

# Election 2020 Proposals - What Happens Now?

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PRESENTED TO THE JAEPC

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# Proposals – Not Current Law

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We will discuss proposals and ideas that have been expressed by President – Elect Biden and his political party. Some proposals have details and specifics, while others are general and vague. I have made some assumptions and the examples presented are for illustration purposes.

I believe most new Presidents (and Governors) tend to get what they want when newly elected.

These topics presented have many tax and non tax implications. This is not legal, tax or financial advice. You should always consult with your tax advisor for the specific impact to your business or your personal situation.



# Biden proposal – In General

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- Increased margin income tax rates on high income individuals
- Increase capital gains taxes on high income individuals
- Change in itemized deduction rules and benefits
- Create new QBI “Qualified Business Income” deduction phase-out
- Create additional Social Security tax bracket
- Increase the corporate income tax rate
- Reduce estate tax exemption
- Repeal of step up basis and tax on unrealized gains at death



# Biden Proposal – Effective Date

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Tax changes generally start:

- Retroactively to start of the year (1/1/21)
- Mid year (7/1/21)
- Next Year (1/1/22)
- Date that the legislation is proposed. (possibly 1/20/21)

Congress can impose retroactive taxation.

Start may be delayed to generate additional tax revenue.

Note: Tax planning moves in 2021 may be too late!





# Biden Proposals – Capital Gains

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Another cornerstone of the Biden Proposals is the increase in the capital gains and qualified dividends tax rate on incomes over \$1,000,000.

Current capital gains and qualified dividends are currently taxed at:

(Incomes based on Married filing Joint for 2020)

0% on other taxable income up to \$80,250.

15% on other taxable income between \$80,250 to \$400,000.

20% above \$400,000

Proposal will increase the tax rate to 39.6% on income over \$1,000,000.

The Medicare tax of 3.8% on net investment income above \$250,000 is expected to remain.



# Biden Proposal – Itemized Deductions

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Proposal to limit itemized deductions to a 28% tax benefit.

Mechanics are unclear.

Itemized deductions of \$10,000 values:

	22%	24%	32%	35%	37%
Current					
Deduction	\$2,200	\$2,400	\$3,200	\$3,500	\$3,700
Tax-Value					
Proposed					
Deduction	\$2,200	\$2,400	\$2,800	\$2,800	\$2,800
Tax-Value					



## Biden Proposal – Restore Pease 3%

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The Pease limitation was eliminated under the Trump reform of 2017. This limitation reduced total itemized deductions by 3% of the amount over \$313,800 in 2017 (MFJ). Applies to State and local taxes, mortgage interest, and charitable deductions.

The proposal will re-instate the limitation for incomes over \$400,000.





# QBI – New Phase-out

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Phases out the Qualified Business Income Deduction (QBI) of up to 20% for incomes above \$400,000.



# Biden Proposals – Credits

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- Expands the Earned Income tax credit (EITC) for workers over 65.
- Expands the Child and Dependent Care credit (CDCTC) from a limit of \$3,000 in qualified expenses to \$8,000 (\$16,000 for more than one dependent) and increases the maximum reimbursement rate from 35% to 50%.
- For 2021 and “as long as economic conditions require” the Child Tax credit will increase to \$3,000 (from \$2,000), for child 17 and younger (was under 17), provide an additional \$600 credit for children under 6, and make the credit fully refundable.
- Reestablished the first time home buyer credit of up to \$15,000.



# Biden Proposal – Social Security Tax

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Proposal will apply the 12.4% employer/employee to earned income (wages) over \$400,000. The social security retirement benefit will not be adjusted for this new bracket.

Current law provides tax of 12.4% on earned income up to \$137,700. This amount is indexed for a COLA type adjustment.

Eventually the COLA adjustment on the \$137,700 limit will catch up to the \$400,000.



# Medicare Premium Cost-Current Law:

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Time-out for a sidebar...

Upper income individuals pay a higher Medicare Part B (Doctor services and outpatient care) and Part D (Drug) premiums.

This is often a surprise to new retirees. The standard premium is \$144.60 per month for Part B and is intended to cover 25% of the cost. As your income increases the 25% the retiree pays can increase to 35%, 50%, 65%, 80% or 85%.

The standard premium is applied to MFJ income under \$174,000. Incomes over \$750,000, MFJ taxpayers pay an extra \$347.00 per month for Part B and \$76.40 for Part D.



# Biden Proposal – Corporate tax

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In the corporate tax setting, a cornerstone of the Biden proposal is to increase the federal Corporate tax rate to 28%. The 2017 tax reforms reduced the rate from 35% to 21%. That reform also eliminated the lower bracket of 15%.

Biden has also proposed the repatriation of foreign earnings be taxed at 28%.

Creates minimum tax of 15% on corporation with book profits of \$100 million or higher.

Doubles the tax on global intangibles of foreign subsidiaries to 21%.

Credits are also provided for New Markets, Manufacturing communities credit, expand credits for small business to adopt retirement plans and various energy related credits are expanded.



# Biden Proposal – Estate tax exemption

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- The 2017 Tax reform increased the estate tax exemption to over \$11,580,000 per person through 2024. It is set to sunset in 2025. This was an increase from \$3,500,000 during the Obama administration. It is expected to be decreased back to \$3,500,000.
- The house democrats have proposed the exemption be reduced to \$1,000,000.
- IRS has announced that if you don't use the \$11MM exemption and it gets reduced, you lose the potential benefit.
- Example 1: Couple gifts \$5,790,000 each in 2020 (this is the expected rate in 2025). In 2025, the exemption sunsets. Their remaining exemption would be zero.
- Example 2: Couple gifts \$11,580,000 each in 2020. Exemption sunsets in 2025 or is reduced by the Biden Proposal. Estate tax Savings at 45% is about \$2,600.000 each.



# Biden Proposal – Step-up Basis

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A major change in the estate tax area!

The proposal to eliminate the basis adjustment rule known as the “Step-up.”

This would be done in one of two ways:

- Carryover basis to beneficiaries (we had this for the year 2000 only),
- Or, the Canadian style whereby unrealized gains are recognized on the descendant’s final return.
  - Example: \$1,000,000 unrealized gain reported on final personal tax return taxed at 39.6% is 396,000. The remaining \$604,000 is estate taxable at 45%. This results in an estate tax of \$271,800. Net to beneficiaries \$332,200.
  - Effective tax rate 66.78% ouch!



## Biden Proposal – Gift Planning

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The Biden proposal will uncouple the unified estate and gifts tax rules. Future gifts will be limited to \$1,000,000 lifetime.

Discounts for gifts of closely held family companies are likely to be eliminated. (these have been under attack by the democrats for may years).





# Biden Proposals Roth Conversion planning

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Roth Conversions – with higher income tax rates in the future, conversion will continue.

- Remember to take into account the beneficiaries potential rates
- Growth rates are generally the same because the conversion will be invested the same.
- Known tax – if the tax rate at conversion is the same what would have been for the regular IRA distribution – the conversion is a push.
- Conversion not needed for living expenses or for a long time.
- Estate tax saving by the amount of tax paid.
- Factor in QBI phase out, deduction phase outs,



# Thank You

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We went through hours of information in a few minutes. These topics presented have many tax and non tax implications. This is not legal, tax or financial advice. You should always consult with your tax advisor for the specific impact to your business or your personal situation.

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