

Proposed Tax Changes by President Biden

Democratic victories in the two Georgia Senate runoff races have resulted in a 50-50 party split in the Senate with the tie-breaking vote of Vice President Kamala Harris giving Democrats a de facto majority in the Senate. This de facto majority would permit Democrats to use the “budget reconciliation” process to advance President Joe Biden’s tax proposals with the support of only Democratic votes.

In the House of Representatives, a simple majority vote of 218 is generally needed to pass tax legislation. Democrats currently have a slim 221 to 211 majority, with one race still undecided and two seats vacant.

The scope of any 2021 tax changes will be limited by the need to gain the near unanimous support of House Democrats and the support of all Democratic Senators. While campaigning, President Biden proposed the following changes to individual income, payroll, and estate taxes:

- Increase the top individual income tax rate for taxable income above \$400,000 from 37 percent to the pre-Tax Cuts and Jobs Act rate of 39.6 percent;
- Increase the tax rate on long-term capital gains and qualified dividends in excess of \$1 million from the current tax rate of 20 percent to 39.6 percent;
- Eliminate the step-up in tax basis of assets transferred at death;
- Cap the tax benefit of itemized deductions for those earning more than \$400,000 and restore certain limitations on itemized deductions for taxable income over \$400,000;
- Phase out the qualified business income deduction (also referred to as the passthrough deduction for income passed through from S corporations and partnerships to their owners) for filers with taxable income above \$400,000;
- Expand or increase certain tax credits, including the child and dependent care tax credit (CDCTC), earned income tax credit (EITC), and child tax credit (CTC), and reestablish the first-time homebuyers’ tax credit;
- Impose a 12.4 percent payroll tax on income earned above \$400,000; and
- Reduce the estate and gift tax exemption levels to those in place in 2009 which are \$3.5 million estate and \$1 million gift with an increased maximum rate of 45%.

The following changes were proposed by President Biden for corporate income taxes:

- Increase the corporate income tax rate from 21 percent to 28 percent;
- Create a minimum tax on corporations with book profit of \$100 million or higher;
- Establish certain new tax credits, including a manufacturing communities tax credit, and expand certain existing tax credits, including the new markets tax credit and certain renewable energy tax credits; and
- Revise the global intangible low tax income (GILTI) structure by doubling the tax rate from 10.5 percent to 21 percent, assessing GILTI on a country-by-country basis, and eliminating GILTI’s exemption for deemed returns under 10 percent of qualified business asset investment.

The results of the 2020 election cycle will likely have a significant impact of the direction of tax policy in the US. Businesses and individuals should examine the proposed tax changes and consider the potential impact on job creation, cash flows, investments, and transactions. If our tax team can provide any assistance in assessing the potential impact of any proposed tax changes or designing potential mitigation strategies, please do not hesitate to contact Gary E. Bedsole at gbedsole@handfirm.com or 205-502-0165.

TAX Alert

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