

A Biden Tax Proposal: Notable Highlights While Details Await

While a formal tax proposal* is yet to be unveiled by President Biden, much of his tax proposal was widely circulated during the presidential campaign and is posted on the President's campaign webpage, joebiden.com. Additionally, the President and newly confirmed Treasury Secretary Janet Yellen have expressed their intent to reverse various tax-related provisions in the Tax Cuts and Jobs Act of 2017 (TCJA).

While it is still unclear what changes will be brought forward, the following are some of the notable highlights of a possible Biden Tax Proposal.

U.S. Individual Income Taxes		
	Current Law	Biden Tax Proposal
Top Individual Tax Rates	<ul style="list-style-type: none"> 37% for taxable income greater than \$628,300 for joint filers/\$523,600 for single filers 	<ul style="list-style-type: none"> Increase top marginal rate to 39.6% for taxpayers with income greater than \$400,000, unclear of any distinction for joint/single/head of household/married filing joint filers
Itemized Deductions	<ul style="list-style-type: none"> State and local tax (SALT) deduction capped at \$10,000/year per family Otherwise, no 'total cap' on eligible itemized deductions Some specific limitations apply to certain deductions 	<ul style="list-style-type: none"> Total itemized deductions cap of 28% Remove dollar limit on SALT deduction Reinstate Pease limitations reducing value of itemized deductions (including charitable) by 3% of adjusted gross income in excess of \$400,000 (up to maximum loss of 80% of itemized deductions)
Long-Term Capital Gains and Qualified Dividends	<ul style="list-style-type: none"> Top tax rate of 20% for taxable income greater than \$501,600 for joint filers/\$445,850 for single filers 3.8% net investment income tax 	<ul style="list-style-type: none"> Eliminate favorable capital gains rate for taxpayers earning more than \$1 million Increases rate to equal top ordinary income tax rate (39.6% proposed)
Compensation and Benefits		
	Current Law	Biden Tax Proposal
Social Security Tax - Federal Insurance Contributions Act (FICA)	<ul style="list-style-type: none"> FICA tax of 12.4% split equally between employer/employee on wages up to maximum of \$142,800 	<ul style="list-style-type: none"> Maintain current FICA tax on wages up to \$142,800 Add an additional FICA tax on wages over \$400,000, no cap announced
Retirement Savings Plans	<ul style="list-style-type: none"> Contributions to a qualified retirement plan are 'pre-tax' up to defined amount, tax deferred until withdrawal For 401(k)s, pre-tax contributions up to \$19,500/year, \$6,500 catch up contribution for age 50 or older 	<ul style="list-style-type: none"> Eliminate deduction for contributions to 401(k), 403(b) and 457 plans Replace with a fixed tax credit of 26% Create "automatic 401(k)" (private or government based) for taxpayers with no access to a retirement plan Tax credits for small businesses with retirement plans

*All of the information listed under the Biden Tax Proposal was provided by joebiden.com or from statements issued by Treasury Secretary Janet Yellen.

Business and Real Estate Investment

	Current Law	Biden Tax Proposal
Corporate Tax Rates	<ul style="list-style-type: none"> Under TCJA, reduced to 21% 	<ul style="list-style-type: none"> Increase rate from 21% to 28% Create minimum tax of 15% on corporations with annual book income of \$100 million or higher (and may disallow accelerated tax depreciation) 10% surtax on profit for products manufactured overseas and sold in U.S.
Qualified Business Income Deduction	<ul style="list-style-type: none"> Subchapter S corporations, partnerships, sole proprietors can deduct 20% of qualified business income (QBI) under 199A 	<ul style="list-style-type: none"> Creates a phase-out of the QBI deduction under 199A for tax filers with taxable income exceeding \$400,000
Real Estate and 1031 Like-Kind Exchanges	<ul style="list-style-type: none"> Allows a swap of real estate investment for a like-kind replacement property Deferral of capital gains when properly structured 	<ul style="list-style-type: none"> Elimination of 1031 like-kind exchanges for real property TCJA eliminated like-kind exchanges of personal property

Estates, Gifts and Trusts

	Current Law	Biden Tax Proposal
Gift/Estate and Generation Skipping Transfer (GST) Tax Increases**	<ul style="list-style-type: none"> Gift/Estate and GST tax exemption is \$11.7 million per person (\$23.4 million per married couple) Current exemption rules revert back to 2017 rules in 2026 All wealth transferred in excess of exemption is taxed at the current top rate of 40% 	<ul style="list-style-type: none"> Several possible scenarios referenced: A reversal of TCJA and reinstate the \$5 million per person gift/estate and GST exemption, possibly inflation adjusted Reduction in the estate and GST exemptions to \$3.5 million per person Reduction in lifetime gift tax exemption to \$3.5 million per person, or \$1 million per person to steepen the tax on lifetime transfers Increase top transfer tax rate to 45%
Elimination of Basis “Step-up” at Death	<ul style="list-style-type: none"> Inherited capital assets, including business interest, receive step-up in basis to date of death FMV upon transfer through an estate 	<ul style="list-style-type: none"> Eliminate step-up in basis Unclear if plan is to tax gains at death or to carry-over basis and tax gains upon subsequent sale by heirs

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****Gift/Estate and GST Tax Exemptions Explained:** The estate tax applies to wealth passing at death, while the gift tax applies to lifetime transfers. These interrelated exemptions are applied on an either/or basis (no double dipping). The GST tax is a second layer of tax that generally applies when wealth skips a generation and is passed directly to grandchildren and beyond. This exemption avoids imposition of a transfer tax on the same wealth passing at each successive generation.



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