



# Potential Tax Plans with a Democratic Controlled Congress

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With the Georgia Senate runoff elections in the rear-view mirror, Democrats will control both the White House and Congress for the first time since the 2010 midterms.

As he campaigned for the presidency, Joe Biden proposed several changes to personal and business taxes. While his plan has often been summarized as one that raises taxes on high-income households and corporations, he also proposed expanding benefits for child and dependent care, increasing green energy incentives, providing credits for homebuyers and renters, and promoting domestic production and employment, and much more.

Democrats will be governing with a slender majority in both chambers of the 117th Congress, making passing significant legislation a challenge. But the ideas that surfaced during the presidential campaign offer insights on the direction of future tax legislation. The following is a summary of some of the most significant proposals Biden has made.

### Personal taxes

**Raise the maximum tax rate on individuals to 39.6%.** The Biden tax plan would raise the maximum individual federal income rate on ordinary income and net short-term capital gains back to 39.6%, the top rate that was in effect before the Tax Cuts and Jobs Act of 2017 lowered it to 37% for 2018-2025.

**Limit the tax benefit of itemized deductions.** Biden's tax plan would limit the tax benefit of itemized deductions for upper-income individuals by establishing an overall cap of 28% on the rate against which one could take itemized deductions.

Additionally, Biden would reinstate the Pease Limitation on incomes over \$400,000. For every dollar of income earned above the threshold, the Pease Limitation reduces the value of itemized deductions by three cents.

### Raise the maximum long-term capital gains rate.

Biden's plan would tax net long-term gains and presumably dividends collected by those with incomes above \$1 million at a maximum rate of 39.6%, the same level proposed for ordinary income and net short-term capital gains. Income from carried interests would also be taxed at typical rates. The net investment income tax of 3.8% for high-income households, estates, and trusts would remain.

### Increase Social Security taxes for upper-income individuals.

Under current law, the 12.4% Social Security tax in 2021 applies to the first \$142,800 of wages or net self-employment income. Employees and employers each pay 6.2%, while self-employed individuals pay the full 12.4% via the self-employment tax. The Biden tax plan would restart the 12.4% Social Security tax on wages and net self-employment income above \$400,000.

### Eliminate basis step-up on inherited assets and return to 2009 estate and gift tax rules.

Currently, the federal income tax basis of an inherited asset subject to capital gains tax steps up to the fair market value as of the decedent's date of death. Biden's plan includes the elimination of basis step-up of inherited assets. Biden has also expressed support for returning to 2009 estate and gift tax levels of a top rate of 45% and an exemption of \$3.5 million per taxpayer.

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**Increase child and dependent care credits.** Biden wants to increase the child and dependent care tax credit to a maximum of \$8,000 for one child and \$16,000 for two or more children. The credit would be refundable and phased out for higher-income families. Biden has also proposed a new \$5,000 tax credit to help informal caregivers for expenses associated with helping family members. Additionally, he wants a temporary expansion of the child tax credit for 2021 and for as long as economic conditions require.

**Provide new credits for homebuyers and renters.** Biden's plan would create a new refundable tax credit of up to \$15,000 for eligible first-time homebuyers. His plan would establish a new refundable tax credit to hold rent and utility payments to 30% of monthly income.

**Promote retirement savings.** Biden also proposes to "equalize" the treatment of defined contribution retirement plans to make the tax benefits of saving for retirement more broadly available to middle- and lower-income taxpayers, possibly by replacing the existing deduction for retirement plan contributions with a refundable tax credit.

**Offer tax credits that help working families afford health insurance.** In addition to policies to protect and expand the Affordable Care Act, Biden wants to ensure that no family spends more than 8.5% of their income on health insurance by increasing access to refundable health premium tax credits.

**Reinstate/expand green energy tax incentives.** Biden would reinstate/develop green energy tax incentives and modify them to benefit middle-class consumers. These would include restoring credits for buying electric vehicles produced by manufacturers whose credits were phased out, reinstating the tax credit for residential energy-efficiency improvements, and permanently extending the residential solar investment tax credit.

## Business taxes

Increase the corporate tax rate and establish a minimum tax on corporations. Biden would increase the tax rate on corporate income to 28% from its current 21%. He has also recommended imposing a new minimum tax of 15% of reported book net income on corporations with at least \$100 million in annual income.

**Double the current minimum tax on profits earned by foreign subsidiaries of US firms.** A global intangible low-taxed income (GILTI) tax currently requires multinational companies to pay a tax of at least 10.5% on foreign income generated from relatively mobile and intangible assets held abroad. Biden would raise this tax to 21%.

**Phase-out small business income deduction above \$400,000.** Biden would maintain the current 20% qualified business income (QBI) deduction for those making under \$400,000 per year while phasing out the deduction for taxpayers earning \$400,000 or more.

**Eliminate real estate tax breaks.** The Biden plan would eliminate:

1. The \$25,000 exemption from the passive loss rules for rental real estate losses incurred by middle-income individuals.
2. Provisions that allow deferral of capital gains taxes on swaps of appreciated real property.
3. Rules that allow faster depreciation for certain properties.
4. QBI deductions for profitable rental real estate activities.

**Introduce incentives for domestic production and employment.** Biden would encourage domestic manufacturing and discourage offshoring of US jobs and production activity through a combination of tax penalties and incentives. His initiative includes a 10% offshoring tax penalty imposed on foreign production profits intended for sale back into the United States. The plan would also deny deductions associated with moving jobs and production offshore and introduce a "Made in America" credit of 10%, applying to several enumerated categories of qualifying expenses.

**Expand renewable energy tax credits.** Biden's plan includes tax credits for business investments in renewable energy efforts such as carbon capture, use, and storage. Biden would also end tax subsidies for fossil fuels.

**For more information, please contact your Key Private Bank Advisor.**

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