



Baldwin
Family Office, LLC

Tax Changes: How Ugly Will It Get?





First:
How bad could it
have gotten?

Prior changes and where those
proposed changes stand?

Up through a few weeks ago, many taxpayers were fearing “Tax Armageddon”



WILL NOT appear in immediate new legislation

Elimination of the step-up in basis on inherited assets

Top individual tax rate increase to 39.6%

Capital gains rate hike

Estate tax expansion (including changes in grantor trust rules)

Corporate rate hike

Eliminating carried interest tax advantage

IRS bank-account reporting

Billionaires mark-to-market tax

LIKELY to appear in immediate new legislation

Adjusted Gross Income (AGI) Surtax

Expansion of 3.8% Medicare Tax on Net Investment Income

Limitation of business losses

IRS enforcement and audit expansion

15% corporate minimum “book” tax

15% global minimum corporate tax and tightening
of international tax rules

Levy on corporate stock buybacks

Adjusted Gross Income (AGI) Surtax

- A 5% levy on:
 - Individual taxpayers with income above \$10 million
 - Trusts and estates with undistributed income in excess of \$200,000.
- An additional 3% on:
 - Individual taxpayers with income above \$25 million
 - Trusts and estates with undistributed income in excess of \$500,000.
- Levy is on top of the maximum marginal income tax rate of 37% and/or the maximum capital gain tax rate of 20%.
- Proposed for tax years beginning after December 31, 2021.
- It is estimated that this surtax will provide \$230 billion towards the cost of programs under the proposed immediate new legislation

Expansion of Net Investment Income Tax

- The bill would expand the scope of the 3.8% Medicare tax on net investment income (NII) so that essentially all income not subject to employment or self-employment tax would be subject to NII tax.
- Non-compensation income from an owner of an S corporation, Limited Liability Company or a partner in a partnership who is an active participant is now subject to the Net Investment Income Tax.
- Applies to taxpayers with income exceeding \$400,000 (single) or \$500,000 (married filing joint).
- The broader application of the tax would be effective for tax years beginning January 1, 2022.
- Estimated to provide \$250 billion towards the cost of programs under the proposed immediate new legislation

Limitation of Business Losses

- Makes permanent the limit on deducting excess business losses to \$500,000 per year for joint filers (\$250,000 for all other taxpayers) on losses generated by partnerships, limited liability companies and other passthrough entities.
- This limitation was created by the Tax Cuts and Jobs Act (TCJA) in 2017, but did not take effect until 2021.
- An excess business loss is the amount by which the total deductions attributable to all of your trades or businesses exceed your total gross income and gains attributable to those trades or businesses.
- Any carryforward losses, under the bill, will no longer be considered net operating losses (as it was in the TCJA), but would remain in the excess business loss “bucket”, which will no longer be available to offset other types of income. The carryover will be treated as a business deduction when computing the EBL in the subsequent year.
- Estimated to provide \$170 billion towards the cost of programs under the proposed immediate new legislation.

IRS Enforcement and Audit Expansion

- Provide more funding to hire more revenue agents
- Modernize technology and update customer service to increase tax compliance
- Expanded audit capabilities will target taxpayers earning more than \$400,000 per year.
- Estimated to provide \$400 billion towards the cost of programs under the proposed immediate new legislation

15% Minimum Corporate “Book” Tax

- 15% minimum tax on financial statement profits of corporations that earn greater than \$1 billion in average annual profits over 3 years.
- This is intended to close the gap in reported information for those companies who report profits to corporate shareholders and report very little-to-no taxable income to the IRS.
- The proposal would be effective for tax years beginning after December 31, 2022.
- Estimated to provide \$325 billion of the cost of programs under the proposed immediate new legislation

15% Global Minimum Tax Rate

- 15% country-by-country global minimum tax to conform with Organization for Economic Co-operation and Development(OECD) Agreement.
- Impose penalties on foreign corporations in countries that do not impose the minimum tax rate.
- The OECD agreement sets a timetable of the minimum tax taking effect by 2023.
- Estimated to provide \$350 billion of the cost of programs under the proposed immediate new legislation.

Stock Buyback Tax

- A 1% surcharge on stock buybacks on publicly traded US companies to encourage companies to invest in their operations rather than to re-purchase shares.
- The provision applies to repurchases of stock after December 31, 2021.
- Estimated to provide \$125 billion towards the cost of programs under the proposed immediate new legislation.

This Just In...

As of yesterday afternoon:

- **House Democrats announced in the afternoon that they had reached a deal to lift the SALT (State and Local Tax) cap.**
- **Lawmakers are looking at repealing the \$10,000 cap through 2025 and offsetting the cost of doing so by imposing the cap in subsequent years**
- **according to a Democratic aide and a Democratic lawmaker familiar with the discussions.**

As of this morning from the Washington Post:

- **senior Democratic leaders have eyed pairing the repeal of the SALT cap with an expanded “alternative minimum tax,”**
- **The AMT was supposed to prevent people from piling up so many tax deductions that they virtually eliminate all of their tax liability.**
- **That would at least partially mitigate the amount that the rich would benefit from the repeal of the SALT cap.**

Questions?





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Thank you for joining us for
today's presentation!

