KPMG

Joe Biden's Tax Proposals: Frequently Asked Questions

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NOTE: FAQ 1 and Exhibit B were updated at 12 noon EDT on September 18, 2020. This report does not reflect developments after that time.

Introduction

In November, voters in the United States will elect their next president. In addition, all seats in the U.S. House of Representatives, as well as about a third of the seats in the U.S. Senate, will be in play. Thus, the elections will determine whether one party will control the White House as well as both chambers of Congress beginning in early 2021 or whether there will continue to be "divided government" at the federal level.

The Republican presidential nominee is the current president, Donald J. Trump, while the Democratic presidential nominee is the former vice president in the Obama Administration, Joe Biden. President Trump's federal tax agenda is generally well known, with his accomplishments including having signed into law the major tax legislation commonly called the "Tax Cuts and Jobs Act" (or "TCJA"). Democratic candidate Joe Biden's federal tax agenda is still emerging.

This document addresses at a high level what we know about Biden's proposed federal tax agenda so far. This document is in question-and-answer format and is organized as follows:

Contents

FAQ 1: Where is Biden's federal tax plan? [updated September 18, 2020]

Democratic candidate Biden has not yet released an official tax plan that includes all of his federal tax proposals in one place. Likewise, his campaign has not released technical details regarding Biden's tax proposals.

Nonetheless, the Biden campaign has posted on its website a short document highlighting how, in its view, Biden's tax proposals differ from Trump's proposals and policies.[1] The campaign website also includes over 40 plans on different policy topics—including, for example, infrastructure, clean energy, domestic manufacturing, rebuilding U.S. supply chains, housing, racial inequities, child care, elder care, health care, and the opioid crisis. Many of these plans include tax components designed to further the underlying policy goals or to offset the costs of such goals. Ferreting through these plans provides a good primary source of information on Biden's tax proposals.

Biden and his economic advisors also have mentioned various tax proposals at points during the course of the campaign. Further, on July 8, 2020, the Biden campaign released a series of policy proposals crafted by joint task forces composed of allies of both Biden and Senator Bernie Sanders (I-VT) that were formed to bring together progressive and moderate Democrats. Some of these "Unity Task Force Recommendations" include tax proposals, as well as general language supporting a more progressive federal tax system.

This report draws from all the above sources in an attempt to answer some "frequently asked questions" (FAQs) about Biden's tax proposals. The report includes as exhibits charts that list Biden's federal tax proposals so far. For ease of reference, those charts include cites (where available) to policy plans on the campaign web site that include tax proposals. (The status of the Biden tax plan is further discussed in KPMG's ***Catching Up on Capitol Hill* podcast**.)

FAQ 2: How detailed are Biden's tax proposals?

[1] See a Biden-Harris document called "A Tale of Two Tax Policies: Trump Rewards Wealth, Biden Rewards Work."

Not very, which is not surprising for presidential campaign proposals.

For the most part, Biden's tax proposals are short and very high level. They are described using language that would make sense to the general electorate, rather than technical tax language designed for tax professionals. There is also no detailed separate technical explanation of the proposals.

In addition, some of the descriptions of the proposals could lend themselves to multiple interpretations from a technical tax perspective. For example, while the Biden campaign has indicated support for limiting the ability of some investors to use real estate losses, it has not spelled out whether this might be accomplished through changes to passive activity loss rules, depreciation rules, passthrough loss limitation rules, or otherwise. In the charts that list Biden's federal tax proposals (read **Exhibits**), we generally have tried to mirror the language used by the campaign to the extent possible.

FAQ 3: Might the details of some tax proposals be influenced by proposals made by the Obama Administration?

If Biden becomes president, it is possible that the details of some of his tax policy proposals ultimately might be influenced by similar proposals made during the Obama Administration.

For example, in 2012, the White House and the Treasury Department ("Treasury") released "**The President's Framework for Business Tax Reform**" [PDF 585 KB], a document that outlined the need for reform of the business tax system and presented various elements of reform; the Obama Administration issued an **update** [PDF 629 KB] to the "framework" in April of 2016. President Obama's budget proposals also included a host of tax proposals, some of which referenced the framework. Some of the prior tax proposals made by the Obama Administration appear similar to some of the proposals currently being made by Biden, including a proposal to make the top statutory corporate rate 28%—which would have reflected a reduction from the 35% rate that was in effect during the Obama Administration. (For more information on many of the Obama Administration's tax proposals, read the **101-page report** [PDF 1.9 MB] KPMG issued in February 2016 shortly after the Obama Administration released its FY 2017 budget proposals.)

If Biden were to become president, it is possible that his administration might consider previous Obama Administration proposals in fleshing out the details of some tax legislative proposals. Nonetheless, it is important to keep in mind that the Obama Administration's proposals were made prior to the enactment of the TCJA, so current tax law is different in many significant respects than during the Obama Administration. Likewise, economic conditions, the state of the coronavirus (COVID-19) pandemic, other events (including events that may occur in the future), political considerations, and other issues might affect the details of Biden's tax policy proposals. Further, it is always possible that a Biden administration simply might have views that differ from those of the Obama Administration in some regards.

As a result, while tax proposals made during the Obama Administration might be instructive in assessing some possible details of some of Biden's seemingly similar proposals, details still could be fleshed out differently.

FAQ 4: What are some of Biden's federal tax proposals with respect to businesses? [updated September 14, 2020]

Biden's business tax proposals include increasing the top statutory corporate income tax rate to 28%; creating a new 15% corporate minimum tax on global book income of $100 million or more; and increasing the tax rate on certain foreign income from the 10.5% imposed by the current "global intangible low-taxed income" (GILTI) regime to 21%. Additional proposed changes to the GILTI regime include shifting to a country-by-country analysis and eliminating the qualified business asset investment return, similar to the Obama Administration's international tax reform proposal.[2] Biden's campaign plans also include proposals relevant to specific industries (such as pharmaceuticals, real estate, energy, natural resources, and banking), as well as new or expanded business tax credits for various activities (including domestic manufacturing).

Read **Exhibit A** for a more comprehensive list of business tax proposals.

FAQ 5: What are some of Biden's federal tax proposals with respect to individuals and estates?

Biden's tax proposals include tax increases for higher income individuals and large estates, as well as tax credits and other taxpayer-favorable provisions for lower income individuals and/or to achieve particular policy objectives.

Some of the proposed tax increases for higher income individuals[3] include: increasing the top individual tax rate to 39.6% (presumably in advance of the scheduled expiration of the current top rate at the end of 2025), phasing out the Code section 199A "passthrough business deduction" at incomes over $400,000; capping tax benefits of itemized deductions at 28% of value; phasing out itemized deductions; subjecting wages in excess of $400,000 to the Old Age, Survivors, and Disability Income (OASDI) portion of the Social Security tax; taxing capital gains and qualified dividends for individuals with over $1 million in income at ordinary income rates; a possible "mark-to-market" regime for investments of wealthy taxpayers[4]; taxing unrealized capital gains at death or eliminating stepped up basis at death; and reducing the estate tax exemption amount, possibly to 2009 levels.

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[2] See, e.g., the fact sheet on the Biden-Harris Plan to Fight for Workers by Delivering on Buy America and Make It in America (released on September 9, 2020).

[3] Some of the proposals use an "over $400,000 of income" threshold for determining to whom they apply. The proposals, however, do not specify how the threshold applies to different filing statuses. The Obama Administration used a $250,000 threshold for joint filers in some of its tax proposals, but used a lower threshold for single filers. In a March 2020 analysis of Biden's tax proposals, the Tax Policy Center ("TPC") assumed that the $400,000 threshold does not vary by filing status. Although the TPC's analysis indicates that a representative of the Biden campaign reviewed assumptions made in the TPC's analysis and confirmed that "most" were consistent with Biden's proposals, it also noted that the campaign's review "does not imply that the campaign agrees with or endorses our analysis." See Mermin, Gordon B. et al., Tax Policy Center, An Analysis of Former Vice President Biden's Tax Proposal (Mar. 5, 2020).

[4] One of the Unity Task Force Recommendations refers to limiting the ability of wealthy taxpayers to defer and avoid taxes on income (especially that relates to financial investments). Although it is not certain, this language might refer to a possible mark-to-market regime. Senate Finance Committee ranking member Ron Wyden (D-OR) previously released a report describing a proposed mark-to-market system for taxing capital income of certain individuals who satisfy income or asset thresholds. Read ***TaxNewsFlash***.

Other proposed changes in the tax law relevant to individuals include new tax credits for some home buyers, renters, renovators of properties in distressed communities, and informal caregivers; increases in the child and dependent care credits; expansion of the earned income tax credit (EITC) for some older workers without children; expansion of the Affordable Care Act (ACA) premium tax credits; income exclusion for certain forgiven student loan debt; and retirement savings incentives.

Read **Exhibit B** for a more comprehensive list of individual and estate tax proposals and **Exhibit C** for a list of retirement savings and other incentives.

FAQ 6: If Biden becomes president, is it certain that his major tax proposals would be enacted?

No. A number of factors could affect the prospects, substance, and timing of a Biden tax agenda, including the results of the upcoming congressional elections, the state of the economy, what's happening in the United States and globally during a possible Biden administration, and which policy issues Biden would consider most pressing in a governing (rather than campaigning) role. Read FAQs 7 and 8, below.

FAQ 7: How might the results of the 2020 congressional elections affect the prospects and timing of Biden's major tax proposals?

As a general matter, the House, the Senate, and the president all need to agree to the same version of legislation for that legislation to become law. Thus, it is often easier for major policy changes to become law when one party controls the White House as well as both chambers of Congress than when there is "divided" government. Indeed, recent major legislation such as the TCJA and the Affordable Care Act was enacted under "single party control."

Thus, for example, if Biden were to become president in early 2021 and Republicans were to control at least one chamber of Congress, reaching bipartisan consensus on major tax policy changes in at least the first two years of Biden's term[5]—such as rate increases and changes to other "pillars" of the TCJA—might be quite difficult. But, it might be easier to reach consensus on other, less dramatic, tax law changes on which significant numbers of lawmakers in both parties might agree, such as providing incentives for domestic manufacturing and domestic research and development. Likewise, depending on the state of COVID-19 and the economy next year, bipartisan consensus might be achievable on continuing to use the Tax Code to some extent to respond to health and economic repercussions of the virus. And, as a final example, bipartisan consensus might be achievable in developing a response to European digital tax initiatives.

Conversely, if Biden were to become president in early 2021 and Democrats were to control both the House and Senate, it might be easier to achieve consensus on major tax policy changes than in a divided

[5] Presidents serve four-year terms. Elections for all the seats in the House and some of the seats in the Senate take place every two years. Thus, a president faces a new Congress for the last half of the presidential term.

government scenario.[6] Indeed, often when a president wins in a "sweep," members of his party will give significant deference to his proposed agenda. Thus, under a "single party control" scenario, major tax policy changes can be more likely than under divided government (as evidenced by the enactment of the TCJA during a period in which Republicans controlled the White House and both chambers of Congress).

Further, because presidential elections take place once every four years while elections for all members of the House and about a third of the members of the Senate take place every two years, Biden and congressional Democrats might push to address some major policy changes, including in the tax arena, in 2021 and 2022—just in case Republicans gain control of one or more chambers of Congress in 2023. As discussed in the next FAQ, however, other factors might affect the timing and prospects of enacting some major tax proposals.

Finally, keep in mind that the 2020 election results will determine the key players in the congressional tax-writing process (such as caucus leadership and the chairs and members of the House and Senate tax-writing committees) as well as what the mix of progressive and moderate Democrats will be in both chambers. Thus, if Democrats sweep the elections, the interests of key congressional players and the larger politics within the Democratic caucus can be expected to shape Biden's and congressional tax priorities and may affect how dramatic tax law changes might or might not be.

FAQ 8: If there is a Democratic "sweep," what other factors might affect the prospects and timing of Biden's major tax proposals?

If Democrats control the House and Senate and Biden is president beginning in early 2021, future conditions and developments that are not currently knowable also could affect the substance and timing of the legislative tax agenda. These include, for example, the state of COVID-19, the state of the economy, future events that might dominate the news cycle, and global tax and nontax developments. Here are just a few of the questions that might be relevant to a possible short-term Biden tax agenda:

- What will the state of the economy and COVID-19 be in 2021? Would a possible Biden administration and congressional Democrats view additional COVID-19 response legislation or economic stimulus legislation as necessary next year? If so, would they use the Tax Code to target relief to certain individuals or to provide stimulus to certain businesses, perhaps using some of the tax credit mechanisms proposed by Biden? Would business relief be targeted to certain sectors or to small businesses? Might a possible focus on economic stimulus dampen support by some Democrats for some of the tax increase proposals in the short term?

- In a similar connection, if the economy is still struggling in early 2021, might a Biden administration

[6] Currently, in the Senate, at least 60 votes are needed to avoid filibusters of tax legislation, unless special budget reconciliation rules are used to allow passage by a simple majority. These rules were used to pass the TCJA with only Republican votes in the Senate in 2017 and affected the size and design of the legislation. The budget reconciliation rules include intricate procedural requirements (including limits on the number of reconciliation bills in a fiscal year); however, they do not impose as many requirements on the *substance and design* of legislation that reduces the deficit as they do on deficit-increasing legislation—i.e., it is "easier" to enact a net tax increase under budget reconciliation than a net tax cut. Further, as indicated in text *infra*, it is possible that the next Senate might eliminate the filibuster rule, allowing tax legislation to pass the Senate by a simple majority without using the reconciliation rules.

and congressional Democrats defer consideration of increasing the statutory corporate rate (and possibly some of the other business tax increase proposals) until economic conditions are better or might they consider phase-in schedules? And, if Democrats defer increasing the corporate rate until the economy recovers or adopt some sort of phase-in schedules, might they consider doing the same with rate increases on higher income individuals and large estates—or might they take the view that some individuals at the top end of the income scale should contribute to the costs of programs designed to help those at the lower end of the income scale or otherwise contribute to some policy objectives?

- How might foreign countries change their tax regimes? For example, if foreign countries raise corporate rates as a result of the economic fallout of COVID-19, might this make it easier for Democrats to support an increase in U.S. corporate tax rates? Conversely, if the trend of lower corporate rates from U.S. trading partners continues, might that make corporate rate increases in the United States less politically attractive?

- Might events happen in the United States or the world that could affect what legislative items are at the top of the agenda? Keep in mind that events like COVID-19 and other past crises have completely changed legislative priorities, both from a tax and nontax perspective.

- Might tax law changes be included as components of legislation focused on nontax policy issues? Although the answer to this question in part might turn on the nature of the nontax legislation, the fact that Biden has included tax proposals in a wide range of his plans for various policy areas (such as health care, racial equity, climate change, infrastructure, and elder and child care) suggests that, in a possible Biden administration, tax law changes might not all be addressed in one big tax bill (as was the case with the TCJA), but instead might be addressed piecemeal in various other policy vehicles (whether to further the legislation's underlying policy goals or to offset revenue costs of other programs). If so, the Biden campaign plans may provide some indication of what kinds of tax provisions might be packaged with other kinds of legislative initiatives.[7]

- Could a Senate controlled by Democrats choose to change the Senate rules to merely require a simple majority to approve legislation? Current Senate rules generally require a supermajority of 60 to approve legislation. But many have called for a change to those rules, including, very recently, former President Obama. A change to the supermajority rule in the Senate could make it significantly easier, both in substance and from a procedural perspective, for Democrats to pass tax legislation if they control the House as well as the Senate. This could increase the likelihood of significant Biden tax proposals becoming law. (For more on this topic, listen to the ***Catching Up on Capitol Hill podcast***.)

FAQ 9: In the case of a Democratic "sweep," might proposals other than those proposed by Biden so far become law?

Absolutely. If Biden wins the election, he can be expected to flesh out—and even add to—his tax law priorities when he is president. Some of his priorities and proposals might change depending on what's

[7] If Democrats control the Senate in 2021 but have fewer than 60 seats and do not eliminate the filibuster rule, budget reconciliation rules might need to be used to move legislation that does not have bipartisan support through the Senate unless filibusters are eliminated. If the budget reconciliation process is used, there generally can only be one tax budget reconciliation bill for a fiscal year. See n. 6 *supra* and discussion in text *infra*.

happening in the United States and the world while he's in office. Further, congressional lawmakers (including members of the tax-writing committees) can be expected to raise their own priorities. And, of course, the "sausage-making" that goes into putting together a tax bill often results in provisions of interest to various members of Congress being included.

FAQ 10: Could legislation be enacted increasing tax rates retroactively?

Possibly. While rare, there are historical precedents for tax rate increases having applied retroactively.[8]

For example, the Omnibus Budget Reconciliation Act of 1993 ("OBRA '93"),[9] which was enacted on August 10, 1993, generally provided for higher income tax rates for some individuals and corporations effective for tax years beginning after December 31, 1992.[10] OBRA '93 also reinstated the two highest estate and gift tax rates that had expired at the end of 1992, effective for decedents dying, gifts made, and generation-skipping transfers occurring after December 31, 1992.[11]

In terms of the "legality" of retroactive tax law changes, the Supreme Court has upheld some retroactive changes to existing tax laws against challenge under the "due process" clause of the U.S. Constitution. As discussed in *Mertens Law of Federal Income Taxation*:

> Retroactive taxation is allowed because taxation is neither a penalty imposed on the taxpayer nor a liability which the taxpayer assumes by contract, but rather a method of apportioning the cost of government among those who enjoy its benefits and who must bear the resulting burdens. In addition, some limited retroactivity may be necessary as a practical matter to prevent the revenue loss that would result if taxpayers, aware of a likely impending change in the law, were permitted to order their affairs to avoid the effect of change.[12]

The treatise proceeds to explain that "it is common practice to enact income tax laws covering an annual period that includes the date of enactment so that the effective date precedes that date of enactment." The treatise also suggests that there might be a greater possibility of a constitutional concern with significant retroactive application of a completely new type of tax than with a retroactive modification of an existing tax.[13]

Nonetheless, as suggested in FAQs 7 and 8, ultimately what changes lawmakers decide to make, as well as when those changes are enacted and are effective, can be expected to be affected by political and

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[8] Some other kinds of tax law changes also have had retroactive effective dates. For example, some proposals (such as proposals aimed at perceived abuses) have had dates effective retroactive to when first announced, introduced, or approved by a tax-writing committee. A detailed discussion of effective dates is beyond the scope of these FAQs.

[9] Public. Law No. 103-66.

[10] Individuals could elect to pay the increased tax liability attributable to the new rate over a 3-year period without interest or penalty; fiscal year corporations were required to use a "blended rate" for the fiscal year that included January 1, 1993. OBRA '93 was enacted during the first year of the Clinton Administration. President Clinton was sworn into office on January 20, 1993. Thus, the rate increases applied to a portion of January during which George W. Bush was still president.

[11] Even some prospective tax law changes have had retroactive elements. For example, the Tax Reform Act of 1986, which was enacted on October 22, 1986, generally eliminated preferential treatment of capital gains for tax years beginning after December 31, 1986. However, the provision generally applied even when the sale or transaction that gave rise to the gain occurred in a prior year.

[12] See Mertens §4.15, Retroactivity. Case cites omitted from quote. See also Treatise on Const. L. § 15.9(a)(iv), Retroactive Tax Legislation.

[13] Id.

other factors (including the state of the economy)—and some of those factors might weigh against significant retroactive changes. As a result, even though it might be possible for legislation to be enacted increasing tax rates retroactively (e.g., to the beginning of the year of enactment), it is by no means certain that a possible Congress controlled by Democrats and a possible Biden Administration ultimately would choose to do so.

FAQ 11: Where can I learn more about Biden's tax proposals? [updated September 14, 2020]

KPMG's ***Catching up on Capitol Hill* podcast series** includes insights from KPMG professionals about current developments in Washington and what might happen next. So far, the series includes the following podcasts on Biden's tax proposals:

- **The Biden Tax Plan – Where Is It?** (reflects developments as of July 17, 2020)
- **The Biden Tax Plan – Highlights on What We Know** (reflects developments as of July 20, 2020)
- **The Biden Tax Plan – The Corporate Tax Rate Proposal** (reflects developments as of August 7, 2020)
- **The Biden Tax Plan – Increasing the Individual Tax Rate on Ordinary Income** (reflects developments as of August 21, 2020)
- **The Biden Tax Plan – Increasing the Capital Gains Tax Rate (Part One)** (reflects developments as of August 28, 2020)
- **The Biden Tax Plan – Increasing the Capital Gains Tax Rate (Part Two)** (reflects developments as of September 3, 2020)
- **Biden's Foreign Minimum Tax Proposal: Not GILTI?** (reflects developments as of September 4, 2020)

Other podcasts on this topic will be released soon. This report also will be updated from time-to-time to reflect additional developments.

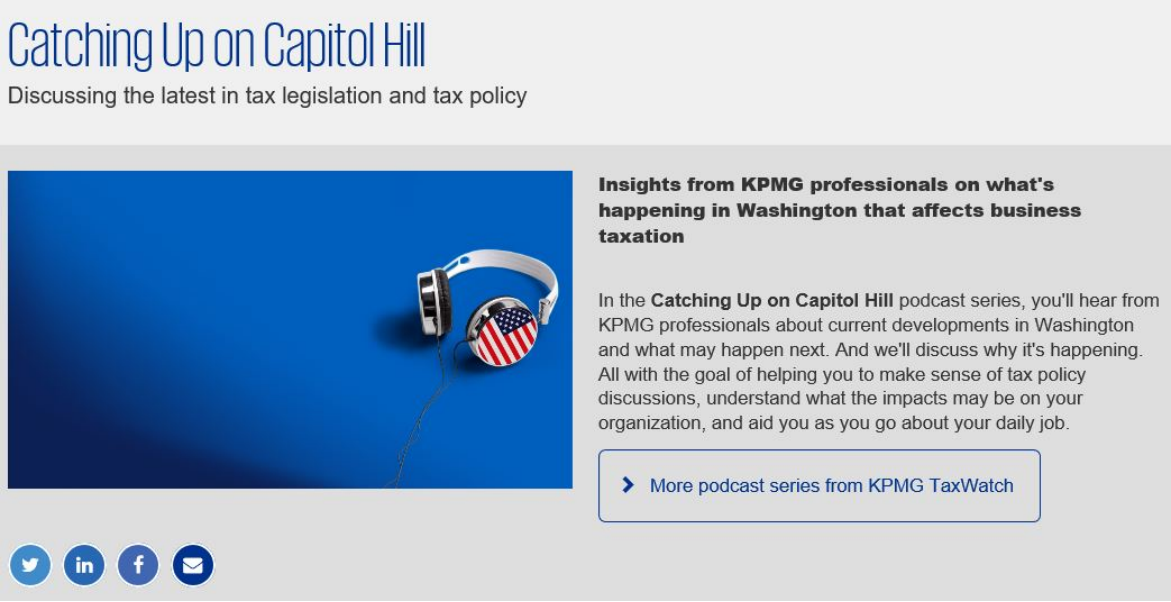

Exhibit A - Business tax proposals [updated September 14, 2020]

Business - General

TOPIC	CITE TO CAMPAIGN PLAN OR OTHERWISE
Increase statutory corporate tax rate from 21% to 28%	Plan to Invest in Middle Class Competitiveness and Climate Change Plan reference generally.
Create a new corporate minimum tax of 15% on global book income of $100 million or more	Widely reported
Phase out section 199A deduction for individuals with over $400,000 in taxable income	Widely reported

Business – Domestic manufacturing [updated September 14, 2020]

TOPIC	CITE TO CAMPAIGN PLAN OR OTHERWISE
Provide Manufacturing Communities Tax Credit that promotes revitalizing, renovating, and modernizing existing or recently closed down facilities; expand and extend tax credits that "turbocharge" growth in domestic manufacturing; provide 10% advanceable credit to companies making investments in domestic manufacturing by revitalizing closed facilities, retooling existing facilities, "reshoring" production to United States, or (possibly) increasing manufacturing wages	Plan to Ensure the Future Is "Made in All of America" by All of America's Workers; Plan to Invest in Middle Class Competitiveness; Fact Sheet on the Biden-Harris Plan to Fight for Workers by Delivering on Buy America and Make It in America (released on September 9, 2020)
Establish new incentives (including tax credits) for companies to make critical new products in United States	Plan to Ensure the Future Is "Made in All of America" by All of America's Workers; Plan to Rebuild U.S. Supply Chains and Ensure the U.S. Does Not Face Future Shortages of Critical Equipment

Business - International [updated September 14, 2020]

TOPIC	CITE TO CAMPAIGN PLAN OR OTHERWISE
Increase Global Intangible Low Tax Income ("GILTI") rate from 10.5% to 21%.	Fact Sheet on the Biden-Harris Plan to Fight for Workers by Delivering on Buy America and Make It in America (released on September 9, 2020)
End TCJA incentives that "allow multinationals to dramatically lower taxes on income earned overseas"	Plan to Ensure the Future Is "Made in All of America" by All of America's Workers; Fact Sheet on the Biden-Harris Plan to Fight for Workers by Delivering on Buy America and Make It in America (released on September 9, 2020)
Establish "claw back" provision to force a company to return tax benefits when it closes down U.S. jobs and send jobs overseas; deny deductions and expensing write-offs "for moving jobs or production overseas – where those jobs could plausibly be offered to American workers"	Plan to Ensure the Future Is "Made in All of America" by All of America's Workers; Fact Sheet on the Biden-Harris Plan to Fight for Workers by Delivering on Buy America and Make It in America (released on September 9, 2020).
Offshoring tax penalty –10% surtax on certain profits of U.S. companies with offshore production that sell back to the United States	Fact Sheet on the Biden-Harris Plan to Fight for Workers by Delivering on Buy America and Make It in America (released on September 9, 2020)
Confront global tax secrecy and avoidance	Plan to Ensure the Future Is "Made in All of America" by All of America's Worker's; tax havens also mentioned generally in Plan to Invest in Middle Class Competitiveness and Climate Change Plan
Tighten anti-inversion rules	Plan to Ensure the Future Is "Made in All of America" by All of America's Worker's; Fact Sheet on the Biden-Harris Plan to Fight for Workers by Delivering on Buy America and Make It in America (released on September 9, 2020)

Business - Pharmaceuticals

TOPIC	CITE TO CAMPAIGN PLAN OR OTHERWISE
Change Tax Code to eliminate incentives for pharmaceutical and other companies to move production overseas; pursue other Tax Code changes to encourage pharmaceutical production in United States	Plan to Ensure the Future Is "Made in All of America" by All of America's Worker's; Plan to Rebuild U.S. Supply Chains and Ensure the U.S. Does Not Face Future Shortages of Critical Equipment
Tax penalty on drug manufacturers that increase costs of certain drugs over general inflation rate	Plan for Older Americans
Terminate pharmaceutical corporations' tax break for advertising spending	Plan for Older Americans; Plan for Health Care; Plan to End the Opioid Crisis
Oblique reference to raising taxes on profits of pharmaceuticals to offset costs of responding to opioid crisis	Plan to End the Opioid Crisis

Business - Energy

TOPIC	CITE TO CAMPAIGN PLAN OR OTHERWISE
Reform and extend tax incentives that generate energy efficiency and clean energy jobs	Plan to build a Modern, Sustainable Infrastructure and an Equitable Clean Energy Future
"Double down" on research investments and tax incentives for technology that captures and permanently sequesters or utilizes carbon	Plan to build a Modern, Sustainable Infrastructure and an Equitable Clean Energy Future; Climate Change Plan
Tax credits to help businesses upgrade equipment and processes, invest in new or expanded factories, and deploy low-carbon technologies	Plan to Invest in Middle Class Competitiveness/Infrastructure; Climate Change Plan
Repeal fossil fuel subsidies	Mentioned generally in Plan to Invest in Middle Class Competitiveness/Infrastructure; Climate Change Plan
Restore full electric-vehicle credit (possibly targeted to middle class consumers and to domestic made vehicles)	Plan to Invest in Middle Class Competitiveness/Infrastructure; Climate Change Plan
Reinstate tax credits for residential energy efficiency	Plan to Invest in Middle Class Competitiveness/Infrastructure
Expand tax deductions for energy retrofits, smart metering systems, and other emissions-reducing equipment in commercial buildings	Plan to Invest in Middle Class Competitiveness/Infrastructure
Reinstate solar investment tax credit, slated to scale back in two years	Plan to Invest in Middle Class Competitiveness/Infrastructure

Business - Opportunity zones/housing & community credits/real estate

TOPIC	CITE TO CAMPAIGN PLAN OR OTHERWISE
Expand and make permanent the new markets tax credit (NMTC)	Lift Every Voice: The Biden Plan for Black America; Plan to Invest in Middle Class Competitiveness; Plan for Investing in Our Communities through Housing; Plan to Build Back Better by Advancing Racial Equity across the American Economy
Expand low-income housing tax credit	Lift Every Voice: the Biden Plan for Black America; Plan for Investing in Our Communities through Housing
Expand tax deductions for energy retrofits, smart metering systems, and other emissions-reducing equipment in commercial buildings	Plan to Invest in Middle Class Competitiveness/Infrastructure
Possibly, repeal like-kind exchange rules (potentially only for investors with incomes in excess of $400,000)	Widely reported
Limit ability of investors to use real estate losses (possibly only for investors with incomes in excess of $400,000) – details not specified but might involve changes to passive activity loss rules, depreciation rules, or loss limitation rules	Widely reported
Direct Treasury to review Qualified Opportunity Zone benefits to ensure they are only being allowed where there are clear economic, social, and economic benefits to a community and not just high returns (like from luxury apartments and luxury hotels). Require detailed reporting and public disclosure by recipients of zone tax breaks regarding impact on local residents, including poverty status, housing affordability, and job creation.	Plan to Build Back Better by Advancing Racial Equity across the American Economy
See "Individuals" chart for incentives for buyers and renters and "Business-Other Credits" for child care construction credit	

Business – Financial institutions

TOPIC	CITE TO CAMPAIGN PLAN OR OTHERWISE
Tax liabilities of "ultra large banks to promote financial stability and fund investments in American productivity" – possibly with "over $50 billion in assets" threshold for applicability	Unity Task Force Recommendations; Plan for Investing in Our Communities through Housing references using taxes on large financial institutions as revenue offset

Business - Other

TOPIC	CITE TO CAMPAIGN PLAN OR OTHERWISE
Childcare construction tax credit to encourage businesses to build childcare facilities at places of work	Plan to Build Back Better by Advancing Racial Equity across the American Economy
Increase tax credits for small businesses to improve accessibility and comply with the Americans with Disabilities Act	Plan for Full Participation and Equality for People with Disabilities
Provide an employer hiring a person with a disability a tax credit of up to $5,000 the first year and $2,500 if the worker completes a second year of employment, and up to $30,000 in tax credits to improve workplace accessibility	Plan for Full Participation and Equality for People with Disabilities
Refundable tax credit to reimburse companies and nonprofits for extra costs of providing full health benefits of all workers during a period of work hour reductions	Plan to Scale Up Employment Insurance by Reforming Short-Time Compensation Programs
Expand work opportunity tax credit (WOTC) to include military spouses	Plan to Fulfill Our Commitment to Military Families, Caregivers, and Survivors
Tighten independent contractor classification rules	Widely reported
See Retirement Savings & Qualified Plans for small business savings plan tax credits	

Exhibit B - Individual and estate proposals [updated September 18, 2020]

Individuals - Revenue raisers

TOPIC	CITE TO CAMPAIGN PLAN OR OTHERWISE
Increase top individual tax rate to 39.6% for taxpayers with income over $400,000 (with whether threshold varies by filing status not specified)	Referenced generally in Plan for Health Care
Phase out section 199A deduction for individuals with over $400,000 in taxable income	Widely reported
Cap tax benefits of itemized deductions at 28% of value	Widely reported
Phase out itemized deductions for taxpayers with income over $400,000	Widely reported
Subject wages in excess of $400,000 to OASDI portion of Social Security tax.	Lift Every Voice: The Biden Plan for Black America; Plan for Older Americans
Increase capital gains and qualified dividends tax rate for individuals with over $1 million in income by adding a fourth bracket for long-term capital gains and qualifying dividends at a 39.6% rate.	Referenced generally in Plan for Health Care
Limit ability of wealthy taxpayers to defer and avoid taxes on income (especially that relates to financial investments) – not specified, but might relate to "marking to market" investments	Included in Unity Task Force Recommendations
Close loopholes allowing the "super wealthy" to avoid taxes on capital gains altogether	Plan for Health Care
Increase tax compliance with respect to high income earners	Press reports of Caregiving Economy Plan

Individuals - Credits & other [updated September 18, 2020]

TOPIC	CITE TO CAMPAIGN PLAN OR OTHERWISE
Increase refundability of child and dependent care tax credits to 100% and provide for credits to be "advanceable"	Unity Task Force Recommendations
Increase child and dependent care tax credit up to $8,000	Plan for Full Participation and Equality for People with Disabilities
Refundable and advanceable tax credit of up to $15,000 to help families purchase first homes	Plan for Full Participation and Equality for People with Disabilities; Lift Every Voice: The Biden Plan for Black America; Plan for Investing in Our Communities through Housing; Plan to Build Back Better by Advancing Racial Equity across the American Economy
Renter's tax credit to reduce rent and utilities to 30% of income of certain low-income individuals	Plan for Investing in Our Communities through Housing; Plan to Build Back Better by Advancing Racial Equity across the American Economy
Low and middle income family refundable tax credit of as much as $8,000 to help pay for child care	The Biden Agenda for Women
Expand earned income tax credit (EITC) for childless workers over 65	Plan for Older Americans and Retirement
Expand Affordable Care Act (ACA) premium tax credit; other changes to lower premiums and deductibles through changes in credit calculations	Plan for Full Participation and Equality for People with Disabilities; Lift Every Voice: The Biden Plan for Black America; Plan for Health Care
$5,000 tax credit for informal caregivers	Plan for Full Participation and Equality for People with Disabilities; The Biden Agenda for Women; Plan to Fulfill Our Commitment to Military Families, Caregivers, and Survivors (in context of veterans); Plan for Older Americans
Student loan debt forgiven through income-based repayment program not taxed	Plan for Education beyond High School
Downpayment assistance for buying or renting safe quality housing through refundable and advanceable credit	Plan for Investing in Our Communities through Housing
Tax credit for families to renovate distressed properties in distressed communities (Neighborhood Homes Investment Act)	Plan to Build Back Better by Advancing Racial Equity across the American Economy
Temporary expansion of child tax credit for an indeterminate period depending on the course of the pandemic as proposed in House-passed "HEROES" bill (i.e., increase the credit to $3,000 or $3,600 per child depending on child's age, make credit fully refundable, and allow families to choose monthly payments)	A Tale of Two Tax Policies campaign website document

Death/estates

TOPIC	CITE TO CAMPAIGN PLAN OR OTHERWISE
Tax unrealized capital gains at death, using the proposed increased capital gains and dividend rates, or eliminate stepped up basis at death.	Widely reported
Reduce the estate tax exemption possibly to 2009 levels.	Plan to Support Women During the Covid-19 Crisis.

Exhibit C - Retirement savings, qualified plan, and ABLE plan proposals

Retirement savings, qualified plans, etc.

TOPIC	***CITE TO CAMPAIGN PLAN OR OTHERWISE***
Tax credits for small businesses to offset much of costs of workplace savings plans. Provide that almost all workers without 401(k) or pension have access to "automatic 401(k)," providing opportunity to save for retirement	Plan to Build Back Better by Advancing Racial Equity across the American Economy; Plan for Older Americans and Retirement
Equalize tax benefits of defined contribution plans across the income scale so that low and middle income workers get a deferral tax break when put money away for retirement (possibly through refundable tax credit mechanism)	Lift Every Voice: The Biden Plan for Black America; Plan for Older Americans and Retirement; Plan to Build Back Better by Advancing Racial Equity across the American Economy
Remove penalties for caregivers who want to save for retirement by allowing them to make catch up contributions even if they're not earning income in the formal labor market	Lift Every Voice: The Biden Plan for Black America
Expand access to tax-advantaged "ABLE" accounts, providing people with disabilities a way to pay for qualified disability-related expenses	Plan for Full Participation and Equality for People with Disabilities
Treat recovering from domestic violence or sexual assault as qualifying condition for hardship withdrawal	Plan to End Violence against Women
Allow survivors of domestic violence or sexual assault to take distributions from retirement savings without penalty to achieve safer life	Plan to End Violence against Women

Contact us

For questions on legislative matters, contact a professional in the Federal Legislative and Regulatory Services group of KPMG's Washington National Tax:

John Gimigliano
T: +1 (202) 533-4022
E: jgimigliano@kpmg.com

Jennifer Acuña
T: +1 (202) 533-7064
E: jenniferacuna@kpmg.com

Carol Kulish
T: +1 (202) 533-5829
E: ckulish@kpmg.com

Jennifer Bonar Gray
T: +1 (202) 533-3489
E: jennifergray@kpmg.com

Tom Stout
T: +1 (202) 533-4148
E: tstoutjr@kpmg.com

www.kpmg.com

kpmg.com/socialmedia