

Tax law changes are coming soon

The proposed Build Back America Act, a \$1.85 trillion social-policy and climate framework, is working its way through Congress. This is sometimes referred to as the “soft infrastructure” bill and would fund several new initiatives such as expanded child tax credit, child care, universal prekindergarten and elder care. Previously, a number of significant tax law changes were proposed to pay for this legislation. As of this week, most of those proposed tax increases have disappeared from the current draft of legislation.

To help you navigate this changing environment, we want to provide timely information on the tax landscape. While everyone’s circumstances are unique, this provides you a good opportunity to talk with your BMO Wealth Management team on areas that may impact you.



Notable prior proposals absent from most recent legislative proposal

- **No individual income tax rate increases** (other than the new surcharges and the expansion of the 3.8% Net Investment Income Tax, discussed below).
- **No capital gains tax** triggered on unrealized appreciation of assets for billionaires.
- **No increased capital gains tax rate** (other than the new surcharges).
- **No increase in the C corporation** income tax rate.
- **No change to the current \$10,000 cap** on the state and local income tax (SALT) deduction.
- **Does not eliminate or otherwise curtail the use of 1031** like-kind exchange treatment for investment real estate.
- **Does not phase out** the Qualified Business Income Deduction (QBID).
- **Does not force carried interests** to be taxed as ordinary income.
- **Does not trigger RMDs** (Required Minimum Distributions) for large retirement accounts nor does it prohibit back-door Roth conversions.
- **Does not eliminate stepped-up basis** of appreciated assets at death.
- **Does not accelerate the lowering of the Federal estate & gift tax** exemption amount (still scheduled to decrease 1/1/2026).
- **Does not eliminate valuation discounts** for estate & gift tax purposes.



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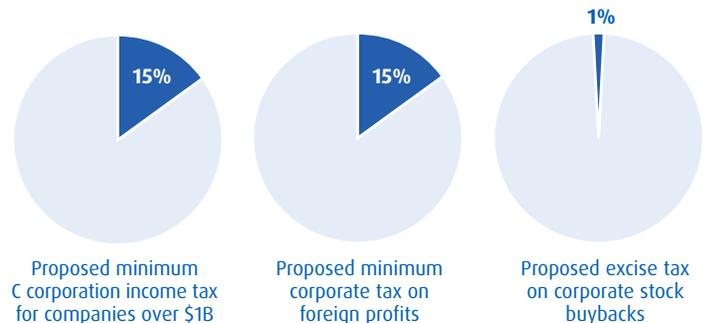
The current legislation does propose the following:

Current Proposals: Income Tax rates and tax brackets

- **New Income Tax Surcharges will be added on top of the ordinary and capital gains tax rates.** The proposal imposes a 5% surcharge on individuals with adjusted gross income (AGI) of more than \$10 million plus and an additional 3% surcharge on AGI above \$25 million. The \$10 million threshold for the 5% surcharge is for all taxpayers except married filing separately taxpayers who will use \$5 million for each spouse; the \$25 million threshold is for all taxpayers except married filing separately taxpayers who will use \$12.5 million for each spouse.
- **The new Income Tax Surcharge** also applies to trusts and estates when AGI is in excess of \$200,000 for the 5% surcharge and \$500,000 for the extra 3% surcharge.
- **The proposal expands the 3.8% Net Investment Interest Tax (NIIT)** to include pass-through income profits for certain high-income individuals. Currently the NIIT is only assessed against investment income, which includes passive activity income from pass-through entities. Current law will stay in place where pass-through profits subject to Social Security and Medicare tax will not be subject to the 3.8% NIIT. The tax is assessed to taxpayers whose AGI is more than \$400,000 for single filers and \$500,000 for married filers.
- **The new Surcharges and the expansion** of the 3.8% Net Investment Income Tax effectively creates a top Federal capital gains tax rate of 31.8% and a top Federal ordinary income rate of 45%.
- **The proposal cuts the exclusion rates for Section 1202** Qualified Small Business Stock (QSBS) (which must be C corporation stock) down to 50% for taxpayers with AGI of \$400,000 or more, with an effective date of Sept. 14, 2021.

Current Proposals: Corporate taxes

- **New 15% minimum C corporation income tax** for companies with over \$1 billion of profits.
- **New 15% minimum corporate tax** on foreign profits.
- **1% excise tax** on corporate stock buybacks.



Effective dates

All proposals are effective 1/1/2022 unless otherwise provided.

Bottom line: What do these proposals mean for you?

Although we won't have the exact information about the tax changes in the Build Back Better Act until the final legislation is ultimately passed, we are carefully watching possible tax changes.

Speak with your BMO Wealth Management team to explore tailored strategies for your personal situation if these proposed changes might affect you. They can help you review your overall financial plan and suggest questions you might ask your tax professional and estate attorney.

Be proactive. Smart financial planning starts today.



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