President Biden's Tax Proposals and What They Could Mean For You

On September 13, 2021, the House Ways and Means Committee unveiled a government-funding proposal involving a series of tax hikes and reforms. We have included a summary of the proposals that may affect individual taxpayers. If you have specific questions about potential tax implications, please contact your advisor.

House Ways and Means Tax Proposals	Current Law	President Biden's Tax Proposals (Green Book)
Create a new 3 percent surtax on individuals with modified adjusted gross income (AGI) exceeding $5 million. Effective 1/1/2022.	This surtax does not exist in current law.	This proposal was not included in the President's plan.
Expand the net investment income tax (NIIT) to cover net investment income derived in the ordinary course of a trade or business for taxpayers with taxable income greater than $400,000 for single filers or $500,000 for joint filers, as well as for trusts and estates. Effective 1/1/2022.	Currently, the NIIT only covers passive investment income.	This proposal was not included in the President's plan.
Increase the top individual income tax bracket to 39.6 percent, making the top ordinary income tax rate 46.4 percent (including the 3.8 percent NIIT and 3 percent surtax). This new top bracket would start at taxable income levels of $400,000 for single filers, $450,000 for joint filers and $12,500 for trusts and estates. Effective 1/1/2022.	The current top tax rate is 37 percent on taxable income over $523,600 for single filers and $628,300 for joint filers. This top rate is scheduled to return to the top rate of 39.6 percent on 1/1/2026.	The President's proposal would have the top rate kick in at $452,700 and $509,300, respectively (adjusted annually for inflation).
Increase the statutory capital gains rate to 25 percent, making the top capital gains rate 31.8 percent (including the 3.8 percent NIIT and 3 percent surtax). Effective 9/13/2021, subject to a binding contract exception.	The current top statutory capital gains rate is 20 percent.	The current top statutory capital gains rate is 20 percent. For individuals with income over $1 million, a tax rate of 39.6% would be applied to long-term capital gains. After adding the existing NIIT, the top rate would be 43.4%.

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Increase holding period for long-term capital gain treatment for carried interest from three to five years. The current 3 year holding period would continue to apply for real property trades or businesses and taxpayers with AGI less than $400,000. Effective 1/1/2022.	Income that flows to the general partner of a private investment fund, known as carried interest, is taxed at the lower capital gains rates. Three-year holdling period requirement for long-term capital gain and loss for certain service based partnership interests.	Tax as ordinary income a partner's share of income on an investment services partnership interest in an investment partnership, regardless of the character of the income at the partnership level, if the partner's taxable income exceeds $400,000.
Disallow excess business losses i.e., net business deductions in excess of business income, for noncorporate taxpayers. The losses can be carried forward to subsequent tax years. Effective 1/1/2021.	To the extent that a business is not passive, or considered a hobby, excess losses are deductible against ordinary income.	This proposal was not included in the President's plan.
Limit the exclusion on qualified small business stock for taxpayers with AGI of $400,000 or more, or any estate or trust to the 50 percent baseline exclusion. The special 75 percent and 100 percent exclusion rates would not apply to these taxpayers. Effective 9/13/2021, subject to a binding contract exception.	Taxpayers can exclude some or all the gain on qualified small business stock held for more than five years. Percentage of exclusion is based on when the stock was acquired. Gain exclusion is limited to the greater of $10 million or 10x the basis on the stock.	This proposal was not included in the President's plan.
Cut the estate and gift tax lifetime exemption in half from the current inflation adjusted $10 million per person ($11.7 million in 2021) to an inflation adjusted $5 million. Effective 1/1/2022.	Current estate and gift tax exemption of an inflation adjusted $10 million ($11.7 million in 2021) is set to cut in 2026.	Treat transfers of appreciated property by gift or on death as a realization event; effective for gains on property transferred by gift, and on property owned at death by decedents dying after 12/31/2021.
Transfers of nonbusiness assets are not afforded a valuation discount for transfer tax purposes.	Transfers of assets are valued for transfer tax purposes at their "fair market value."	Though part of past proposals, not part of the current Greenbook.

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Require grantor trusts to be included in a decedent's taxable estate when the decedent is the deemed owner of the trust. Effective date of enactment. Assets transferred to a grantor trust prior to the effective date are grandfathered.	Even though a grantor trust is disregarded for income tax purposes, a grantor trust is not included in the grantor's estate.	This proposal was not included in the President's plan.
Impose new contribution limits and increase the minimum required distributions for high-income taxpayers when the total value of an individual's IRA and defined contribution retirement accounts generally exceed $10 million as of the end of the prior taxable year. Effective 12/31/2021.	Current limits on contributions are income based. Current RMDs are based on value of the IRA and the appropriate actuarial schedule.	This proposal was not included in the President's plan.
Eliminate Roth conversions for both IRAs and employer-sponsored plans for single filers with taxable income over $400,000 and joint filers with taxable income over $450,000.	A person can convert their eligible IRA assets to a Roth IRA regardless of income. Prior to 2010, only those account owners who had a modified adjusted gross income below $100,000 were eligible to convert.	This proposal was not included in the President's plan.
Deny charitable deductions for contributions of conservation easements by partnerships and pass - through entities if the deduction amount exceeds 2.5 times the sum of each partner's basis in the partnership that relates to the donated property. Effective 12/23/2016.	These arrangements often are referred to as syndicated conservation easements, which were previously identified by the IRS as listed transactions.	This proposal was not included in the President's plan.