



## Greenbook Deja'vu: Proposed Tax Increase on Wealthy

On March 28, 2022, the Biden Administration released its budget and tax proposals for FY2023. Alongside the Budget the Treasury released its document further describing the revenue proposals in what is typically called the Greenbook. Many of the proposals are reminiscent to those in last year's Greenbook and/or part of the Build Back Better (BBB) proposals that passed the House but ran into opposition in the Senate.

Congressional Democrats can pass legislation on their own using a simple majority vote in the Senate through the budget reconciliation process. While Democratic senators were unable to reach a consensus on the BBB legislation passed by the House, largely due to the objections of Senators Manchin and Sinema, the political landscape may be changing. Both senators indicate a willingness to renewing negotiations. It is generally believed that a new package will be considered by Congress before the start of the Congressional August recess. Following is a summary of some of the proposals that may be of interest to financial professionals:

	Current	Biden's Greenbook Proposal (Effective 1/23 unless noted)
<b>Estate &amp; Gift Exemption</b>	\$12.06 million sunsets 1/1/26	No change proposed
<b>Estate &amp; Gift Rates</b>	40%	No change proposed
<b>GRATs</b>	<ul style="list-style-type: none"> <li>• Zeroed-Out GRATs possible (no gift or minimal gift tax)</li> <li>• No stated term length</li> </ul>	<ul style="list-style-type: none"> <li>• Remainder gift value must be greater of \$500,000 or 25% value of asset transferred to GRAT</li> <li>• Minimum term of 10 years &amp; maximum term life plus 10.</li> </ul> Effective for trusts created on or after date of enactment.
<b>Sales to Grantor Trust</b>	Sales to grantor trusts do not result in the recognition of gain	Sales to grantor trusts, that are not fully revocable, result in seller recognizing taxable gain. Effective for transactions on or after date of enactment.
<b>Grantor Trust Income Tax</b>	Grantor required to report trust income. Payment of income tax not considered a gift.	Payment of trust income by grantor of grantor trust is considered a gift. Effective for trusts created on or after date of enactment.
<b>Top Ordinary Income Tax Rate</b>	37% (Beginning \$647,850 joint, \$539,900 single)	39.6% (Beginning \$450,000 joint, \$400,000 single)*
<b>Wealthy Tax Minimum Income Tax</b>	N/A	20% on income & unrealized gain on taxpayers with net worth over 100M.
<b>Wealth Tax Exception</b>	N/A	"Illiquid" taxpayers (those with less than 20% of tradable assets) can elect to pay tax on only tradable assets but will be subject to a deferral charge on sale of non-tradable assets



<b>Capital Gains Tax Rate</b>	20% (plus 3.8% net investment income tax)	39.6% (plus 3.8% net investment income tax) For income exceeding \$1 million Effective date of enactment.
<b>Step-Up Basis at Death</b>	Yes	No Built-in gain realized
<b>Gift Basis</b>	Donor basis carryover to donee	Built-in gain realized at transfer
<b>Assumed Gain Realized on Trusts &amp; Non-Corp Entities</b>	N/A	Unrealized gain taxed every 90 years. Application to property not subject to gain since 12/31/39.
<b>Trust &amp; Partnership Transfers/ Distributions</b>	N/A	Gain is taxable on transfers to and distributions from trusts (other than grantor revocable trusts) & partnership Effective 1/1/2023.
<b>Capital Gain Exemption</b>	N/A	\$5 million per-person plus tangible property excluding collectibles (plus \$250,000 per-person for residence) Will be portable and indexed.
<b>Capital Gain Exclusion</b>	N/A	Transfers to U.S. spouse and charity no gain recognized (except split-interest property), basis carryover.
<b>Gain on Family Businesses</b>	N/A	Gain delayed until business is sold or no longer family owned.
<b>Corporate Tax Rate</b>	21%	Increased to 28%
<b>Withholding on Failed Non-Qualified Deferred Comp. (NQDC) Plans</b>	Employers required to withhold tax on employee's NQDC income.	Employers required to withhold tax on employee's NQDC income plus 20% penalty and interest on plans that fail.

**How can DBS Help? If you have questions, call DBS's in-house advanced case design resource, Terri Getman, JD, CLU, ChFC, RICP, AEP (Distinguished).**

*\* The Build Back Better Act that passed the House in November added a 5% surtax for modified adjusted gross income that exceed \$10 million and an additional 3% for income over \$25 million making top rate 47.6% (51.4% if include 3.8% net investment income tax).*

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