



## Zuckerberg to Be Taxed at Lower Rate Than Most Facebook Employees

By Todd Wasserman

Facebook founder and CEO Mark Zuckerberg's future tax rate is likely to be in Mitt Romney territory while more recent Facebook employees will be taxed around the rate of Warren Buffett's secretary.

While the gulf in rates raises 1% vs. 99% tax fairness issues, the picture is more complicated than that. Facebook's decision to remain private for so long also contributed to the difference.

After Facebook released its S-1 document related to its IPO last week, back-of-the-envelope calculations revealed that Zuckerberg would pay \$1.5 billion to \$2 billion in taxes after cashing in stock options worth around \$5 billion.

That figure was determined by taking 35% — the top federal income tax rate. Zuckerberg would also have to pay a tax of about 10% in California.

However, since Zuckerberg's income will primarily be based on sale of Facebook stock going forward, his income will be treated as capital gains. The current rate is 15%. Mitt and Ann Romney estimate they will pay a rate of 15.4% for 2011 on income of \$20.9 million because that income came from capital gains. The disparity between the rate that the rich pay — Romney and his wife are worth more than \$400 million — became a hot-button issue recently as the Occupy Wall Street movement protested the gap between the top 1% and the rest of the country.

In his State of the Union address last month, President Obama underscored the fairness issue by inviting billionaire Warren Buffett and his secretary, Debbie Bosanek. Bosanek pays a tax rate of 35.8% while Buffett, who makes most of his money via capital gains, pays 17.4%.

Since they hold restricted stock units rather than standard stock, most of Facebook's 3,200 employees will pay a rate closer to Bosanek's than Buffett's. That's because RSUs — which Facebook began granting in 2007 instead of stock options — are treated as income and taxed at 35% or so. RSUs have become popular in recent years as startups began holding off longer on IPOs.

By limiting their pool of investors to less than 500 (the Security and Exchange Commission's limit), companies like Facebook can stay private, but still reward its employees and give them

incentive to stay. But RSUs, which in Facebook's case will convert to common stock six months after the company's IPO, are treated as income, while standard stock (though not stock options) is treated as capital gains.

While some have pointed to Facebook's "Warren Buffett problem" as proof of the tax system's unfairness, Gary Reing, a tax lawyer, notes that one of the reasons companies like Facebook use RSUs is because the employees usually couldn't afford to buy the stock. Says Reing: "If they have the money, they can buy Facebook's stock like anyone else and get the 15%."