

# Looking Forward: Tax Reform and New Economy

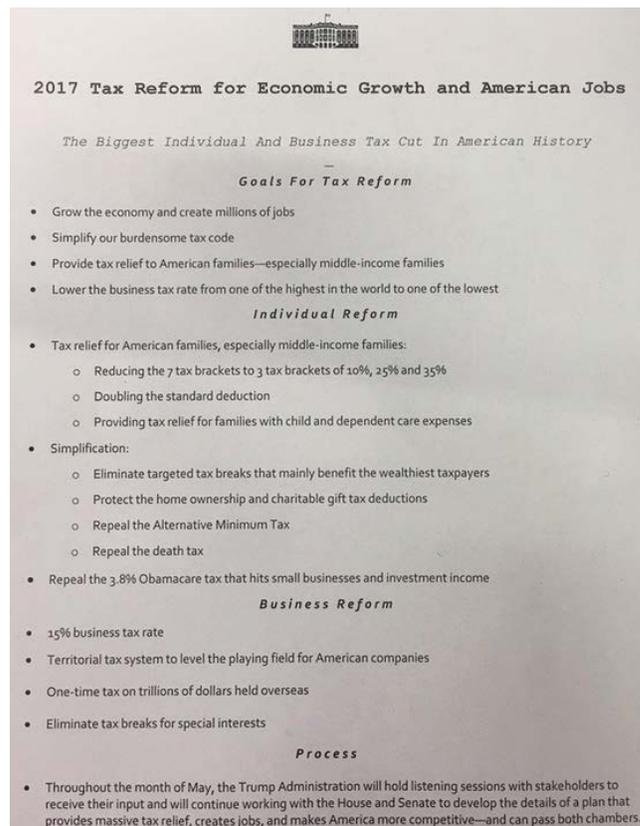
## Federal Tax Reform

# President Trump Tax Plan

- 97<sup>th</sup> Day in Office (4/26/17)
- 1-page
- Similar to campaign plan



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# Insights from Trump's budget proposal (beyond his 1-pager on tax reform)

- Simplify tax law
- Ensure EITC and CTC only for those authorized to work in US
- **Increase oversight of paid return preparers**
  - Give IRS statutory authority for this as it will reduce need for post-filing enforcement.
- Give IRS greater authority to fix errors
- IRS Budget
  - Focus on addressing ID theft, fraud
  - Divert resources from paper-based systems; more to more e-filing systems
- **"Budget assumes deficit neutral tax reform."**
- "Create a tax system that is fair, simple, and efficient—one that puts Americans back to work and puts America first."

<https://www.whitehouse.gov/omb/budget>

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## SFC Wants Ideas on Tax Reform

- 6/16/17 request from Senator Hatch
- By 7/17/17
- Will be kept confidential.
- Focus on:

1. Tax relief for middle-class;
2. Strengthening businesses – by lowering tax rates and broadening base;
3. "Removing impediments and disincentives for savings and investment;"
4. Updating international tax system for global competitiveness while preserving tax base.

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United States Senate  
 COMMITTEE ON FINANCE  
 WASHINGTON, DC 20510-6200

June 16, 2017

Dear Stakeholders,

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# Tax Reform News – July 27, 2017

- Joint Statement from the “Tax Reform 6”:
- *“We have always been in agreement that tax relief for American families should be at the heart of our plan. We also believe there should be a lower tax rate for small businesses so they can compete with larger ones, and lower rates for all American businesses so they can compete with foreign ones. The goal is a plan that reduces tax rates as much as possible, allows unprecedented capital expensing, places a priority on permanence, and creates a system that encourages American companies to bring back jobs and profits trapped overseas. And we are now confident that, without transitioning to a new domestic consumption-based tax system, there is a viable approach for ensuring a level playing field between American and foreign companies and workers, while protecting American jobs and the U.S. tax base. While we have debated the pro-growth benefits of border adjustability, we appreciate that there are many unknowns associated with it and have decided to set this policy aside in order to advance tax reform.”*

<http://www.speaker.gov/press-release/joint-statement-tax-reform>

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## 8/1/17 Letter from 45 Dems + 2 Independent Senators

- To Trump, McConnell and Hatch
- 3 principles for tax reform
  - Don’t increase tax for middle class and don’t benefit wealthiest.
  - Use normal bill process, not reconciliation
    - Avoid temp tax cuts
  - Provide a “revenue base that meets the needs of our country”
    - No deep tax cuts financed by deficits
- Not signed by 3 Dems up for re-election in 2018

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# Big 6 Tax Reform Framework

## 9/27/17

Per the Big 6:

- ✓ Pro-American
- ✓ Fiscally-responsible
- ✓ Creates a 21<sup>st</sup> century tax code

## HIGHLIGHTS OF THE UNIFIED TAX REFORM FRAMEWORK

<https://www.whitehouse.gov/the-press-office/2017/09/27/unified-framework-fixing-our-broken-tax-code>

### Lowers Rates for Individuals and Families

The framework shrinks the current seven tax brackets into three – 12%, 25% and 35% – with the potential for an additional top rate for the highest-income taxpayers to ensure that the wealthy do not contribute a lower share of taxes paid than they do today.

### Doubles the Standard Deduction and Enhances the Child Tax Credit

The framework roughly doubles the standard deduction so that typical middle-class families will keep more of their paycheck. It also significantly increases the Child Tax Credit.

### Eliminates Loopholes for the Wealthy, Protects Bedrock Provisions for Middle Class

To provide simplicity and fairness the framework eliminates many itemized deductions that are primarily used by the wealthy, but retains tax incentives for home mortgage interest and charitable contributions, as well as tax incentives for work, higher education, and retirement security.

### Repeals the Death Tax and Alternative Minimum Tax (AMT)

The framework repeals the unfair Death Tax and substantially simplifies the tax code by repealing the existing individual AMT, which requires taxpayers to do their taxes twice.

### Creates a New Lower Tax Rate and Structure for Small Businesses

The framework limits the maximum tax rate for small and family-owned businesses to 25% - significantly lower than the top rate that these businesses pay today.

### To Create Jobs and Promote Competitiveness, Lowers the Corporate Tax Rate

So that America can compete on level playing field, the framework reduces the corporate tax rate to 20% – below the 22.5% average of the industrialized world.

### To Boost the Economy, Allows "Expensing" of Capital Investments

The framework allows, for at least five years, businesses to immediately write off (or "expense") the cost of new investments, giving a much-needed lift to the economy.

### Moves to an American Model for Competitiveness

The framework ends the perverse incentive to offshore jobs and keep foreign profits overseas. It levels the playing field for American companies and workers.

### Brings Profits Back Home

The framework brings home profits by imposing a one-time, low tax rate on wealth that has already accumulated overseas so there is no tax incentive to keeping the money offshore.

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# President Trump's 4 Principles for Tax Reform

1. Simple, fair, easy to understand
2. Give American works a pay raise.
3. Make America a jobs market of the world
4. Bring back trillions of dollars of unrepatriated earnings.

Feature	Observations
9-page framework	Lots of details are missing such as where rate brackets start and end, rate on investment income, and what “loopholes” will be closed.
Standard deduction of \$24K for MFJ and \$12K for single	Will the head-of-household filing status continue? Personal and dependency exemptions are removed.
Individual rates: 12%, 25% and 35% and perhaps a rate above that for high income individuals for progressivity.	Today, lowest bracket is 10% and highest is 39.6%. Will there be a special rate for investment income, including today’s 0% rate that applies to some capital gains? Where will these brackets start and end? While there is a desire among politicians to get the tax cut into taxpayers’ pockets as soon as possible, new W-4 forms might be needed so employers can use the new withholding tables (for example, because the dependency exemption will be repealed and the child credit eligibility might change). And the IRS would need to create a new W-4 form.

Feature	Observations
Child Tax Credit – phase-out limits increased; first \$1K is refundable. Non-refundable credit of \$500 for non-child dependents.	Today, CTC only applies to children under age 17 while dependency might go up to age 23 (full-time student). If all workers are to get a higher paycheck and today about 45% of individuals pay no income tax due to low income, even if they get a higher refundable child credit, it won’t affect their paycheck.
Only itemized deduction for home ownership and charitable contributions remain.	Repeal of state tax deduction can result in tax increase for many taxpayers. Repeal of medical expense and casualty loss might adversely taxpayer’s ability to pay.
Preferences “that encourage work, higher education and retirement security” are retained.	No details provided. Is the preference that encourages work the EITC? Will education provisions and retirement plan options be streamlined and simplified?

Feature	Observations
Individual and corporate AMT repealed.	What happens to any minimum tax credit a taxpayer is carrying forward at date of enactment?
Repeal of other provisions.	What might this include?
Repeals estate and GST taxes.	What happens to basis of assets at date of death? Will the gift tax remain?

Feature	Observations
Corporate rate is 20%.	Per the framework, the average corporate rate among industrialized countries is 22.5%.
The rate for “business income of small and family-owned businesses is 25%. There will be measures to “prevent recharacterization of personal income into business income.	Assuming there are rate cuts, less than 5% of owners would possibly even be in a rate above 25%. There are still payroll tax considerations and make it important that all non-C corporation owners distinguish services income from return on capital invested in the business.
Double taxation of corporate income might be addressed.	Senator Hatch has discussed corporate integration via a dividends paid deduction approach with withholding.

Feature	Observations
Expensing of new investments in depreciable assets other than structures, made after 9/27/17 will be expensed, at least for the first five years.	This is the only mention of a date in the framework. Will it include expensing of intangibles as well? New or also used property? Why five years only? What happens after that? The five years is likely due to the need to keep the bill revenue neutral by year 11 due to the budget reconciliation. Will temporary rather than permanent expensing adversely affect the economic growth projections? The Tax Foundation says YES (Pomerleau, " <a href="#">Economic and Budgetary Impact of Temporary Expensing</a> ," 10/4/17).
Net interest expense of C corporations is "partially limited" and a similar treatment for other entities will be considered.	There are likely two rationales for limiting the interest expense deductions: (1) a revenue raiser, and (2) if assets are expensed and debt-financed, the effective tax rate is very low, perhaps even zero or negative; thus warranting a limitation on the interest expense.
§199 manufacturing deduction will be repealed.	No surprise here as this measure is really just a rate cut for many taxpayers, but added complexity.

Feature	Observations
Various unnamed tax preferences will be repealed or cut back. Only the research and low-income housing credits will remain.	The rationale for keeping the research credit is likely because other countries with a lower tax rate also have research incentives. Also, this credit exists not only for its incentive effect, but also to address the spillover effects when a company engages in R&D but others benefit from it as well.
Changes will be made to tax rules for specific industries to "better reflect economic reality" and reduce tax avoidance.	No examples are provided.
For businesses, worldwide taxation will be replaced with territorial with a 100% exemption for dividends from foreign subs (if the U.S. parent owns at least 10%). Transition rules will include deemed repatriation with a rate lower for illiquid assets than for cash and cash equivalents. Payment will be spread over several years. To prevent shifting certain income to tax havens, there will be a reduced tax rate on the foreign profits of U.S. multi-national companies	Many details are missing here including the deemed repatriation tax rate, the period for paying the tax, and what other rules will need to change due to the shift to a worldwide tax system.

# When?



Speaker Ryan:  
7/5/17



- *"We're not talking about some rinky-dink, watered-down version of reform where the status quo basically remains as is. No, instead, imagine transformational tax reform that closes decades of loopholes, shakes up the IRS, and actually encourages businesses to stay and grow here in America."*

- <http://www.speaker.gov/general/ryan-wisconsin-we-need-tax-reform>
- <http://21stcenturytaxation.blogspot.com/2017/07/ryan-says-tax-reform-will-happen-in-2017.html>

9/7/17

- *"We want America to wake up on New Year's Day 2018 with a new tax system. And we really believe if we get a new tax system with tax reform, we can achieve lasting three percent or plus growth in this country. And I think it's really hard to get three percent growth without it."*
- <http://www.speaker.gov/general/we-want-america-wake-new-year-s-day-2018-new-tax-system>

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## \$1.5 Trillion and H.Con.Res. 71

- Budget resolution H.Con.Res. 71 (10/26/17)
  - Allows \$1.5 trillion for tax reform over 10 years.
  - Passed narrowly
    - Senate 51-49
    - House 216-212
  - U.S. Population 325,265,000
    - Represents \$4,610 per person over ten year, or
    - \$461/per person per year

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LOADING...

See summary of H.R. as amended and Senate proposal of 11/9/17 in outline.

BUT bear in mind – nothing final until signed by President.

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# Tax Reform – Relevance to Practice



## How tax reform might affect tax planning today

- For example, should we defer income and accelerate deductions because rates may drop and some deductions may go away (and they are worth more today with higher rates)?
- Estate and gift planning if estate tax and perhaps also gift tax is repealed
  - What will be the treatment of assets at date of death?
- Effects on:
  - Choice of entity
  - Investment in fixed assets and financing
  - Accounting methods and possible automatic changes to accelerate deductions into 2017
  - Current borrowing
  - Carryover items including adjusted basis of depreciable assets and minimum tax credit
  - International transactions and investments
  - State taxes

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## Tax planning that's likely to change

- Choice of business entity – such as because
  - Differences in rates
  - Differences in determination of owner compensation
- Investment in business assets and how financed
  - What is ideal ownership and financing arrangement?
  - What transition and anti-churning rules will be provided?
- Location of operations
  - Changes in int'l tax planning?
- Asset transfers
  - Will §1031 remain or be modified?
  - Changes in estate and gift taxation? Basis of assets at data of death? Charitable giving?



# While we're waiting ...

- Remind clients of uncertainty as to:
  - What, when and how
- Current rules in place until we know otherwise.
- Might delay to 2018 cause Congress to consider items that expired 12/31/16 (extenders bill in late 2017?)!
- Perhaps accelerate deductions, §1031 exchanges
- Keep clients informed
  - AICPA Tax Reform Resource Center - <http://www.aicpa.org/taxreform/>
  - News outlets
  - Position of organizations they belong to or support
  - Elected officials
  - Think tanks

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## Hearings and JCT Reports (sample)

Topic	Committee	JCT report
How Tax Reform Will Grow Our Economy and Create Jobs	HWM 5/18/17	JCX-19-17
Increasing U.S Competitiveness and Preventing American Jobs from Moving Overseas	HWM 5/23/17	JCX-20-17
How Tax Reform Will Help America's Small Businesses Grow and Create New Jobs	HWM 7/13/17	JCX-32-17
Comprehensive tax Reform: Prospects and Challenges	SFC 7/18/19	JCX-36-17
How Tax Reform Will Simplify Our Broken Tax Code and Help Individuals and Families	HWM 7/19/17	JCX-37-17
Individual Tax Reform	SFC 9/14/17	JCX-41-17
Business Tax Reform	SFC 9/19/17	JCX-42-17
International Tax Reform	SFC 10/3/17	JCX-45-17

<https://waysandmeans.house.gov/?s=hearings>

<https://www.finance.senate.gov/hearings>

<https://www.jct.gov/publications.html?func=select&id=76>

<http://www.sjsu.edu/people/annette.nellen/website/115th-hearings.htm>

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# JCT Report Example

## BACKGROUND AND SELECTED POLICY ISSUES ON INTERNATIONAL TAX REFORM

September 28, 2017 JCX-45-17

- I. PRESENT LAW AND BACKGROUND .....
  - A. General Overview of International Principles of Taxation.....
    - 1. Origin and destination principles.....
    - 2. Source and residence principles.....
    - 3. Resolving overlapping or conflicting jurisdiction to tax.....
  - B. International Principles as Applied in the U.S. System.....
    - 1. Rules applicable to both inbound and outbound activities.....
    - 2. Rules applicable to foreign activities of U.S. persons.....
    - 3. Rules applicable to U.S. activities of foreign persons.....
    - 4. Interaction of U.S. hybrid tax system with and U.S. nontax international obligations.....
- II. POLICY ISSUES.....
  - A. Competitiveness.....
    - 1. Economic objectives.....
    - 2. Assessing the competitiveness of the U.S. tax system in a global economy.....
  - B. Economic Distortions Arising from Deferral.....
    - 1. Deferral and the initial choice between foreign and domestic investment.....
    - 2. The "lockout effect" and the choice between repatriating or reinvesting foreign earnings.....
    - 3. Distortions in shareholder payouts.....
  - C. Shifting Income or Business Operations and Governmental Responses.....
    - 1. Structures and tax planning that facilitate shifting income.....
    - 2. Special tax regimes.....
  - D. Locating Deductions in the United States.....
  - E. Inversions.....
  - F. The OECD/G20 BEPS Project.....
    - 1. Background.....
    - 2. BEPS final reports.....
    - 3. Reaction to BEPS minimum standards.....
- III. BACKGROUND DATA.....
  - A. Exports and Imports.....
    - 1. Trends in the U.S. current account.....
  - B. U.S. Direct Investment Abroad and Foreign Direct Investment in the United States.....

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# New Economy



# .CPA Domain

.cpa

- generic top-level domain strings (gTLDs)
- 8/7/17 letter from Congress to ICANN
  - Concern over whether ICANN pursuing safeguards to avoid misuse and consumer confusion.
- 9/15/17 – ICANN – working on it

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## New Economy – Platforms and 1099-K

Page 12-18

- PLR 201719009 (5/12/17)
  - T operates platform for sellers and handles collection by buyers and transfers to sellers less fee
  - IRS – T is third party network under §6050W
    - Since T is not common law employer of sellers, only required to issue 1099-K if
      - Over \$20,000 transferred AND
      - Over 200 transactions
    - 1099-K is gross amount of payments including fee deducted by T
      - Thus, be sure to reconcile 1099-K to understand tax elements.
- **Reminder!! Your clients with income might not have a 1099-K or other info report.**

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# Bitcoin Reporting Concerns of IRS

11/16 – IRS files petition to get 2 years of records from Coinbase

- ND CA holds there is justification
- 3/17 – IRS files petition asking Coinbase to state why it should not comply
  - IRS notes underreporting concerns
    - Workers paid in bitcoin not reporting
    - 2013 – 2015 – each year, only 800–900 Forms 8949 said “bitcoin”
      - Based on other data, seems to be too low

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## Tax Committee Chairs Raise Concerns

5/17/17 - Hatch and Brady sent letter to IRS on questioning scope and basis for summons

- Overly broad - asks for records of over 500,000 active users
- Questions asked of IRS:
  - What efforts has IRS made to conduct industry outreach or coordination on its digital currency strategy?
  - How does John Doe summons fit into larger IRS digital currency strategy?
  - Will IRS consider a de minimis exemption or other action to remove practical obstacles to such moderate, transactional use of digital currencies?

<https://www.finance.senate.gov/chairmans-news/hatch-brady-buchanan-question-scope-and-impact-of-recent-irs-summons-to-coinbase-users>

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# Coinbase Summons Update – 7/6/17

1. “The United States seeks information for users with at least the equivalent of \$20,000 in any one transaction type (buy, sell, send, or receive) in any one year during the 2013-15 period.
2. The covered users do not include users: (a) who only bought and held bitcoin during the 2013-15 period; or (b) for which Coinbase filed Forms 1099-K during the 2013-15 period.”

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## Bitcoin Fork

- Example - Hard fork 8/1/17 with Bitcoin Cash
- Look at facts and circumstances of any fork and Notice 2014-21 treatment of VC as property, to determine tax consequences.
  - Similar to a security split?
  - §1001 exchange? *Cottage Savings* (499 US 554 (1991))
    - But was there an exchange of “materially different” items? Did bitcoin holders give up anything at that point or only going forward or not at all (no value until the new path starts operating on 8/1?)
  - Also, wallet company ...
    - Might not have transferred the bitcoin cash until later date.
      - Constructive receipt on 8/1/17?
    - Might not have supported the new currency
      - But, holder could have moved from that wallet to another before 8/1
      - <https://blog.coinbase.com/update-for-customers-with-bitcoin-stored-on-coinbase-99e2d4790a53>
      - Updates - <https://blog.coinbase.com/update-on-bitcoin-cash-8a67a7e8dbdf>
        - <https://support.coinbase.com/customer/portal/articles/2853600-bitcoin-cash---frequently-asked-questions>
  - Where does any value derive? The original bitcoin or something new?
    - Similar tax treatment to farmer’s cow birthing a calf?
  - Income when rec’d? different from the original?
    - Value 8/1 was supposedly 9.5% of Btc so \$266/bitcoin cash
      - But when? Arguably not until after it split.
    - Report as proceeds based on value of BitcoinCash on 8/1/17, reduced by equivalent amount of basis of bitcoin?
      - But, didn’t give up any bitcoin unless the split can be viewed as splitting basis of any bitcoin existing at that time.



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# Bitcoin Fork - links

**Note** – the law is unclear in this area. We know from the IRS in Notice 2014-21, that virtual currency is taxed as property. Thus, understanding the facts, we should then be able to apply applicable income tax rules and principles governing property transactions to find an answer. But, we also might find that there isn't enough rules or they aren't clear for this type of property.

The links are fyi. You might find others, but need to make your determination unless the IRS issues guidance on the fork. Given the dollars at stake for some taxpayers, hopefully, the IRS will issue something prior to the filing of 2017 returns.

<https://thenextweb.com/contributors/2017/07/24/ultimate-guide-upcoming-fork-thats-splitting-bitcoin-community/>

<https://www.coindesk.com/short-guide-bitcoin-forks-explained/>

<https://blog.coinbase.com/what-is-a-bitcoin-fork-cba07fe73ef1>

<https://bitcoin.tax/blog/how-to-tax-bitcoin-cash-bch/>

<https://coincenter.org/pdf/BitcoinTaxesCalvin.pdf>

<https://www.forbes.com/sites/greatspeculations/2017/08/04/how-to-report-bitcoin-cash-and-avoid-irs-trouble/#636dfc483066>

<https://www.forbes.com/sites/kellyphillipserb/2017/07/30/bitcoin-shift-could-cause-tax-headaches-for-some-users/>

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## And, there is more than bitcoin

907 virtual currencies per

<http://coinmarketcap.com/all/views/all/>

- At 11/17/17

	Market Cap	Price
Bitcoin	\$128 billion	\$7,674
Ethereum	\$31.5 billion	\$329.01
Ripple	\$8.7 billion	\$0.22
Litecoin	\$3.6 billion	\$66.76

At 4/29/17, Bitcoin was \$1,316 with market cap of \$21.5 billion.

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# Reminder ...

Question for organizer and annual planning meeting with clients ...

**Do you own or use any virtual  
currency?**

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## Technology and Tax Practice

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- Artificial Intelligence
- Big Data and Analytics
- Blockchain and Smart Contracts
- Internet of Things
- Fintech ---→ “Taxtech”
- Biometrics
  - ATO uses voice recognition to verify taxpayers fro access to online tax info
    - Since 2014

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*IBM joining forces with Maryland Association of CPAs and BLI to modernize accounting profession and provide accounting and finance professionals with future-focused skills in artificial intelligence, Big Data, and cognitive computing. As part of the partnership, IBM will provide an advanced cognitive and data skills platform that will help accounting and finance professionals learn the key data science, business analytics, and A.I. skills they need to become future-ready and play a bigger role in guiding digital transformation within their organizations. The partnership will transform how accountants work, but also how they learn — from in-person classes in traditional disciplines to hands-on cognitive learning that will provide skills to extract insight from a growing sea of data.”*

5/18/17

# Tech News

## Blockchain legislation enacted:

- Arizona (HB 2417, 3/29/17) – signature secured via blockchain considered e-sig and contract is considered e-record. Allows for “smart contracts.”
- Delaware SB 69 (7/21/17) – allow use of blockchain or distributed ledger for creating and maintaining stock records.
- Nevada SB 398 (6/5/17) – allowed for electronic records, cities can't tax or restrict use
  - Viewed as opportunity for economic development

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# Tech and practice

- How will AI change tax practice?
  - Some law firms already using.
  - Will “bots” replace some tax work?
- How might “blockchain” change accounting?
  - “If Blockchain takes off as the system of record inside of organizations, then we will need a lot fewer accountants.”

Prof Karim R. Lakhani of Harvard Business School

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# Tech and practice - more

- Helps with virtual currency activities
  - Over 900 VCs exist.
- New clients may be earning money in new tech space.
- Should CPA firm have an app?
- Is the tax practitioner using the most efficient tech tools?

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# Tax and AI

- Currently used and more applications coming
- Good for
  - Lots of data analysis
  - Speed and accuracy
  - Repetitive tasks
- Likely to see for data analysis and tax research.
- Requires humans to use higher level thinking skills – greater “value added” activities

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# Tech and tax compliance and planning

- Does Unicap apply to 3-D printing?
- Do client “cookies” create nexus in any state?
- Is client using most efficient technology for recordkeeping?
  - Mileage apps
  - Smart software with scanning and expense classification?
- Is client’s technology helping a state tax agency make a residency position?
  - Wearable technology tracking location and activities?
  - Cell phone tracking.
  - Other tech for tracking?

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## For new economy clients, consider

1. Learning more about tech involved.
2. Learning more about company client is interacting (business websites, SEC reports, news articles, any terms of service agreement, any court case involving the company).
3. Asking client to describe how tech works, how funds are generated, *etc.*, to gauge how well client understands what they’re involved with. Ask if client has read terms of service agreement they signed. Do they have a copy?

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