

DCA BRIEFING: Green Book Highlights

Biden Administration's Fiscal Year 2023 Revenue Proposals

Author:

Thomas Keeling

Sr. Associate, Financial Planning



01

GREEN BOOK HIGHLIGHTS

Biden Administration's Fiscal Year 2023 Revenue Proposals

The Treasury's "Green Book" – General Explanations of the Administration's Fiscal Year 2023 Revenue Proposals, was recently released and contains many significant new proposals in addition to the extensive proposals contained in the "Build Back Better" reconciliation bill that passed the House last November. Due to the current structure of the House and Senate, as well as impending midterm elections, the likelihood of significant tax legislation is very uncertain and faces many challenges. Ultimately the Green Book proposals are nothing more than recommendations that Congress has complete discretion on including, excluding, or modifying.

Listed below are a few highlights of the proposals and a link to the Treasury's "Green Book" for further reading.

Please feel free to reach out with any questions or further information regarding the Biden Administration's Fiscal Year 2023 Revenue Proposals.

[Department of the Treasury's "Green Book" March 2022 – General Explanations of the Administration's Fiscal Year 2023 Revenue Proposals](#)



02

REVENUE PROPOSAL HIGHLIGHTS

Reform Business and International Taxation

- RAISE THE CORPORATE INCOME TAX RATE TO 28 PERCENT
- ADOPT THE UNDERTAXED PROFITS RULE
 - Repeal the BEAT and replace it with a UTPR that is consistent with the UTPR described in the Pillar Two Model Rules.
 - includes a “domestic minimum top-up tax”
- PREVENT BASIS SHIFTING BY RELATED PARTIES THROUGH PARTNERSHIPS
 - The proposal would reduce the ability of related parties to use a partnership to shift the partnership basis among themselves. In the case of a distribution of partnership property that results in a step-up of the basis of the partnership’s non-distributed property, the proposal would apply a matching rule that would prohibit any partner in the distributing partnership that is related to the distributee-partner from benefitting from the partnership’s basis step-up until the distributee-partner disposes of the distributed property in a fully taxable transaction.

Modify Fossil Fuel Taxation

- ELIMINATE FOSSIL FUEL TAX PREFERENCES

Strengthen Taxation of High-Income Taxpayers

- INCREASE THE TOP MARGINAL INCOME TAX RATE FOR HIGH EARNERS
 - Increase the top marginal tax rate to 39.6 percent. The top marginal tax rate would apply to taxable income over \$450,000 for married individuals filing a joint return, \$400,000 for unmarried individuals (other than surviving spouses), \$425,000 for the head of household filers, and \$225,000 for married individuals filing a separate return. After 2023, the thresholds would be indexed for inflation using the C-CPI-U, which is used for all current thresholds in the tax rate tables.
 - The proposal would be effective for taxable years beginning after December 31, 2022.



03

REVENUE PROPOSAL HIGHLIGHTS

Strengthen Taxation of High-Income Taxpayers

- REFORM THE TAXATION OF CAPITAL INCOME
 - Tax capital income for high-income earners at ordinary rates
 - Long-term capital gains and qualified dividends of taxpayers with taxable income of more than \$1 million would be taxed at ordinary rates. The proposal would only apply to the extent that the taxpayer's taxable income exceeds \$1 million (\$500,000 for married filing separately), indexed for inflation after 2023.
 - Treat transfers of appreciated property by gift or on death as realization events
 - The donor or deceased owner of an appreciated asset would realize a capital gain at the time of the transfer. The amount of the gain realized would be the excess of the asset's fair market value on the date of the gift or on the decedent's date of death over the decedent's basis in that asset. The proposal would be effective for gains on property transferred by gift, and on property owned at death by decedents dying, after December 31, 2022, and on certain property owned by trusts, partnerships, and other non-corporate entities on January 1, 2023.
- IMPOSE A MINIMUM INCOME TAX ON THE WEALTHIEST TAXPAYERS
 - The proposal would impose a minimum tax of 20 percent on total income, generally inclusive of unrealized capital gains, for all taxpayers with wealth (that is, the difference obtained by subtracting liabilities from assets) of an amount greater than \$100 million.

Support Families and Students

- MAKE ADOPTION TAX CREDIT REFUNDABLE AND ALLOW CERTAIN GUARDIANSHIP ARRANGEMENTS TO QUALIFY
- PROVIDE INCOME EXCLUSION FOR STUDENT DEBT RELIEF
 - The proposal would make permanent the ARP exclusion of certain discharged student loan amounts from gross income.



04

REVENUE PROPOSAL HIGHLIGHTS

Modify Estate and Gift Taxation

- MODIFY INCOME, ESTATE, AND GIFT TAX RULES FOR CERTAIN GRANTOR TRUSTS
- REQUIRE CONSISTENT VALUATION OF PROMISSORY NOTES
 - The proposal would impose a consistency requirement by providing that if a taxpayer treats any promissory note as having a sufficient rate of interest to avoid the treatment of any foregone interest on the loan as income or any part of the transaction as a gift, that note subsequently must be valued for Federal gift and estate tax purposes by limiting the discount rate to the greater of the actual rate of interest of the note, or the applicable minimum interest rate for the remaining term of the note on the date of death.
- LIMIT DURATION OF GENERATION-SKIPPING TRANSFER TAX EXEMPTION
 - GST exemption would apply only to: (a) direct skips and taxable distributions to beneficiaries no more than two generations below the transferor, and to younger generation beneficiaries who were alive at the creation of the trust; and (b) taxable terminations occurring while any person described in (a) is a beneficiary of the trust.

Close Loopholes

- TAX CARRIED (PROFITS) INTERESTS AS ORDINARY INCOME
 - The proposal would generally tax as ordinary income a partner's share of income on an "investment services partnership interest" (ISPI) in an investment partnership, regardless of the character of the income at the partnership level, if the partner's taxable income (from all sources) exceeds \$400,000. Accordingly, such income would not be eligible for the reduced rates that apply to long-term capital gains.
- REPEAL DEFERRAL OF GAIN FROM LIKE-KIND EXCHANGES
 - The proposal would allow the deferral of gain up to an aggregate amount of \$500,000 for each taxpayer (\$1 million in the case of married individuals filing a joint return) each year for real property exchanges that are like-kind. Any gains from like-kind exchanges in excess of \$500,000 (or \$1 million in the case of married individuals filing a joint return), a year would be recognized by the taxpayer in the year the taxpayer transfers the real property subject to the exchange.



05

REVENUE PROPOSAL HIGHLIGHTS

Close Loopholes

- REQUIRE 100 PERCENT RECAPTURE OF DEPRECIATION DEDUCTIONS AS ORDINARY INCOME FOR CERTAIN DEPRECIABLE REAL PROPERTY
 - The proposal would not apply to noncorporate taxpayers with adjusted taxable income (AGI) below \$400,000 (\$200,000 for married individuals filing separate returns).



06

DISCLOSURE

This publication is for your information only and is not intended as an offer, or a solicitation of an offer, to buy or sell any investment or other specific product. The analysis contained herein does not constitute a personal recommendation or consider the particular investment objectives, investment strategies, financial situation, and needs of any specific recipient. It is based on numerous assumptions. Different assumptions could result in materially different results. All information and opinions expressed in this document were obtained from sources believed to be reliable and in good faith, but no representation or warranty, express or implied, is made as to its accuracy or completeness (other than disclosures relating to Delos Capital Advisors). All information and opinions and any forecasts, estimates, and market prices indicated are current as of the date of this report and are subject to change without notice. In no circumstances may this document or any of the information (including any forecast, value, index, or other calculated amounts ("Values")) be used for any of the following purposes (i) valuation or accounting purposes; (ii) to determine the amounts due or payable, the price or the value of any financial instrument or financial contract; or (iii) to measure the performance of any financial instrument including, without limitation, for the purpose of tracking the return or performance of any Value or of defining the asset allocation of portfolio or computing performance fees. By receiving this document and the information, you will be deemed to represent and warrant to Delos Capital Advisors that you will not use this document or otherwise rely on any of the information for any of the above purposes. This material may not be reproduced or copies circulated without prior authorization of Delos Capital Advisors. Unless otherwise agreed in writing, Delos Capital Advisors expressly prohibits the distribution and transfer of this material to third parties for any reason. Delos Capital Advisors accepts no liability whatsoever for any claims or lawsuits from any third parties arising from the use or distribution of this material.

