

CLIENT ALERT

Biden Administration Asks Congress for \$80 Billion to Increase Enforcement Efforts and Announces Sweeping Legislative Agenda for Individual and Corporate Tax Enforcement

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Biden Seeks Dramatic Increase for IRS Funding to Support Increased Enforcement

The Biden Administration is expected to request \$80 billion over 10 years for IRS enforcement as part of its American Families Plan. The Treasury Department released a statement that insufficient tax agency resources were expected to result in the U.S. government collecting \$7 trillion less than it's owed over the next decade. If the IRS's enforcement abilities are strengthened, the Biden Administration estimates it can collect an additional \$700 billion over 10 years in otherwise lost tax revenue. If the Biden Administration succeeds in getting the funding changes it proposes, taxpayers should expect to see an increase in audit activity, particularly focused on high net-worth individuals and corporations. Coupled with its investment in improving its IT capabilities and use of data analytics, the IRS is poised to make up for lost time in the enforcement arena.

Enforcement Initiatives

The IRS has recently announced new offices and programs to boost enforcement, which presumably would be some of the beneficiaries of increased funding. The new offices and programs include a new Office of Promoter Investigations aimed at enforcement against promoters of abusive tax schemes, "Operation Hidden Treasure," focused on cryptocurrency and virtual currency tracking, the "Wealth Squad" targeted towards high net worth individuals and their related entities, the creation of a new Fraud Enforcement Office, and the Large Partnership Compliance Program, targeted at partnerships and entities associated with high net-worth individuals.

Legislative Agenda

The Biden Administrations recently announced several tax proposals and initiatives aimed at delivering President Biden's campaign promise that corporations and high net worth individuals should "pay their fair share."

American Families Plan Proposals on Tax Brackets and Capital Gains Treatment

The American Families Plan is a \$1.8 trillion spending proposal that includes initiatives to provide access to community college, preschool, affordable child care, and paid leave for all Americans. The Biden Administration plans to pay for these by increasing the top income tax bracket from 37 percent to 39.6 percent and raising taxes on capital gains for households making over \$1 million. The American Families Plan also proposes to eliminate the basis step-up on inherited property, which currently provides that if you inherit a capital asset that has increased in value when the person who died owned it, the asset's basis is increased to the property's fair market value at the date of the previous owner's death.

Infrastructure and Jobs Plan

The Biden Administration has proposed significant changes to the tax code in its \$2 Trillion Infrastructure and Jobs Plan. With increased funding, the IRS would strive to issue guidance under the new changes faster than the changes made by the 2017 Tax Cuts and Jobs Act (TCJA) (where the IRS and Treasury are still issuing guidance). For example, the Biden tax proposals would require the IRS to implement changes the global intangible low-taxed income (GILTI) (e.g., requiring GILTI to be calculated on a country-by-country basis, eliminating the GILTI exemption for the first 10 percent return on certain foreign assets).

Additionally, proposed tax code changes would create obstacles for U.S. corporations seeking to invert (where corporate groups restructure and a U.S. parent is replaced with a foreign parent), eliminate the tax incentives for foreign derived intangible income and provide new incentives for research and development investment, and enact a 15 percent minimum tax on the “book income” of large corporations. All these proposed changes would be noteworthy changes to the tax code.

Key Takeaways

As promised during the campaign, the Biden Administration has now announced plans, from increases in funding for the IRS to revisions of current tax laws, that, if successful, will result in more numerous, more coordinated, and possibly more aggressive audits of high-earning individuals and corporations, and a higher tax burden on those taxpayers. Individuals and corporate taxpayers should follow these developments closely and seek advice about their potential impact.

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