

## White House Fact Sheet

The White House issued a [Fact Sheet](#) that outlines the provisions of President Biden's framework for the proposed Build Back Better plan. The provisions of the framework include several tax benefits, including:

- Expansion and augmentation of the existing Home Energy and Efficiency Tax Credits which will reduce the cost of installing rooftop solar energy equipment on homes and provide a tax credit for electric vehicles.
- Extension of the increased Child Tax Credit that was created under the American Rescue Plan (ARP), with features that allow for advance payments for 2022 and enabling the credit to be fully refundable for the future.
- Extension of the increased Earned Income Tax Credit (EITC) past 2021. This is the only year for which the new credit rules apply under the ARP. It is yet to be determined how many years will be covered by this provision.

After discussions with congressional leadership and several members of Congress, the spending provisions have been pared back to \$1.75 trillion. The Fact Sheet describes several ways in which the Biden Administration plans to fully fund the spending portions of the bill.

President Biden is confident that this framework can pass both houses of Congress. As a compromise to satisfy the objections of key senators, the tax changes in the framework are not as broad as those contained in the House's bill, the President's Made in America Tax Plan, or the American Families Plan. Key tax changes include:

- Expansion of individual income tax rates at higher thresholds than previously discussed in the House bill or by the Biden Administration. There would be a 5% increase to the tax rate for income in excess of \$10 million which would increase to 8% on income over \$25 million. This increase would apply to any type of taxable income, including capital gains, and it could significantly impact asset and business sale transactions.
- A new 15% corporation minimum tax which would be imposed on large corporations with more than \$1 billion in corporate profits reported to shareholders.
- A 15% country-by-country minimum tax on foreign profits of U.S. corporations to minimize the tax benefits of shifting profits and jobs offshore. This aspect came about as part of a multinational agreement. If a foreign country does not abide by this agreement, a penalty rate would be imposed on a foreign corporation with U.S.-sourced income.
- A 1% surcharge on certain corporate stock buybacks.
- An adjustment to the Net Investment Income Tax rules to address current loopholes that avoid the imposition of the tax. This would decrease the benefit of conducting business through an S corporation for those who actively participate in the business. It is unclear if there would be different thresholds for different filing statuses.

Also included in the framework is an increase to the IRS budget to enable the hiring of enforcement agents trained to pursue wealthy evaders and for modernizing outdated IRS

technology. Enforcement would be focused on those with the highest incomes and not on those earning less than \$400,000. There would also be funds to invest in IRS taxpayer services so that taxpayers can have their questions answered and be able to access the benefits to which they are entitled. The intent of these actions is to enact the types of improvements that will significantly increase the amount of tax revenue collected.

Though not specifically described in the framework's text, the summary of estimates of offsets includes a listing for revenue from the "limitation of business losses for the wealthy." This reference indicates the likelihood of making the limitation on excess business losses for individuals permanent, as proposed under the House bill and previously by the Biden Administration.

Of note, the Biden Administration framework does not include a change to the corporate tax rate, which the House bill had proposed to increase to 26.5%. No change was noted to the long-term capital gain rate which the House bill proposed to increase to 25%, or to the highest ordinary income tax rate as noted under prior Biden Administration proposals. There also was no mention of changes to the estate and gift tax lifetime exemption, or to the rules affecting grantor trusts.

The Fact Sheet did not include many of the proposed changes to international tax rules, but final legislation may include several of these proposed changes. The Fact Sheet's investment section also reflects a category of Immigration with a \$100 billion cost. The Senate parliamentarian will decide whether to allow a provision dealing with immigration changes to be included in a bill that is intended to pass under the reconciliation procedure.

Do you have questions about the potential tax implications of the Build Back Better Plan? Please contact Frankel Zacharia, LLC at 402.496.9100.