



BTAX OnPoint: Treasury Releases Fiscal 2024 Greenbook

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Bloomberg Tax

About This OnPoint

- **The Treasury released its Greenbook for fiscal 2024 detailing the revenue proposals for President Biden's budget plan**
- **It includes familiar revenue raisers and expanded health and retirement programs**
 - Increased rates and expanded brackets for high-earners
 - Increased corporate rates
 - Expanded premiums under the Affordable Care Act
- **This OnPoint provides key highlights from the Greenbook**
 - Various changes in corporate and individual taxes
 - Modifications to bring the US in line with international agreements
 - Adjustments to federal health programs and requirements for retirement accounts and distributions

Tax Changes Would Raise \$2.2 Trillion Over Decade on Net

Proposal	10-year revenue effect (in billions)
Increase corporate tax rate to 28%, from 21%	\$1,325.8
Raise the additional Medicare tax for high-income households to 5%, from 3.8%; change how tax applies to certain passthrough income	650.0
Adopt undertaxed profits rule	549.0
Impose 25% minimum tax on total income of wealthiest 0.01% of taxpayers	436.6
Increase excise tax on corporate stock buybacks	237.9
Increase top marginal income tax rate to 39.6%, from 37%, for individuals earning more than \$400,000, or more than \$450,000 for joint filers	235.3
Change taxation of capital income	213.9
Eliminate various fossil fuel tax incentives	30.8
Tax carried interest as ordinary income	6.5
Impose digital asset mining energy excise tax	3.5

Corporate Rates Increased, Basis Step-Up Deferred

Rates	Current Law	Greenbook Proposal
Corporate income tax	21%	28%
Stock repurchase excise tax	1%	4%

- **Apply matching rule to related-person partners on partnership's elective basis step-up following property distribution**
 - Partners related to distributee-partner wouldn't benefit from basis step-up of non-distributed property until distributed property is disposed of in fully taxable transaction
- **Tax carried (profits) interest as ordinary income**
 - Apply to income on investment services partnership interest if partner's taxable income (from all sources) exceeds \$400K
 - Income would be ineligible for reduced long-term capital gain rates

Proposal Modifies Tax Treatment of Corporate Transactions

Increased Dividend Treatment of Distributions

Treat leveraged distributions as dividends from funding corporation

- If funded with principal purpose of dividend avoidance

Treat purchase of hook stock by subsidiary as deemed distribution of property to issuing corporation

Repeal boot-within-gain limitation in reorganizations where shareholder's exchange has dividend distribution effect

More Divisive Reorganization Requirements

Distributing corporation would recognize gain:

- On the lesser of its excess monetization amount or controlled corporation boot transferred to creditors, and
- If its excess monetization amount exceeds the controlled corporation boot transferred to creditors

Controlled corporation must:

- Be adequately capitalized as a result of reorg, and
- Post-reorg, continue to be economically viable entity

Consider contingent liabilities assumed by controlled corporation

Limited Losses on Liquidations

Disallow losses on complete liquidations within a controlled group where assets remain in group after liquidation

- Target transactions in which taxable liquidations are structured into by controlled groups of corporations to recognize losses
 - See [Granite Trust case](#)
- Authorize Treasury to grant loss deferral, rather than denial

US Global Minimum Tax Rules Revision Aligns with Pillar Two

- **The increased effective tax rate and shift to jurisdiction-by-jurisdiction calculation could qualify the US minimum tax as an Income Inclusion Rule under Pillar Two**
 - Pillar Two deal aims to ensure corporations pay a minimum amount of tax regardless of their location

	Current Law – GILTI	Proposal – Global Minimum Tax
QBAI	10% QBAI exemption	Eliminated
Section 250 deduction	50%	25%
Corporate tax rate	21%	28%
Effective tax rate	10.5%	21%
Method of calculating	Global averaging	Jurisdiction-by-jurisdiction
Losses	No carryforward of net tested losses	Permits NOL carryforward
FTC carryforward	No carryforward of FTCs	Permits 10-year FTC carryforward
FTC haircut	20%	5%

Undertaxed Profits Rule Replaces BEAT in Move to Pillar Two

- **The UTPR would apply to financial reporting groups with global annual revenue of at least €750 million in at least two of the last four years**
- **Would deny US tax deductions to domestic financial reporting group members**
 - Amount would be determined by reference to low-taxed income of foreign group members
 - The disallowance would result in a 15% tax rate in each foreign jurisdiction where the group has profits
 - Would apply pro rata with respect to otherwise allowable deductions and after other deduction disallowance provisions in the US Code
 - Excess UTPR disallowance would be carried forward indefinitely
- **Wouldn't apply to income subject to a qualifying income inclusion rule**
 - Wouldn't apply to income of US-parented MNEs subject to the revised global minimum tax

Biden Expands Taxation of Wealthy, Adds 25% Minimum

- High earners facing increased top marginal rate and expanded brackets

Taxpayer	Proposed 39.6% Income Brackets	2023 37% Income Brackets
Married Filing Jointly/Surviving Spouse	Over \$450,000	Over \$693,750
Married Filing Separately	Over \$225,000	Over \$346,875
Single	Over \$400,000	Over \$578,125
Head of Household	Over \$425,000	Over \$578,100

- **Wealthiest taxpayers would face new levies with 25% minimum tax**
 - Imposed on wealth greater than \$100 million
 - Unrealized capital gains included in "total income"

High-Net-Worth Individuals Targeted by Biden Budget

Forced Gain Recognition

- Gain on appreciated assets would be recognized at time of transfer by donor or decedent
- Trusts and non-corporate entities would recognize gain on unrealized appreciation for property without recognition event in prior 90 years
 - Deemed recognition event occurs after 2032

Grantor Trusts & GRATs

- Transfers between grantor trusts and deemed owner would result in gain recognition
- Value of remainder interest in GRAT must equal or exceed 25% of assets transferred to it
 - Term must be between 10 years and 10 years beyond annuitant's life expectancy

Total Gift Limit

- Donor will be limited to \$50,000 in annual gifts, even if annual gift tax exclusion amount isn't exceeded
- Aggregate gifts above \$50,000 in tax year subject to gift tax

Generation-Skipping Transfer Tax

- Benefit of GST exemption would be limited by the life of direct skips and beneficiaries alive at creation of the trust
 - Dynasty trusts most impacted
- Trust's GST ratio would adjust on transactions with other trusts or decanting of another trust

Reporting Rules Extended to Crypto, Oil Breaks Nixed

- **Modernize rules for digital assets**
 - Expand securities loan nonrecognition rules to include loans of actively traded digital assets
 - Require reporting by certain taxpayers of foreign digital asset accounts
 - Amend mark-to-market rules to include digital assets
- **Require 100% recapture as ordinary income of depreciation deductions taken on certain depreciable real property, like buildings or land leaseholds**
 - Excluding noncorporate taxpayers with adjusted taxable income below \$400,000
- **Eliminates tax subsidies for oil and gas, including:**
 - Credit for oil and gas produced from marginal wells
 - Expensing of intangible drilling costs
 - Expensing of exploration and development costs

Greenbook Would Tweak Various Wealth Planning Tools

Valuation, Trust Loans & Special Use Property	Tax-Exempt Organizations
<ul style="list-style-type: none">• Valuation Issues – Limit valuation discounts for AFR promissory notes<ul style="list-style-type: none">• Limit valuation discounts for intrafamily transfers of partial interests if family collectively holds at least 25% of property• Trust Loans – Loans to beneficiary would be treated as distribution of income and as distribution for generation-skipping transfer tax purposes• Special Use Valuation Property – Cap would be increased to \$13M	<ul style="list-style-type: none">• Donor Advised Funds – Private foundation distributions to donor advised fund would qualify as distribution only if the donor advised fund makes distribution in tax year of receipt• Private Foundation 5% Payout Requirement – Payments to disqualified persons will be excluded from payout amount• Limit on Shark-Fin Charitable Lead Annuity Trusts – Annual annuity payment must be fixed amount over trust term; remainder interest must be at least 10% of property value

Changes to Distribution, Withholding Affects Employers' Liability

- **Requires distributions from retirements accounts (including some employer-sponsored plans and IRAs) with aggregated vested balances exceeding \$10 million at year's end**
 - Limits rollovers and conversions from a distribution into a Roth IRA (“backdoor Roth IRAs”)
- **Employers must withhold 20% penalty tax on nonqualified deferred compensation plans that don’t comply with IRS requirements**
 - Employers must withhold additional interest tax where applicable
- **Includes certain payments to employees paid out under fixed indemnity arrangements as wages subject to employer tax withholding**
 - Applies to payments made without regard to actual costs; employers may still deduct expenses
- **Requires post-retirement benefit options to be funded throughout the working lives of covered employees on a level basis or for 10 years, whichever is longer**

Budget Keeps Premium Tax Credit Expansions

- **Makes the changes to the Premium Tax Credit in the American Rescue Plan and the Inflation Reduction Act permanent**
 - Credit would remain available to families above 400% of the Federal Poverty Level
 - Percentage of income spent on premiums before credit eligibility would stay at lowered levels

Percent of Federal Poverty Level	Pre-American Rescue Plan Contribution Threshold	Post Legislative Contribution Threshold
Up to 133%	2%	0%
133 – 150%	3 – 4%	0%
150 – 200%	4 – 6.3%	0 – 2%
200 – 250%	6.3 – 8.05%	2 – 4%
250 – 300%	8.05 – 9.5%	4 – 6%
300 – 400%	9.5%	6 – 8.5%
400%+	Not Eligible	8.5%



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