By David L. Silverman, Esq.*
Lake Success, New York

I. From Washington and Albany

Presidents Biden And Trump Offer Sharply Contrasting Tax Visions

Extend Tax Cuts or Let Them Expire on 12/31/2025

I. Introduction

President Trump's 2017 Tax Act is set to expire December 31, 2025. Individual income tax rates will revert to 2017 levels, the standard deduction will be cut in half, the personal exemption will return, the estate tax exemption will revert to $5.3 million, the 20% deduction available for pass-through business entities will expire, and the cap on state and local income tax (SALT) will end. The provision reducing the corporate tax rate to 21% was made permanent and will not expire.

Accordingly, significant federal tax law changes will occur simply by reason of the "sunset" of the 2017 Act in 2025, if not repealed earlier, or if not extended. Mr. Biden proposes further tax changes in the fiscal year 2024 Green Book. A summary:

Restore the 39.6 tax rate for married couples whose taxable income exceeds $450,000;

Impose a wealth tax on taxpayers whose net worth exceeds $100 million;

Increase the corporate tax rate from 21% to 28%;

Impose ordinary income tax rates on capital gains to the extent taxable income exceeds $1 million;

Restore the gift and estate tax exemption to $5.3 million;

Limit the GST exemption to direct skips and taxable distributions to beneficiaries no more than two generations below the transferor;

Impose new restrictions on partnership and trust transfers, and to impose tax on transfers currently not subject to tax;

Limit the use of defined value clauses;

Require GRATs to have a minimum term of 10 years;

Make permanent the child care credit enacted in 2021 and make it refundable;

Apply existing securities law rules to transactions involving digital assets;

Limit Section 1031 exchanges to $500,000 per year;

Impose ordinary income treatment on all deductions taken on Section 1250 property for individuals and businesses whose adjusted gross income exceeds $400,000;

Increase the Net Investment Income Tax (NIIT) from 3.8% to 5% for taxpayers with more than $400,000 in earnings;

Impose new restrictions on valuation discounts;

Impose special distribution rules on high-income taxpayers with vested accounts in excess of $10 million.

Tax Outlook

No issue seems to so clearly reveal policy differences between the parties as much as federal taxes. Republicans favor extending the 2017 Tax Act, while Democrats favor letting it expire. President Biden proposes new tax laws aimed at reducing tax expenditures by tightening deductions, increasing tax on corporations, businesses, wealthy individuals, and estates and trusts. Biden will not sign a bill extending the 2017 Tax Act, and Trump will have difficulty getting it extended without Congressional support. Therefore, unless one party

* David L. Silverman graduated from Columbia Law School and received an LL.M. in Taxation from NYU School of Law. He was formerly associated with Pryor Cashman, LLP, and is a former editor of the ABA Taxation Section Newsletter. Mr. Silverman's practice encompasses all areas of federal and New York State taxation, including tax and estate planning, federal and NYS tax litigation and appellate advocacy, criminal tax, probate and estate administration, wills and trusts, will contests, trust accounting, like kind exchanges, asset protection, real estate transactions, and family business succession. David is the author of *Like Kind Exchanges of Real Estate Under IRC §1031* (2008), now in its third edition, and many other tax publications. He writes and lectures frequently to tax professionals in his areas of practice. His office also publishes *Tax News & Comment*, a federal tax quarterly. He has been licensed by the State of New York Department of Education, State Board for Public Accountancy to provide Continuing Education Credits to Certified Public Accountants, since 2007. In that capacity, David has lectured extensively in many areas of involving income and fiduciary taxation, tax litigation, and trusts and estates. His articles, treatises and publications may be viewed at www.nytaxattorney.com. David may be contacted at (516) 466-5900 or by email at dsilverman@nytaxattorney.com.

controls both houses in 2024 or 2026, federal tax law will remain largely as it was before the Tax Cuts and Jobs Act of 2017 (TCJA) with the exception corporate income tax rate, which will remain at 21%.

In addition to advocating the repeal of TCJA, President Biden also proposes that Congress (i) curtail tax benefits of moderately wealthy taxpayers and imposing higher income tax rates on them; (ii) make generational changes to gift and estate taxes; (iii) reestablish a higher corporate income tax rate; (iv) impose new taxes on extremely wealthy taxpayers; and (v) impose various and sundry restrictions new restrictions on corporations, partnerships, trusts, and taxpayer transactions with them.

The Economy Under President Biden

Passage of the $1 trillion infrastructure bill in 2021 provided billions of dollars to states and local governments to upgrade outdated roads, bridges, transit systems, airports and other infrastructure projects.

GDP growth rose 5.7% in 2021 in the year following the pandemic, and 2.1 percent in 2022. In 2023, GDP grew at 2% and 2.2% in the first two quarters, and 4.9% in the third quarter. The third quarter increase primarily reflected increases in consumer spending, exports, increased inventories, residential investment, and government spending. (Bureau of Economic Analysis). In comparison, under President Trump, GDP rose between 2.2% and 2.6% in the years before the pandemic and declined 2.8 percent in the year of the pandemic.

Job growth in the past three years has been 3.59% on an annualized basis, resulting in historically low unemployment rates. Annualized job growth under President Trump was 1.49%. (Source: Facts First, Presidential Comparison, Trump vs Biden, updated November 10, 2023.)

Sharp Rise, Then Steady Decline in Inflation in 2020-2023

Mr. Biden's term in office also coincides with the highest level of inflation seen since the early 1980's following the 1979 energy crisis. Inflation has recently abated, but is still above the Federal Reserve's target rate of 2%. The consumer price index (CPI) rose 9.1% for the 12 months ending in June, 2022, 6.5% for the 12 months ending in December, 2022 and has continued to decline in 2023. As of November 14, 2023 CPI rose at a more modest 3.24% for the preceding 12-month period. When Mr. Biden entered office, CPI was 1.4%.

According to the U.S. Bureau of Labor Statistics, the pandemic created market conditions causing prices for goods and services to rise. As the labor market tightened in 2021 and 2022, core inflation rose as the ratio of job vacancies to unemployment increased. Upward wage pressure then passed through to good and services. Backlogs of work orders for goods and services caused supply chain issues.

Recent polls indicate inflation is the most important issue for voters. Inflation was cited by 24% as the single most important election issue. Healthcare, climate and the environment, jobs and the economy, and immigration were each cited by about 10 percent of voters as the single important issue in 2023. (Source: Statista, a global data and business intelligence platform.) The federal deficit has continued to increase under Mr. Biden.

Sharp 18-Month Increase in Interest Rates Beginning in April 2020

The central bank's benchmark short-term rate, currently 5.4%, is at its highest level in 22 years. As recently as April 2020, the benchmark rate was 0.25%. Federal Reserve Chair Jerome Powell, who has defied calls to reduce interest rates because of inflation concerns, believes that inflation is still too high. Mr. Powell recently suggested that higher longer-term interest rates could help slow the economy and cool inflation without further rate hikes. In fact, based on recent favorable CPI data, some economists believe the Federal Reserve might begin cutting short-term interest rates in early 2024. (Morningstar Research Services, LLC).

The 10-year Treasury yield also recently hit a 16-year high of nearly 5% in late October, before retreating to around 4.5% recently. High interest rates adversely affect consumers, businesses and corporations alike, making it more difficult to borrow. Technology companies required to incur debt see growth stifled. The problems caused by high interest rates cascade into the housing, auto, services, transportation, travel, leisure, entertainment, health, technology and virtually all other sectors of the economy.

Recent economic data suggest that consumer spending and job growth are cooling, perhaps as a result of high interest rates and the repayment of student debt.

High interest rates have had a profound effect on the housing market. Since Mr. Biden assumed office, home prices have shot up more than 27%, creating substantial wealth for existing homeowners in a short period of time. Yet the current 20-year fixed rate mortgage at 7.8% has made home ownership much more difficult than as recently as two years ago. High mortgage rates have decreased the number of available homes on the market due the fact that most existing homes subject to mortgages were purchased when mortgage rates were much lower than today.

When the 2-year Treasury yield exceeds the 10-year yield, an "inversion" in the yield curve is said to occur. Past recessions have usually been preceded by an inversion 6 to 24 months earlier. Eight of the last 10 recessions were preceded by an inverted yield curve. The yield curve became inverted in July, 2022 and has remained inverted since. However, the inversion has declined substantially since its high in March of this year. The odds of a recession have correspondingly declined from 65% in the last half of 2022 and the first quarter of 2023, to 46% in the third quarter of 2023. (Bankrate Economic Survey, September, 2023).

The Economy Under President Trump

During the Trump Administration, the stock market rose sharply and inflation was low. Americans benefitted from low mortgage rates and saw increases in investment and retirement accounts. Lowest-paid wage earners saw significant wage gains.

Comparisons made as of mid-November show that while Trump was President, the Nasdaq rose 53%. Under Biden, the Nasdaq has thus far risen 4.4%. The Dow surged 40% under Trump, compared with 10.6% thus far under Biden. The S&P rose 37% under Trump and 16% to date under Biden. Market gains under President Trump continued even stronger market gains seen under President Obama. (Source: Facts First, Presidential Comparison, Trump vs Biden.)

The 2017 Tax Act reduced income tax rates for individuals and corporations. TCJA was intended to pay for itself, but ultimately became a large tax expenditure that disproportionately benefitted the most affluent taxpayers who least needed the benefit, and corporations. Shortly before leaving office, Mr. Trump signed a $900 billion bill providing pandemic relief. Covid-related stimulus caused the deficit to increase substantially in the final months of 2020. By the time President Trump left office, the national debt had risen to $28 trillion, $8 trillion more than when Mr. Trump entered office.

Relevance of Age in Presidential Elections

Age of a President is a peculiarly difficult factor to assess, since many desired Presidential attributes improve with age. An older President might rely more on wisdom and experience than would a younger President. There appears to be no easily discernable trend in the age of Presidents since 1960, although Biden and Trump are at the high end of the spectrum. Biden was 78 when inaugurated, Trump was 70, Reagan was 69, H.W. Bush, 64, Ford, 61. Nixon 56, LBJ 55, George Bush 54, Carter, 51, Obama 47, Clinton 46, and Kennedy was 43.

Younger as well as older Presidents have delegated important matters to others in their Administration. Vice President Cheney was entrusted with significant policymaking decisions by President Bush. President Reagan delegated many foreign policy matters for six and a half years to Secretary of State George Shultz, as did Nixon to Kissinger.

Mr. Trump's Resume Entering The 2024 Election Cycle

Mr. Trump's accomplishments in foreign affairs were notable: He ended the disastrous Iran agreement, consummated the Abraham Accords, and put allies on notice that the U.S. would not continue to disproportionately pay for the defense of Europe, as well as Korea and Japan. Some now acknowledge his tariffs on China, criticized at the time, may have been instrumental in bringing jobs and manufacturing back to the U.S.

As he seeks the Presidency at age 78, Mr. Trump finds himself enmeshed in a spate of legal problems of his own creation. He recently made several gaffes in which he confused world leaders and former Presidents. Governor DeSantis quipped that Mr. Trump had "lost the zip on his fastball." Even if Mr. DeSantis is correct, Mr. Trump still appears cognitively sharp.

Mr. Biden's Resume
Entering The 2024 Election Cycle

President Biden's recent response to what Senator Graham described as "medieval atrocities" committed by Hamas have earned bipartisan praise and demonstrated judgment and wisdom burnished over a long Senate and White House career. Despite pressure from some foreign leaders and domestic protesters who trivialize Israel's right to defend itself, Mr. Biden has shown steely resolve in mobilizing the military power of the U.S. against regimes whose only real goal is to destroy Israel.

Passage of the infrastructure bill addressed needs that had long gone unmet. Job growth has been strong, and unemployment has declined to historic levels. The President met with foreign leaders and reestablished America's role as leader of the free world. He addressed climate change. Inflation has been painfully high, but has finally receded. Interest rates remain the highest in recent memory, putting pressure on all sectors of the economy.

If reelected, Mr. Biden will be 86 at the end of his second term. He exhibits memory issues consistent with some men of his age. Yet he also possess excellent judgment and a lifetime of Washington experience. His relationship with former Senate colleagues is an important asset in passing future legislation. Mr. Biden is honest and trustworthy. Older Presidents have found their own way in managing the Office. If he is nominated, the electorate will determine whether Mr. Biden is able to meet the demands of the Oval Office for several more years

President Biden's Revenue
Proposals for Fiscal Year 2024

The 2024 Green Book reiterates several previous proposals (i) increasing the corporate tax rate to 28% from 21%, (ii) increasing the tax burden on some high income and high wealth taxpayers, (iii) eliminating the step-up in basis at death for estate tax purposes, making death a realization event, (iv) reducing the current gift estate tax exclusion to $5 million; and (v) eliminating current fossil fuel incentives.

New proposals contained in the 2024 Green Book include proposals (i) restoring the 39.6% tax rate on high income taxpayers and imposing a minimum tax on taxpayers whose net worth is over $100 million; (ii) effecting several restrictive changes to the grantor trust rules, one of which would be to recognize for income tax purposes transfers that are currently ignored; (iii) restricting valuation discounts; (iv) preventing basis-shifting through partnerships; (v) recharacterizing straight-line depreciation recapture as ordinary income (for certain taxpayers); (vi) changing cryptocurrency reporting requirements; (vii) taxing capital gains at ordinary income rates for taxpayers whose income exceeds $1 million; and (viii) requiring IRA distributions from accounts whose value exceeds $10 million.

Fate of Tax Cuts
and Jobs Act (TCJA)

As part of his 2024 budget proposal, Mr. Biden seeks to reverse most changes made by TCJA (that were not permanent) by reversing them legislatively, or by letting the changes expire. Mr. Biden would also impose several new taxes either directly dependent on wealth, or having a close nexus to wealth.

Individual Income Tax Rate

Mr. Biden favors restoring the 39.6 percent tax rate for married couples with taxable income above $450,000. TCJA lowered the top rate to 37 percent. He also seeks to treat death as a realization event, which would eliminate the need for the current basis step-up. He also favors eliminating the basis step-up, which appears redundant. The Moore case, soon to be decided by the Supreme Court, could influence that proposal.

Wealth Tax

The Biden Administration proposes a new tax based on the wealth of extremely affluent taxpayers. Individuals whose net worth exceeds $100 million would be subject to a minimum tax of 25% imposed on total "economic" income comprised of taxable income and unrealized capital gain. Annual reporting requirements would be imposed on taxpayers whose net worth exceeds the threshold. Taxpayers would be required to provide a description of assets, liabilities, and basis information.

The tax would be payable in installments over nine years in the first year of the new law, and in five years in succeeding years. It would be a "prepayment" of capital gains tax. Deferral would be available to taxpayers more than 80% of whose wealth consists of illiquid assets. However, deferral would be subject to a deferral charge not exceeding 10% of unrealized gains.

Corporate Tax

¶ The Green Book proposal would increase the corporate tax rate enacted during the Trump Administration from 21% to 28%. The change would be projected to generate $1.3 trillion over 10 years. The tax on corporate stock repurchases, enacted as part of the Inflation Reduction Act in 2022, would be increased from 1% to 4%. That provision is projected to raise $238 billion over 10 years.

¶ The current definition of "control" for purposes of transfers under Section 351 as well as the reorganization and spin-off provisions requires ownership of at least 80% of the corporation's voting stock and at least 80% of each class of nonvoting stock. The Green Book proposal would require ownership of 80% or more of both a corporation's voting stock and value.

Medicare, Medicaid and Social Security

In his 2021 budget proposal, President Trump proposed deep healthcare spending cuts over the next decade, especially to Medicaid and costs incurred under the Affordable Care Act. His proposal requested $94.5 billion for the Department of Health and Human Services, a 10% decrease from the 2020 enacted level. Mr. Trump also spoke of protecting Social Security and Medicare, and reducing insurance premiums. While President, Mr. Trump, with some success, ended "surprise" billing from health care providers. However, his attempt to reduce drug prices did not show significant results.

Mr. Trump, like Mr. Biden, appears to favor making no changes to Medicare and Social Security, a position which aggravates some Republicans. The former President criticized Presidential aspirant Governor Nikki Haley for past comments which appear to support making changes to Medicare and Social Security. Mr. Trump warned congressional Republicans not to disturb Social Security or Medicare as a part of the debt ceiling debate: "Under no circumstances should Republicans vote to cut a single penny to help pay for Joe Biden's reckless spending spree."

Mr. Biden has had some success in reducing drug prices, having capped the cost of insulin at $35 for seniors on Medicare. He favors giving Medicare the power to negotiate drug prices. With respect to Social Security and Medicare, he stated in February:

> I will not cut a single Social Security or Medicare benefit.fact, I'm going to extend the Medicare trust fund for at least two decades.we'll not raise taxes on anyone making over 400,000 grand. And I'll pay for it all, my proposals, by making the wealthy and big corporations pay just a little bit more.

Capital Gains

Mr. Biden favors imposing the ordinary income tax rate, rather than the long term capital gains rate of 20 percent, on capital gains and qualified dividends to the extent the taxpayer's taxable income exceeds $1 million. He does not appear to favor altering the current capital gains tax on other taxpayers. Mr. Trump has in the past advocated for a reduction in the capital gains tax rate. In 2020, he stated: "I'm going to do a capital gains tax cut to 15% in the second term. . .We're going to get it down to 15%. It's at 21%. We'll get that down to 15%.

Gift and Estate Taxes

¶ The current "portable" federal gift and estate tax exemption of $12.92 million will "sunset" on January 1, 2026, when it will revert to 2017 levels of about $5.3 million. The Administration favors an increase in the estate tax rate from 40 to 45 percent, and supports reducing the exemption amount to pre-TCJA levels of $5.3 million per person and $10.6 million for married couples.

> ¶ The Green Book also proposes eliminating the basis step-up at death, and imposing capital gains tax at death on appreciated assets. Either change would appear to accomplish the same result. Those gains could be offset with capital losses and carryforwards, and remaining capital gains could be deducted against the estate tax. A $1 million per-person exclusion for unrealized capital gains transferred by gift or held at death would be available.

> ¶ The $17,000 annual exclusion would be eliminated, replaced by a new per-donor annual limit of $50,000. A new category of transfers to trusts, to interests in passthrough entities, and of partial interests in property would be created. The present interest requirement would be eliminated.

Generation-Skipping Transfer Tax

Under current law, a GST allocation to a trust may continue for many generations without being taxed. Distributions to grandchildren and more remote descendants may be made without incurring a GST tax. The Green Book would eliminate this planning opportunity.

¶ The proposal would limit the GST exemption to direct skips and taxable distributions to beneficiaries no more than two generations below the transferor.

¶ Trusts would be required to report on its income tax return the generation-skipping transfer (GST) tax inclusion ratio of the trust whenever a distribution is made to a non-skip person.

> ¶ Trust loans to beneficiaries would be recharacterized as distributions for income and GST tax purposes.

Trusts & Partnership Transfers

The 2024 Green Book imposes new restrictions on trusts:

> ¶ Transfers to or from partnerships or trusts would as deemed recognition events (unless the trust is a revocable trust).

> ¶ The proposal would change existing law, and treat income tax payments made by the grantor of an irrevocable grantor trust as a taxable gift.

> ¶ Asset transfers between the grantor and the grantor trust would no longer be nontaxable events. Capital gain, but not loss, would be recognized on sales or exchanges between the grantor and the grantor trust. Rev. Rul. 85-13, which practitioners have long placed heavy reliance upon in tax planning, would in effect be revoked.

> ¶ The proposal would require all trusts (domestic and foreign if administered in the United States) with an estimated value over $300,000 at the end of a taxable year or $10,000 of income (in each case, indexed for inflation) to report information about its grantor, trustees, and "general information" to the IRS.

Defined Value Clauses

The Greenbook proposal would curtail the use of formula clauses when making gifts of interests of difficult-to-value assets. The rule would apply on to property in which the family has at least a 25% interest. The proposal would require that a defined value formula clause be based on a variable not requiring IRS involvement.

A defined value formula clause would be effective (i) if the value were determinable by an appraisal within a reasonably short time before or after the transfer; or (ii) in situations where the defined value formula clause is used for the purpose of defining a marital or exemption equivalent bequest at death based on the decedent's remaining transfer tax exclusion.

GRATS

Under the Green Book proposal, Grantor Retained Annuity Trusts would be required to have a minimum term of 10 years, and a maximum term equal to the grantor's life expectancy plus 10 years. The remainder interest of a GRAT would be required to have a value equal to the lesser of (i) 25 percent of the value of the assets contributed or (ii) $500,000, but not greater than the value of the assets contributed.

IRC Section 199A

TCJA allows owners of partnerships, limited liability companies, and other pass-through entities to deduct 20 percent of business income through a "qualified business income deduction." IRC. §199A. See A Journey Through IRC Sec. 199A: Wasn't the Code to be Simplified, Tax News & Comment, August 2019. The deduction was intended to level the playing field for business owners operating in non-corporate form to keep pace with the significant corporate tax cut also provided by the Act. President Biden's Green Book proposal is silent on Section 199A, but Mr. Biden campaigned on limiting Section 199A. If the corporate tax rate were increased to 28%, the rationale for Section 199A would be somewhat diminished.

Child Care Credit

Mr. Biden proposes to make the increased temporary credit provided by the American Rescue Plan (ARP) enacted in 2021 of $3,600 per year permanent, and make it refundable. According to the U.S. Census Bureau, the credit resulted in a historic reduction in child poverty. The legislation, enacted early in the Biden presidency, narrowly passed the House by a vote of 220-211.

Cryptocurrency & Digital Assets

The Green Book proposal does not change the current treatment of cryptocurrency as property for federal income tax purposes, and does not address fundamental tax issues concerning digital assets. However, the Administration seeks to ensure that digital assets do not escape reporting and other tax rules. Therefore the proposal seeks to import some existing securities law rules to digital assets.

The proposal would (i) extend the wash sale rules and Section 475 mark-to-market rules to digital transactions; (ii) require U.S. brokers and digital asset exchanges to report information on substantial foreign owners of digital assets under the Foreign Account Tax Compliance Act (FATCA); and (iii) impose IRS reporting requirements under IRC § 6038D on individuals who own at least $50,000 in foreign financial assets.

Like-Kind Exchanges

The Green Book would further restrict like kind exchanges by limiting deferral of gain under Section 1031 to $500,000 per year. Taxpayers would also be required to recognize gain in excess of the $500,000 limit in the year the property is exchanged. The exclusion would be $1 million for married couples.

The further reduction in limitation could cause taxpayers exchanging low-basis property to rethink exchanges where realized gain exceeds the exclusion amount, since a current tax liability would result despite the receipt of no cash. For example, if the taxpayer wishes to exchange property worth $650,000 whose basis is $50,000 for property of the same value, only $500,000 of the $600,000 realized gain will be deferred. The taxpayer will have a current short term capital gain of $100,000. In this situation, some taxpayers might decide to forego the exchange rather than pay capital gains tax on $100,000 of short-term gain.

Both Republicans and Democrats have long supported the elimination of the like-kind exchange provision, considering it a costly tax expenditure. As part of the Tax Cuts and Jobs Act of 2017, personal property exchanges were eliminated from qualification under Section 1031, leaving only real property.

Depreciation Recapture

IRC §1250 property (buildings and some other depreciable real property) on which depreciation deductions in excess of the straight-line method have been taken are subject to ordinary income to the extent of the excess. The Green Book proposal would impose ordinary income treatment to all deductions taken on Section 1250 property held for more than one year. Since most deductions are now straight-line and have been for years, this provision would affect most noncorporate holders of depreciable real estate. Gain in excess of depreciation recapture would continue to be treated as Section 1231 gain.

Note: This proposal would apply only to individuals and businesses with adjusted gross income of 400,000 or more. For taxpayers under this threshold, unrecaptured Section 1250 gain would continue to be taxed at 25%.

Net Investment Income Tax

The Administration has proposed increasing and expanding the reach of the Net Investment Income Tax (NIIT or "Medicare tax") in order to fund Medicare. The proposal would increase the net investment income tax from 3.8% to 5% for taxpayers with more than $400,000 in "earnings," which would include regular income, capital gains, and pass-through business income. If the top income tax rate is increased to 39.6%, those subject to both taxes would incur a federal tax of 44.6%.

Valuation Discounts

Valuation discounts for lack of control and lack of marketability would be restricted. This would be accomplished by valuing partial interests in nonpublicly traded property transferred to or for the benefit of a family member as (merely) a pro rata share of the aggregate interests in the property held by the family. The rule would apply only to property in which the family has at least a 25% interest.

Required IRA Distributions

The Green Book proposal would impose special distribution rules on high-income taxpayers with aggregate vested account balances under tax-favored retirement accounts in excess of $10 million. A minimum distribution of 50% of the excess would be required for the preceding calendar year.If the high-income taxpayer's aggregate vested account balance exceeds $20 million, then the required distribution is subject to a floor, which would be the lesser of (a) that excess and (b) the portion of the taxpayer's aggregate vested account balance that is held in a Roth IRA or designated Roth account.