



## Current Spending Proposals and Potential Impact to Taxes

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The American Jobs Plan — also known as the Infrastructure bill — was introduced by President Biden on March 31, 2021. The plan proposes spending of \$2.3 trillion over eight years on a variety of initiatives.

To pay for the spending in the proposal, the administration has advanced the Made in America Tax Plan. The tax plan, aimed primarily at multinational corporations, is designed to raise \$2 trillion over the next 15 years. In addition, the Biden administration's American Families Plan aims to expand anti-poverty measures and help working- and middle-class American families. Biden has proposed raising taxes on high-income households to fund the measures in this plan.

If enacted, any final bill will undoubtedly differ from initial proposals due to negotiations and compromises. Nonetheless, these plans give corporations and households an opportunity to look at what might be coming in the near future.

### Key Features of the Made in America Tax Plan

**Increase the statutory corporate income tax rate to 28% from 21%.**

As a point of reference, the top corporate rate was 35% as recently as 2017. According to the Tax Foundation, when factoring in state and local taxes, the aggregate statutory US corporate rate would be 32.34%, the highest among developed nations. Some observers suggest that the statutory corporate could be negotiated down to 25%.

**Increase the global minimum tax for US multinational corporations.**

President Biden's tax reform proposal would increase the minimum tax on US corporations to 21% and calculate it on a country-by-country basis to ensure that profits in tax havens are taxed more in line with domestic rates. The plan would also eliminate the rule that allows US multinationals to pay zero taxes on the first 10% of the return on tangible assets when they locate investments in foreign countries.

**Work with other nations to institute a global minimum tax.**

The plan seeks a global agreement on a minimum tax on corporations. In addition, to discouraging companies from using tax havens, The Made in America Tax Plan would deny deductions to foreign corporations on payments that could allow them to transfer profits out of the US and be taxed at a much lower rate in a tax haven.

**Strengthen anti-inversion rules.**

An inversion is a transaction in which a US-based multinational company merges with a smaller foreign company and establishes its residence in the foreign company's country. Under current law, tax benefits of inversion are available as long as shareholders of the former US parent company own less than 80% of the combined companies. The Biden plan would treat the combined entity as a US company for tax purposes if US ownership is at least 50% or if a foreign acquiring company is managed or controlled in the US.

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## Eliminate deductions for offshoring jobs and establish a credit for onshoring jobs.

President Biden's reform proposal would not allow companies to write off expenses that come from offshoring jobs. The plan also proposes providing a tax credit to support bringing jobs to the US. There are no details on these proposals.

## Eliminate tax incentives related to "Foreign Derived Intangible Income" (FDII).

Biden's proposed tax reform includes changing the way the government promotes research and development (R&D). The tax incentives for FDII in current tax law give corporations a tax break for shifting assets abroad and are viewed as ineffective at encouraging corporations to invest in R&D. Biden wants to repeal the deduction and use the revenue to expand more effective R&D investment incentives.

## Create a 15% minimum tax on corporate book income of multinationals.

Currently, corporations can report profits on their financial statements on book (GAAP) income but pay corporate taxes based on income reported on their IRS filings. Biden's plan would establish a minimum tax of 15% on corporate book income for large US multinational corporations.

## Eliminate tax preferences for the fossil fuels industry and restore payments to the Superfund Trust Fund.

The current tax code includes billions of dollars in tax breaks for the fossil fuel industry. Biden's tax plan would eliminate these special preferences and restore payments from polluters into the Superfund Trust Fund to help cover the cost of cleanups.

## Increase IRS enforcement resources and audit capabilities.

The audit rate for large corporations has decreased steadily over the last several years. Biden's goals are to increase audits of the largest corporations, improve compliance, and increase tax revenues.

## Key Features of the American Families Plan

President Biden's American Families Plan contains numerous tax breaks for low- and middle-income taxpayers along with tax increases on households making over \$400,000 per year.

## Tax Benefits

### Extend expanded ACA premiums tax credits.

The American Rescue Plan Act of 2021 expanded the premium credit available for many persons in 2021 and 2022 who enroll in an exchange-purchased qualified health plan. The American Families Plan would make those premium reductions permanent.

### Extend the Child Tax Credit increases and make the Child Tax Credit permanently fully refundable.

The American Rescue Plan made several changes to the Child Tax Credit for 2021. For example, it expanded the Child Tax Credit from \$2,000 per child to \$3,000 per child for children six years old and above and \$3,600 per child for children under six. It also made 17-year-olds eligible as qualifying children for the first time and made the credit fully refundable. It also provided for advance periodic payment of the credits. The American Families Plan would make the fully refundable provision of the Child Tax Credit permanent while extending the other expansions to the Child Tax Credit through 2025.

### Permanently increase the Child and Dependent Care Credit.

The American Rescue Plan increased the credit amount for many taxpayers and made the credit refundable in 2021. The American Families Plan would make these changes permanent.

### Make the Earned Income Tax Credit expansion for childless workers permanent.

The American Rescue Plan made changes that roughly tripled the Earned Income Tax Credit (EITC) for childless workers for 2021. The American Families Plan would make these changes permanent.

## Tax Increases

**Increase the top tax rate to 39.6%.** The president's plan would restore the pre-2017 Tax Cuts and Jobs Act top tax bracket rate to 39.6%.

### Increase the tax on capital gains for high earners.

President Biden wants to have households making over \$1 million (the top 0.3% of all households) pay the same 39.6% rate on all their income.

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This appears to mean that households making over \$1 million will pay ordinary income tax rates on their capital gains and qualified dividend income. This also means that not all of the household's income will be subject to the 39.6% rate or that all of its capital gains and qualified dividend income will necessarily be subject to the top rate. This provision is still unclear and we will look for more clarification on it in the future.

## Reducing basis step-up at death for some taxpayers.

The plan would end the practice of stepping up the basis for gains in excess of \$1 million (\$2.5 million per couple when combined with existing real estate exemptions) at death and would tax the profits if the property is not donated to charity.

The reform would include protections, so family-owned businesses and farms will not have to pay taxes when their heirs continue to run the business.

## Change the taxation of carried interest.

Biden is also calling on Congress to close the carried interest loophole so hedge fund partners would pay ordinary income rates on carried interest income.

## Modify the rule for like-kind exchanges.

President Biden would eliminate the like-kind exchange rule with respect to gains greater than \$500,000 on real estate exchanges.

## Make the excess business loss rules permanent.

For non-corporate taxpayers in tax years beginning after Dec. 31, 2020, and before Jan. 1, 2026, the "excess business loss" of the taxpayer for the tax year, if any, is disallowed. The American Families Plan would make this rule permanent.

## Close loopholes in the 3.8% net investment income tax.

Certain unearned income of high-earner individuals, estates, and trusts are subject to a surtax of 3.8%. The administration's proposal would apply the taxes consistently to those making over \$400,000.

## Next Steps

The specifics of each of these plans are still being defined, and the passage of any bill is uncertain. The Biden Administration is currently meeting with Republican and Democratic legislators to see if they can reach bipartisan agreement on the Made in America Tax Plan and the American Families Plan. We will continue to keep you up to date as developments unfold.

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For more information, [please contact your Key Private Bank Advisor.](#)

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Publish Date: May 5, 2021

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