
# President Biden's Proposed Tax Plan: What You Need to Know about the Potential Impact on Your Assets

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If you have an estate of $1,000,000 or more, it is important that you understand the potential impact President Biden's proposed tax plan may have on your assets. Biden's plan is to increase taxes on certain taxpayers, close "loopholes," and give the IRS more resources to enforce the tax laws. If passed, many of Biden's tax reforms will not only impact the über-rich, but also professionals and small business owners.

The top three things that you should be concerned about (with a proposed effective date of January 1, 2022) are as follows:

- The basis step-up for capital assets at death will be partially eliminated. Instead, bequests of appreciated property would be treated as taxable realization events and would subject the decedent's estate to immediate income tax at increased ordinary rates. Certain exclusions apply to bequests to charity and surviving spouses and for bequests of tangible personal property (excluding collectibles).
- Gifts of appreciated property would also be realization events and would subject the donor to immediate income tax, subject to the exclusions discussed above. The donee would receive a carry-over basis for any property counted against the donor's $1,000,000 exclusion from gain recognition.
- Valuation discounts on transfers of partial interests in family companies and other small businesses will be eliminated.

The result is a death tax (albeit couched as an income tax) for decedents whose estates exceed $1,000,000 (including non-probate assets that have not already been transferred out of the estate). When the estate tax exemption reverts back to $5,000,000, individuals with estates of over $5,000,000 (indexed for inflation) that die on or after January 1, 2026 could be hit with ***both*** income tax and estate tax—at a very high combined rate—on a portion of their estates.

In light of these proposed reforms, there are some actions you may be able to take <u>before the end of the year</u> to reduce your ultimate tax burden:

- Move life insurance policies into an irrevocable life insurance trust to avoid subjecting the death benefits to tax in your estate.
- Donate highly appreciated property to your intended beneficiaries or an irrevocable trust for their benefit.
- If you own a closely-held business interest, consider donating a minority interest to your intended beneficiaries or an irrevocable trust for their benefit to take advantage of valuation discounts and the current gift tax exemption amount.

- If you are out of gift tax exemptions, sell a minority interest in a small business or family-owned entity to an Intentionally Defective Grantor Trust (an "IDGT") or a Grantor Retained Annuity Trust (a "GRAT") at a valuation discount.