

Proposed Tax Law Changes

Attached is a summary of significant tax law changes recently proposed by the U.S. House Ways & Means Committee. These proposals strive to satisfy President Biden's campaign pledge to not increase taxes for anyone making less than \$400k.

It's worth noting that the proposed changes remain at the committee level and several steps still need to take place before final legislation is passed. The House Democrats intend to incorporate the proposals into the *Build Back Better Act* that they hope to move through the chamber in the coming weeks. It remains possible that the Senate will amend the House bill.

We'll strive to stay ahead of the proposals to identify planning opportunities that you may need to be aware of.

Please reach out to your Modera advisory team if you have questions, as well as other professionals such as your CPA, tax adviser or estate planning attorney. We'd be happy to coordinate those conversations if needed.

Finally, we invite you to attend our virtual Town Hall on November 18 at 4:00pm ET where we will address any new legislation that is passed and other relevant year-end planning strategies.

Individual Income Tax Proposals:

- Effective as of September 13, 2021, increase the 20% long term capital gains tax rate to 25%.
- Beginning in 2022, increase the individual top marginal tax rate from 37% to 39.6% for single filers with taxable income over \$400k, married joint filers with taxable income over \$450k (\$225k for married individuals filing separately) and estates and trusts with taxable income of more than \$12,500.
- Beginning in 2022, expand the 3.8% Net Investment Income Tax to cover trade or business income for taxpayers with greater than \$500k in taxable income for joint filers, \$250k married filing separately or \$400K for other taxpayers. The tax would not apply to wages on which FICA is already imposed.
- Beginning in 2022, add a surcharge of 3% of a taxpayer's modified adjusted gross income in excess of \$2,500,000 for married individuals filing separately, \$100,000 for estates and trusts and \$5,000,000 for all other taxpayers
- Beginning in 2022, capping the amount of the Qualified Business Income deduction at \$400k for a single filer, \$500k for married joint filers (\$250k for married individuals filing separately) and \$10k for a trust or estate.
- Beginning in 2022, prohibit Traditional IRA or Roth IRA contributions if current value of defined retirement accounts and all IRAs exceed \$10,000,000 and taxable income is over \$400k for single taxpayers (or married taxpayers filing separately) and married taxpayers filing jointly with taxable income over \$450k.
- Beginning in 2022, require an additional 50 percent of the excess amount over \$10,000,000 to be distributed as a required minimum distribution from Traditional and Roth IRAs and defined contribution account balances. Additional required minimum distributions will be required if aggregate Traditional IRA, Roth IRA and defined contribution account balances exceed \$20,000,000. Both additional distribution mandates would only apply to single filers (and married separate filers) with taxable income over \$400k and married joint filers with taxable income over \$450k.
- Beginning in 2022, prohibit all employee after-tax contributions to qualified plans and after-tax Traditional IRA contributions from being converted to Roth IRA regardless of income level (**this would eliminate "back-door" Roth IRA contributions**).

- Elimination of Roth conversions (for both IRAs and employer-sponsored plans) beginning after December 31, **2031**, for single or married separate filers with taxable income over \$400K (over \$450K for joint filers).

Estate and Gift Tax Proposals

- Beginning in 2022, terminate the temporary increase of the estate and gift tax exemption and revert it back to about \$6,000,000 per individual, indexed for inflation.
- Grantor trusts established and transfers to grantor trusts after date of enactment will be pulled into decedent's taxable estate when the decedent is the deemed owner of the trust. Sales between grantor trusts and the deemed owner will be treated as equivalent to sales between the owner and a third party.
- After date of enactment, valuation discounts for transfer tax purposes will not be afforded for transfers of nonbusiness assets.
- Note that the House Ways & Means Committee has not proposed changes to the current rules on the step-up of assets at date of death.

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