FY2025 BUDGET SUPPORTS BIDEN ADMINISTRATION'S FOCUS ON FAIRNESS IN THE TAX CODE

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OVERVIEW

On Monday, 11 March 2024, the Biden administration released the president's budget request (PBR) for fiscal year 2025 (FY2025), as well as the “Greenbook” containing explanations of the various revenue proposals in the PBR. The PBR reflects the priorities of the Biden administration, and the Greenbook outlines an array of tax policy and tax administration proposals to help achieve those goals. Pervasive themes include making large corporations and the wealthy pay their fair share, reducing emissions, and creating more equity in the tax code. The Greenbook includes provisions centered on business taxation, international tax reform, individual taxes, energy tax modifications, closing loopholes, tax administration and compliance, and more. The full text of the PBR is available here, a White House fact sheet detailing key provisions is here, and the text of the Greenbook is here.

Looking ahead, a number of provisions from the Tax Cuts and Jobs Act (TCJA) and some from the Inflation Reduction Act (IRA) will be expiring at the end of 2025 and 2024, leading to a dramatic tax cliff with respect to current policy. The FY2025 Greenbook may also serve as a starting point for congressional Democrats as they being to develop their priorities for potential tax reform efforts in the next Congress.

WHAT IS IN THE GREENBOOK

The FY2025 Greenbook contains a number of proposals included in the Biden administration's prior versions of the Greenbook that remain a priority.

They include:

- Raising the corporate tax rate to 28%
- Increasing the corporate alternative minimum tax from 15% to 21%
- Increasing the global intangible low-taxed income (GILTI) rate from 10.5% to 21%, and reforming GILTI to make sure Subpart F and GILTI income both are fully taxed
- Increasing the excise tax on stock repurchases from 1% to 4%
- Ending corporate tax deductions for employee compensation over US$1 million

- Various corporate proposals regarding reorganizations, losses, and other items
- Various proposals aimed at reforming the taxation of partnerships
- Repealing tax benefits specifically geared toward fossil fuels
- Tax incentives to locate jobs and businesses in the US
- Eliminating tax deductions for shipping jobs overseas
- Repealing like-kind exchanges for real estate
- Closing the “S-Corp loophole” that limits payment of employment taxes on sub-S income
- Restoring the COVID-19 era child tax credit regime
- Enhancing the earned income tax credit for low-paid workers not raising a child in their home
- Making permanent the IRA's expansion of the premium tax credit
- Increasing the minimum number of hours worked by an individual in the first year of service to become eligible for the Work Opportunity Tax Credit from 120 to 400
- Extending all TCJA middle-class tax cuts and paying for them by increasing taxes on corporations and the wealthy
- Imposing a 25% minimum tax on persons with wealth over US$100 million
- Increasing the top tax rate to 39.6% for single taxpayers making over US$400,000 per year and married filing jointly taxpayers making over US$450,000 per year
- Taxing all income, including capital gains, at the top ordinary income rate of 39.6% for taxpayers making over US$1 million per year
- Ending step-up in basis for gains exceeding US$5 million per person and US$10 million for couples
- Taxing gains on inherited property if it is not donated to charity, with protections for inherited family-owned farms and businesses
- Increasing the Medicare tax rate on those making over $400,000 from 3.8% to 5%
- Ending carried interest
- Clamping down on the tax treatment of private placement life insurance
- Clamping down on the tax treatment of personal use of corporate jets by extending the depreciable period from five to seven years and increasing the fuel tax on corporate and private jet travel
- Not extending the TCJA tax cuts for those making over US$400,000 per year
- Not restoring tax deductions that were temporarily repealed in the TCJA for those making more than US$400,000 per year

There were several additional provisions in this year's PBR that have not previously been listed, including, but not limited to:

- Adopting the undertaxed profits (or payment) rule (UTPR) and repealing the base erosion and anti-abuse tax
- Creating a qualified domestic minimum top-up tax (QDMTT) that would protect US revenues from the imposition of the UTPR by other countries when a UTPR in another jurisdiction becomes effective
- Ensuring US taxpayers can benefit from US tax credits and other incentives, including the IRA's clean energy provisions, under the UTPR/QDMTT regime
- Repealing the foreign-derived intangible income tax
- Imposing a 30% digital asset mining energy excise tax
- Imposing wash sale rules for cryptocurrency transactions
- Providing a US$10,000 tax credit to first-time home buyers, as well as home sellers, spread over two years
- Restoring congressional cuts to the IRA funding for the IRS
- Requiring reporting of foreign digital asset accounts
- Allowing mark-to-market of digital assets

WHAT IS NOT IN THE GREENBOOK

The PBR did not include delays of the TCJA offsets that are in pending tax legislation passed by the House of Representatives but now stalled in the Senate, including restoration of 100% bonus depreciation, deductibility of research and experimentation expenses, and a larger base for interest expense deductions. The PBR also did not include modifications to various IRA tax credits, including proposals to extend the Section 45 and Section 48 energy tax credits for which beginning of construction must occur prior to 1 January 2025. Although the Biden administration has delayed implementation of the expanded Form 1099-K reporting, the PBR does not propose to modify the current statutory reporting threshold that was reduced from $20,000 across more than 200 reportable transactions to $600 in the American Rescue Plan Act of 2021.

CONCLUSION

Congress is currently working to complete the FY2024 federal funding process, for which the second tranche of six appropriations bills will expire on 22 March 2024. Once FY2024 funding is resolved, lawmakers can then pivot to FY2025 federal funding, among other legislative priorities. In the interim, Biden administration officials will be participating in hearings on Capitol Hill to further detail the proposals in the PBR.

It is important to note that President Biden's budget request is unlikely to be adopted in its entirety given the narrow partisan divide this Congress. Instead, it may serve as a starting point for congressional Democrats as negotiations on FY2025 federal funding get underway. The list of revenue proposals, in particular, can serve as the basis for the list of revenue raisers Democrats could suggest to help pay for other policy priorities.

Looking ahead, with a number of provisions from the TCJA expiring at the end of 2025, the FY2025 Greenbook may also serve as a starting point for congressional Democrats as they begin to develop their priorities for potential tax reform efforts in the next Congress.

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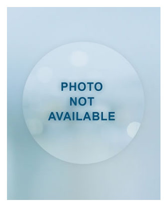

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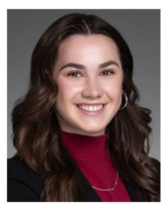

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