

Tax Views: A Quick Look at Current Chatter

As you have likely seen in the press, the Biden Administration is expected to formally propose tax law changes in the near future.

While certainty regarding which potential changes will ultimately survive passage seems impossible, here are some thoughts while we monitor the developments closely.

We think it is highly likely that Congress will put forth a reconciliation bill, or perhaps multiple bills, covering infrastructure and tax law changes. The Senate Parliamentarian reportedly approved a process that allows one or more reconciliation bills this calendar year. Using the reconciliation process, the Democrats can likely pass tax measures using their slim majorities in the House and Senate and forego Republican support. Nevertheless, as we saw with the recent Covid stimulus bill, negotiation may still be required. The reconciliation process is complex and may limit what tax provisions are ultimately included in the final bill.

Corporate Tax Provisions Proposed Under the Made in America Tax Plan

- Increase the corporate income tax rate to between 25 and 28%
- 15% tax on “book income” of major corporations

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- Increase the global minimum tax for multinational corporations
- Reduce tax breaks for offshore expenses
- Increase credits for onshoring operations
- Eliminate tax preferences related to fossil fuels
- Eliminate “Foreign Derived Taxable Income”
- Increase investment incentives in research & development

The Biden Administration has also indicated it seeks to make changes aimed at individual taxpayers. These proposals are expected to be revealed in April as a “second part” of his overall plan.

Individual Provisions More Likely to be Enacted

- Increase the individual top tax bracket rate to around 39.6%
- Increase or eliminate the \$10,000 deduction limitation on state taxes paid
- Decrease the estate & gift tax unified credit exemption to approximately \$5 million
- Increase the estate and gift tax rate

Individual Provisions Possibly Enacted

- Income tax-related surtaxes on high-earning taxpayers by way of higher rates applicable after a certain threshold on all or a combination of:
 - Qualified dividends
 - Long-term capital gains
 - Earned income
 - Other ordinary income
- Estate tax-related surtaxes for large estates by way of higher rates applicable after a certain threshold, such as \$100 million
- Decrease the estate & gift tax unified credit exemption to an amount lower than \$5 million, such as \$3.5 million
- Repeal of the qualified business income deduction of 20%
- Elimination of step-up in tax basis at death (i.e. carryover basis to heirs)

Individual Provisions Less Likely to be Enacted

- Wealth tax on accumulated asset values
- Recognition of otherwise unrealized gain at death as taxable income

What makes all this the more interesting is that some of the above changes are already scheduled to occur at the end of 2025 when the Trump tax act (TCJA) sunsets. We will continue to update you as details become clearer.

The timing of the ultimate tax bills is hard to predict as it depends on how they are drafted and moved through Congress in the reconciliation process. The effective date of the legislation is most likely 2022, but this again is not set in stone; some provisions could be effective as of enactment and others, like the estate and gift exemption changes, could be retroactive to January 1, 2021.

Planning for tax changes is difficult with the current uncertainty as to the changes and the effective dates, but for income tax, it appears advisable to accelerate income and capital transactions to before the date of enactment. With respect to estate tax planning utilizing exemptions, because it appears changes could be retroactive to January 1, 2021, any planning steps should be made with the possibility that exemption amounts could be reduced causing taxable 2021 gifts. This makes the popular SLAT (Spousal Lifetime Access Trust) appear to be a good choice for 2021 gifts.

As always, please do not hesitate to touch base with your Advisor to discuss your specific tax concerns. We would be happy to put you in touch with our Tax Team.



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