGI > $250,000; 15% for everyone else.	0% for taxpayers with AGI < $200,000; 15% for everyone else.
Rate on Interest	Ordinary rates.	0% for taxpayers with AGI < $200,000; ordinary rates for everyone else.
Tax Code Reform	Implement the "Buffett Rule," an alternative calculation for taxpayers with AGI > $1,000,000 to ensure they pay tax at a minimum effective rate of 30%.	Start with the Bowles-Simpson Commission approach; lower rates and broaden the tax base [ii]
AMT	Replace with "Buffett Rule"	Repeal
Estate Tax [iii]	Return to 2009 parameters: a $3.5 million exemption and 45% tax rate.	Eliminated
Corporate Income Tax [iv]	Maximum 28% rate with U.S. manufacturers capped at a 25% rate. Elimination of up to a dozen current tax deductions, including LIFO and oil and gas preferences, and minimizing the deduction for interest to encourage equity investment. Make the R&D credit permanent.	Maximum 25% rate. Make the R&D credit permanent.
International Tax Reform	The president has proposed implementing a minimum tax for U.S. corporations to pay on its worldwide income; enacting a 20% tax credit on moving expenses related to repatriating foreign operations back to the U.S.; defer deduction for interest related to an overseas affiliate until the foreign income is taxed in the U.S.	Switch to a "territorial system" [v]
Capital Expenditures	100% bonus depreciation extended for 2012.	100% bonus deprecation extended for 2012
Miscellaneous	Tax "carried interest" at ordinary rates as compensation for services. [vi] Eliminate the benefit of all itemized deductions (and some above the line deduction) by capping benefit at 28% of AGI.	Would end the American Opportunity tax credit for college education; lower payroll taxes

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[i] While President Obama would let the Bush tax cuts expire for only those taxpayers with AGI > $250,000 ($200,000 if single), Romney would not allow any of the cuts to expire. Were they to expire, the top ordinary income rate is slated to return to 39.6% on January 1, 2013. In addition, qualified dividends will again be taxed at ordinary rates -- as opposed to the current 15% -- and long-term capital gains will be taxed at a 20% rate as opposed to the current 15% rate. Also beginning in 2013 unless it is repealed prior to the effective date, would be a 3.8% tax on all unearned income of taxpayers with AGI in excess of $250,000.

[ii] Bowles-Simpson was a presidential commission created by President Obama in 2010 to propose ways to cut the federal deficit. From a tax perspective, the commission attempted to simplify the Code while simultaneously raising tax revenue by eliminating many tax deductions.

[iii] The estate tax is currently at 35% for 2011 and 2012, but is slated to return to a 55% rate in 2013.

[iv] The maximum corporate income tax rate is currently 35%.

[v] A territorial system is one in which income is taxed only in the country in which it is earned. Under its current "worldwide" system, foreign affiliates of American companies are generally taxed on income in their host country. When the earnings are repatriated from the foreign affiliate to a U.S. corporation, tax is paid a second time to the U.S., with a credit given for the tax paid abroad.

[vi] Carried interests -- or a right to future profits commonly granted to private equity fund managers in exchange for providing management services -- currently allow the holder to receive future allocations of income that is taxed in accordance with the character of the gain recognized at the partnership level. Thus, many fund managers are able to receive predominately long-term capital gain in exchange for managing the fund. President Obama has long sought to tax the income allocated to these profits interests as ordinary income.