

CHIEF INVESTMENT OFFICE

President Joseph Biden's Tax Positions

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President Joseph Biden

Current Tax Law

Income

Raise top individual income tax rate to 39.6%. Rate would be applied to taxable income in excess of the 2017 top bracket threshold, adjusted for inflation. In 2022, the top rate would apply to income over \$509,300 for married couples (\$452,700 for individuals). Proposed to take effect beginning in 2022.

Increase top long-term capital gains and qualified dividend tax rate for taxpayers with adjusted gross income of more than \$1 million to top ordinary tax rate: 37% for 2021 (from April 28 to end of 2021) and 39.6% for 2022 and subsequent years (plus 3.8% surtax). Would apply only to the extent that adjusted gross income exceeds \$1 million (\$500,000 for married filing separately). Proposed to be effective for gains realized on or after April 28, 2021.

Other: Expand earned income tax credits; extend increased child tax credit through 2025; permanently extend \$8,000 tax credit for childcare, limit amount of gain deferred through 1031 exchanges, to an aggregate amount of \$500,000 for each taxpayer (\$1 million for couples), permanently extend limitation on deducting excess business losses, tax carried interest income at ordinary income rates.

Seven brackets with a top rate of 37%. For long-term assets held for more than one year, capital gains rate of 20% for singles with taxable income over \$445,850 (couples \$501,600); 37% top rate (based on ordinary income brackets) if asset held one year or less. 3.8% surtax on net investment income if "modified" AGI above \$200,000 (couples \$250,000). Most miscellaneous itemized deductions are suspended through 2025. Personal exemptions are eliminated through 2025 and an enhanced standard deduction is in place.

Estate

Lifetime transfers by gift and transfers at death of appreciated assets would trigger a "deemed" capital gain at the time of the transfer. Transfers at death to a U.S.-citizen spouse or a charity would be excluded. Deemed gain would not apply to transfers of certain family businesses, and special rules would apply for non-marketable assets. A "portable" \$1 million exclusion (plus a \$250,000 home exclusion) would apply to each spouse for transfers made either by lifetime gift or bequest.¹

Property held in trusts, partnerships, or other non-corporate entities would be subject to a deemed gain on unrealized appreciation if that property has not been the subject of a recognition event within the prior 90 years, beginning on January 1, 1940. Transfers of property into, and distributions in-kind from, a trust, partnership, or other non-corporate entity (other than certain grantor trusts), would be recognition events.

\$11,700,000 gift/estate and generation-skipping exemption and tax free rate of 40%. Estate-included assets generally receive a step-up in basis to date of death values. In 2026 and after, exemptions return to \$5 million, adjusted for inflation (estimated to be approximately \$6.5 million in 2026).

Social Security and Medicare

Impose 3.8% Medicare tax for those with adjusted gross income over \$400,000 on any income not currently subject to Medicare tax through payroll taxes or the tax on net investment income.

3.8% surtax on net investment income for taxpayers with AGI over \$200,000 (couples \$250,000).

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President Joseph Biden

Current Tax Law

Corporate

Repeal current (2021) corporate tax rate (21%) and raise rate to 28%. Impose a minimum tax on excess of 15% of net "book income" over regular tax liability for certain large corporations (those with net income over \$2B). Offer tax incentives for bringing production or jobs back to U.S. (on-shoring) and deny deductions for jobs that are offshored.

Impose a 21% GILTI (global intangible low-tax income) rate on foreign profits (up from current 10.5%). Broaden the tax base on which this tax would apply and apply it on a country-by-country basis. Encourage other countries to adopt higher minimum corporate rates, to avoid jurisdiction shopping. Would require a global agreement through multilateral negotiations.

Curtail/eliminate subsidies and tax credits for fossil fuel industry. Restore payments from certain industries to cover cost of cleanup efforts by Superfund Trust Fund. Increase tax enforcement efforts by increasing funding for the IRS.

Top rate of 21% on domestic income. 10.5% minimum tax on global intangible low-tax income (GILTI). No corporate alternative minimum tax.

Source/ Notes

General Explanations of the Administration's Fiscal Year 2022 Revenue Proposals, Department of the Treasury (May 28, 2021); The American Families Plan (White House Fact Sheet) April 28, 2021; The Made in America Tax Plan (White House Fact Sheet) March 31, 2021

Endnotes

- ¹ President Biden's proposed individual tax changes contained in the American Families Plan does not include any changes to the estate, gift, or generation-skipping tax rates or exemptions - a departure from his prior proposals. Even without such changes, the transfer tax rates and exemptions are still scheduled to be significantly changed beginning in 2026. Even though Biden is no longer proposing estate tax changes, taxpayers should carefully consider the merits of estate planning in the near term, and perhaps even before year end, for the following reasons: (1) Congress could include in legislation provisions changing estate tax rules, (2) the current favorable estate tax exemptions expire at the end of 2025, and (3) under Biden's proposal a transfer of appreciated assets by gift beginning in 2022 could result in a deemed capital gain.

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