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Legislative update: Updated charts reflecting provisions in President Biden's business tax proposals

This edition of TaxNewsFlash provides updated charts summarizing the business tax proposals in President Biden's "Build Back Better" recovery plan.

The recovery plan (announced March 31, 2021) consists of two elements—the first includes significant proposed changes to corporation taxation. Proposals relating to individual taxation are expected to be part of the second element of the recovery plan, to be announced in "coming weeks."

The first element of the recovery plan consists of two components—the "American Jobs Plan" and the "Made in America Tax Plan." The American Jobs Plan proposes about \$2 trillion in investments over eight years, the costs of which would be fully offset over 15 years by tax law changes in the "Made in America Tax Plan."

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"American Jobs Plan"

The Biden Administration has described the American Jobs Plan as consisting of four key elements:

- Investment in transportation infrastructure, such as roads, bridge, and rails
- Investment in "how we live at home," including in infrastructure relating to clean water; universal access to affordable broadband; upgrading and reorienting power infrastructure; and investment in repairs of schools, community colleges, childcare facilities, federal buildings, and the veteran hospital (VA) system
- Investment in "care infrastructure," including through measures to reduce the waitlist for seeking care for family members and through ensuring that essential healthcare jobs are "well paying"
- Investments in research and development (R&D), clean energy R&D, incentives for domestic production in certain areas, and workforce training and apprenticeships

The American Jobs Plan also includes tax incentives intended to advance its policy goals.

Select tax proposals in "American Jobs Plan" (last reviewed April 14, 2021)

Proposal	Proposal included in Biden campaign proposals?¹
Energy and environment-related items	
New tax incentive to buy American-made electric vehicles	Yes
Investment tax credit for high-voltage capacity power lines	No
Extend for 10-years and phase down of an expanded direct-pay investment tax credit and production tax credit for clean energy generation and storage	Yes
New production tax credit to spur capital-project retrofits and installations that bolster and decarbonize U.S. industry	Yes
Reform and expand Section 45Q credit for carbon capture projects	Yes
Housing-related items	
Targeted tax credits for affordable energy-efficient and electrified housing units (unclear if LIHTC modification/expansion or a different program)	Somewhat
Tax credits for new and rehabilitated homes for underserved communities (Neighborhood Homes Investment Act)	Yes
Other items	
Extend and expand home and commercial energy-efficiency tax credits	Yes
Disaster resilience tax credits for small businesses and some families	No
50% tax credit for first \$1M of construction costs for employer-provided childcare facilities	Yes
Extend Section 48C advanced manufacturing tax credits	Somewhat

¹ Chart includes as campaign proposals those proposals posted on the Biden campaign website, included in the Biden-Sanders "Unity Task Force Recommendations," mentioned on the campaign trail, or otherwise reported during the presidential campaign.

“Made in America Tax Plan”

A White House [fact sheet](#) states that, along with the American Jobs Plan, President Biden “is proposing to fix the corporate tax code so that it incentives job creation and investment here in the United States, stops unfair and wasteful profit shifting to tax havens, and ensures that large corporations are paying their fair share.” It further describes the proposed changes as fundamentally reforming the way the tax code treats the largest corporations and helping to “bring an end to the race-to-the-bottom on corporate tax rates that allow countries to gain a competitive advantage by becoming tax havens.”

Select tax proposals in “Made in America Tax Plan” (updated April 14, 2021)

Proposal	Proposal included in Biden Campaign proposals? ²
Business – General	
Increase statutory corporate rate from 21% to 28%	Yes
Create a new corporate minimum tax of up to 15% of global book income on corporations reporting net income of \$2 billion or more. Credit given for taxes paid above the minimum book tax threshold in prior years, foreign tax credits, and general business tax credits (such as research and development (R&D), clean energy and housing credits)	Yes (widely reported)
Increase IRS corporate enforcement budget	No
Business – International	
GILTI — Increase GILTI rate from 10.5% to 21% (¾ of proposed 28% corporate rate)	Yes
GILTI — Eliminate net Deemed Tangible Income Return (“DTIR”) deduction (10% return on Qualified Business Asset Investment (“QBAI”))	Yes (widely reported)
GILTI — Institute country-by-country calculation	Yes (widely reported)
Repeal FDII	No
Repeal BEAT	No
Implement SHIELD (Stopping Harmful Inversions and Ending Low-tax Developments)—denial of U.S. tax deductions related to payments made to related parties that are subject to a low effective tax rate. “Low effective tax rate” determined by reference to rate agreed upon in multilateral agreements (or 21% in absence of such agreement)	No

Tighten anti-inversion rules by applying a 50% continuing ownership threshold or a manage and control test to determine U.S. company status of a foreign acquiring corporation	Yes
Deny deductions related to offshoring jobs	Yes
Provide tax credit to support onshoring jobs—including domestic R&D incentives	Yes
Business - Energy	
Repeal fossil fuel subsidies	Yes
Reinstate Superfund Trust Fund taxes	No

² Chart includes as campaign proposals those proposals posted on the Biden campaign website, included in the Biden-Sanders “Unity Task Force Recommendations,” mentioned on the campaign trail, or otherwise reported during the presidential campaign.

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