

President Biden Revenue Proposals FY 2022 (May 2021 Greenbook)

Build Back Better Plan Tax Components

<https://home.treasury.gov/system/files/131/General-Explanations-FY2022.pdf>

Budget FY2022 - https://www.whitehouse.gov/wp-content/uploads/2021/05/budget_fy22.pdf

| | Provision | Explanation from Greenbook | Observations | Revenue raised or cost (-) 2022-2031 millions |
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| American Jobs Plan | | | | |
| Reform Corporate Taxation | Raise corporate rate to 28% | | | \$857,817 |
| | Revise global minimum tax regime, disallow deductions attributable to exempt income, and limit inversions | Help pay for infrastructure proposals. To 28%. Effective for tyba 12/31/21; for tyba 1/1/21 and before 1/1/22, rate is 21% + 7% times portion of tax year that occurs in 2022. | No graduated rates proposed. No changes proposed to §199A such as to lower the 20% QBI deduction. | \$533,503 |
| | Reform taxation of foreign fossil fuel income | Remove rate differential that incentivizes US companies to locate profits and operations offshore. Several change to §250, §951A and several other changes. See pages 4-8 of Greenbook. | | \$86,210 |
| | Repeals deduction for Foreign-Derived Intangible Income (FDII) | Modify foreign oil and gas extraction income and foreign oil related income rule. Modify tax rule for dual capacity taxpayers. Use the revenue to encourage R&D. | U.S. research mentioned here as part of the rationale for this proposal: “ The Administration has determined that FDII is not an effective way to encourage research and development (R&D) in the United States. It provides large tax breaks to companies with excess | \$0 |

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| | | <p>profits—who are reaping the rewards of prior innovation—rather than incentivizing new domestic investment or R&D. Further, FDII preferences multinational companies relative to domestic producers, offering tax incentives only to those companies with high export sales, rather than those with largely domestic sales.” (page 11)</p> <p>The plan does not specifically call for repeal of delay of the TCJA provision to require capitalization rather than expensing of R&D for tyba 12.31/21. Instead, it just states that the revenue from repeal of FDII can be used to encourage R&D “ directly and more effectively.”</p> | |
| Replace Base Erosion Anti-Abuse Tax (BEAT) with Stopping Harmful Inversions and Ending Low-Tax Developments (SHIELD) Rule | Repeal BEAT. New rule – Stopping Harmful Inversions an Ending Low-Tax Developments (SHIELD). See pages 12-15 of the Greenbook. | | \$390,051 |
| Limit FTCs from sales of hybrid entities | Apply principles of §338(h)(16) to determine source and character of items recognized in connection with direct or indirect disposition of interest in specified hybrid entity. See pages 16-17 of the Greenbook. | | \$436 |
| Restrict deductions of excessive interest of members of financial reporting groups for | Compares interest expense in financial statement with deduction. See pages 18-20 of the Greenbook. | | \$18,588 |

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| | disproportionate borrowing in the US | | | |
| | Impose 15% minimum tax on book earnings of large corporations | Only for corporations with income over \$2 billion. Book tax credit usable against regular tax in future year but may not reduce tax liability below book tentative minimum tax for the year. | | \$148,344 |
| | Provide tax incentives for locating jobs and business activity in the US and remove tax deductions for shipping jobs overseas | New general business credit of 10% of eligible expense paid or incurred in onshoring a U.S. business (reducing or eliminating business currently conducted outside of U.S. No deduction for offshoring jobs. | | \$0 |
| Support Housing and Infrastructure | Expand low-income housing tax credit | Create add'l type of housing credit dollar amounts (HCDAs) called "Opportunity HCDA with separate ceiling and allocate majority of OHCDAs to projects in Census Tracts of Opportunity. And more... | | -\$31,927 |
| | Provide neighborhood homes investment tax credit | Create Neighborhood Homes Investment Credit (NHIC) to "support new construction for sale, substantial rehabilitation for sale, and substantial rehabilitation for existing homeowners. The constructed or rehabilitated residence must be a single-family home (including homes with up to four dwelling units), a condominium, or a residence in a housing cooperative." Each state creates new agency to be the "Neighborhood Homes Credit Agency (NHCA), with authority to allocate potential NHICs to project sponsors." Numerous definitions and limitations. | Lots of definitions and special rules. | -\$13,034 |

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| | | Part of plan to build black wealth and narrow racial wealth gap. <ul style="list-style-type: none"> • White House Fact Sheet | | |
| | Make permanent the New Markets Tax Credit (NMTC) | Make permanent with new allocation for each year after 2025 of \$5 billion indexed for inflation. | | -\$3,905 |
| | Provide Federally subsidized state and local bonds for infrastructure | Creates school infrastructure bonds and bonds for transportation infrastructure. | | -\$11,776 |
| Prioritize Clean Energy | Eliminate fossil fuel tax preferences | Repeals: <ol style="list-style-type: none"> (1) enhanced oil recovery credit for eligible costs attributable to qualified enhanced oil recovery project; (2) credit for oil and gas produced from marginal wells; (3) expensing of intangible drilling costs; (4) deduction for costs paid or incurred for any tertiary injectant used as part of a tertiary recovery method; (5) exception to passive loss limitations provided to working interests in oil and natural gas properties; (6) use of percentage depletion with respect to oil and gas wells; (7) two-year amortization of independent producers' geological and geophysical expenditures, instead allowing amortization over seven-year period used by integrated oil and gas producers; | Helps the tax law to have a unified energy focus rather than incentivizing both fossil fuels and alternative energies. Will these changes result in a price increase for gasoline? | \$35,043 |

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| | <p>(8) expensing of exploration and development costs;</p> <p>(9) percentage depletion for hard mineral fossil fuels;</p> <p>(10) capital gains treatment for royalties;</p> <p>(11) exemption from corporate income tax for publicly traded partnerships with qualifying income and gains from activities relating to fossil fuels;</p> <p>(12) Oil Spill Liability Trust Fund excise tax exemption for crude oil derived from bitumen and kerogen-rich rock; and</p> <p>(13) accelerated amortization for air pollution control facilities.</p> <p>Generally effective for tyba 12/31/21.</p> | | |
| Extend and enhance renewable and alternative energy incentives | Includes "extend full production tax credit for qualified facilities commencing construction after December 31, 2021 and before January 1, 2027. Starting in 2027, credit rate would begin to phase down to zero over 5 years. The credit rate would be reduced by 20% for facilities commencing construction after December 31, 2026 and before January 1, 2028, 40% for facilities commencing construction after December 31, 2027 and before January 1, 2029, and so on until the credit rate reaches zero." | | -\$265,306 |
| Provide tax credit for electricity transmission investments | 30% credit on taxpayer's investment in qualifying electric power transmission property placed in service in a given year. | | -\$4,039 |

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| | Provide allocated credit for electricity generation from existing nuclear power facilities | “create an allocated production credit for electricity generation from eligible existing nuclear power facilities that bid for the credits.” | | -\$9,750 |
| | Establish new tax credits for qualifying advanced energy manufacturing | modify and expand §48C | | -\$7,932 |
| | Establish tax credits for heavy- and medium-duty zero emissions vehicles | Similar to §30D credit. Provides a “business tax credit for new medium-and heavy-duty zero-emission vehicles, including battery electric vehicles and fuel cell electric vehicles, to promote consumer choice and vehicle adoption. These vehicles would be in Classes 3 through 8, as defined by the Federal Highway Administration’s vehicle classification system.” Credits between \$25K and \$120K/vehicle. | | -\$10,644 |
| | Provide tax incentives for sustainable aviation fuel | Provide “a production tax credit of \$1.50 per gallon for sustainable aviation fuel that achieves at least a 50 percent reduction in emissions relative to conventional jet fuel.” | | -\$6,636 |
| | Provide production tax credit for low-carbon hydrogen | “implement a low-carbon hydrogen production tax credit. For the purposes of the proposal, “low-carbon” refers to hydrogen produced using zero-carbon emissions electricity (renewables or nuclear) and water as a feedstock, or hydrogen produced using natural gas as a feedstock and with all carbon emitted in the production process captured and sequestered.” | | -\$4,128 |

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| | Extend and enhance energy efficiency and electrification incentives | <ul style="list-style-type: none"> Extend §25C credit 5 years and increase lifetime limit to \$1,200 for property placed in service after 12/31/21 and before 1/1/27. Increase §45L credit for energy efficient home from \$2,000 to \$2,500 and extend 5 years to 12/31/26. Increase maximum §179D deduction. Create new general business credit for qualifying mechanical insulation labor costs. | | -\$18,714 |
| | Provide disaster mitigation tax credit | To address weather and climate disasters, creates “ nonrefundable tax credit for homeowners and businesses equal to 25 percent of qualified disaster mitigation expenditures capped at \$5,000.” | | -\$4,039 |
| | Expand and enhance carbon oxide sequestration credit | “extend the “commence construction” date by 5 years, such that qualified facilities must begin construction by January 1, 2031” | | -\$6,058 |
| | Extend and enhance electric vehicle charging station credit | modifies and expands tax credit for electric vehicle charging stations. | | -\$6,267 |
| | Reinstate Superfund Excise Taxes and modify Oil Spill Liability Trust Fund Financing | “reinstate 3 Superfund excise taxes at double previous rates for periods beginning after December 31, 2021 and through December 31, 2031. In addition, proposal would extend Superfund excise tax on domestic crude oil and imported petroleum products to other crudes such as those produced from bituminous deposits as well as kerogen-rich rock.” | | \$25,296 |
| American Families Plan | | | | |

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| Strengthen Taxation of High-Income Taxpayers | Increase top marginal income tax rate for high earners | Increase top marginal rate to 39.6%. | See chart below for brackets. | \$131,920 |
| | Reform taxation of capital income | <ul style="list-style-type: none"> • Effective for gains recognized after 4/28/21. • If AGI over \$1 million, long-term capital gains and qualified dividends taxed at ordinary rates. (43.4% with increase in top rate + NIIT). • Treat transfers of appreciated property by gift or on death as realization events. Transfers to US spouse or charity have carryover basis with gain realized with spouse disposes of asset or dies. Excludes tangible personal property such as household furnishings and personal effects other than collectibles. Section 121 principal residence exclusion applies. Section 1202 exclusion also applies. <ul style="list-style-type: none"> ○ \$1 million per person exclusion, indexed for inflation. ○ Deferral possible for appreciation on certain family-owned and operated businesses. ○ 15-year fixed-rate payment plan for tax on appreciated assets transferred at death that are not liquid. ○ Appraisals deductible. • Reasons for change notes inequities in tax system including step-up-in-basis at death. | <ul style="list-style-type: none"> • High rate does not phase-in; cliff effects. • What about losses at DOD? • Will apply to Qualified Opportunity Zone gains when required to be realized. • §1202 exclusion on QSBS remains, including at death. • At 6/16/21 hearing, Senator Cornyn asked Secretary Yellen what the date of announcement is and Yellen said she would have to get back to him. [1:10 into the hearing] • Cornyn also asked about retroactive date for this change noting it seemed unfair. Yellen noted Congress has the “ability” to do this. She also stated: “I don’t see a prospective change in rules pertaining to the taxation of future realization of capital gains as being a retroactive feature.” | \$322,485 |

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| | Rationalize net investment income and Self-Employment Contributions Act Taxes | <p>Would apply to S corp owners and limited partners to ensure that all passthrough business income of high-income individuals subject to either NIIT or self-employment tax.</p> <p>S corp owners who materially participate in the business subject to self-employment tax on their distributive share of business income above certain threshold amounts.</p> | \$236,500 |
| Support Workers, Families, and Economic Security | Make permanent American Rescue Plan expansion of Premium Tax Credits | <ul style="list-style-type: none"> • Make permanent ARPA decrease in applicable contribution percentages of household income used for determining PTC. • Make permanent the ARP expansion of PTC eligibility to taxpayers with household income above 400% of FPL. • Permanently repeal indexation of applicable contribution percentages for years after 2022. | -\$163,048 |
| | Make permanent expansion of EITC for workers without qualifying children | Make the ARPA changes for individuals w/o children + age changes permanent. | -\$105,219 |
| | Make permanent American rescue plan changes to child and dependent care tax credit | <ul style="list-style-type: none"> • Make ARPA changes permanent. • Establish reporting requirements appropriate for an expanded refundable tax credit, such as adding this to the §6695(g) due diligence penalty for preparers. | -\$104,198 |
| | Extend Child Tax Credit increase through 2025 and make permanent full refundability | <ul style="list-style-type: none"> • Make most of the ARPA changes permanent through 2025 | Why not permanent beyond 2025? The TCJA increase in the CTC to \$2,000 from |

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| | | | \$1,000 and higher phaseout ends after 2025. | |
| Close Loopholes | Increase employer-provided childcare tax credit for businesses | Increase existing tax credit to 50% of first \$1 million of qualified care expenses for a maximum total credit of \$500,000 per year. The portion of tax credit related to referral expenses would remain at 10% with a maximum amount of \$150,000. | | -\$302 |
| | Tax carried (profits) interests as ordinary income | “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. ... any person who performs services for any entity and holds a “disqualified interest” in the entity is subject to tax at rates applicable to ordinary income on any income or gain received with respect to the interest, if the person’s taxable income (from all sources) exceeds \$400,000.” | | \$1,468 |
| | Repeal deferral of gain from like-kind exchanges | Allow deferral of gain up to aggregate amount of \$500,000 for each taxpayer (\$1 million if MFJ). | | \$19,550 |
| | Make permanent excess business loss limitation of noncorporate taxpayers | | TCJA created this through 2025. CARES Act delayed effective date for 2018 to 2021. | \$42,860 |

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| | | | ARPA extended to 2026. | |
| Improve Compliance | Implement program integrity allocation adjustment and provide additional funding for tax administration | Includes "multi-year adjustment to the discretionary spending allocation for the IRS Enforcement and Operations Support accounts. The total adjustment would be \$6.7 billion over the budget window. The proposed allocation adjustment for 2022 would fund \$417 million in enforcement and compliance initiatives and investments above current levels of activity. The adjustment would cover inflation and the cost to sustain the new initiatives and investments through 2031." Requirement for add'l resources to be used for enforcement of individuals with income over \$400,000. | See 24-page plan from Treasury (May 2021) - https://home.treasury.gov/system/files/136/The-American-Families-Plan-Tax-Compliance-Agenda.pdf | \$316,176 |
| | Introduce comprehensive financial account reporting to improve tax compliance | Financial institutions would also report aggregate deposits and withdrawals. Form 8300 needed for receipt of over \$10,000 of cryptocurrency. | | \$462,646 |
| Improve Tax Administration | Increase oversight of paid tax return preparers | <ul style="list-style-type: none"> Amend 31 USC 330 to allow IRS to regulate all return preparers including using mandatory minimum competency standards. Increased penalties on ghost preparers (non-signers). | | \$817 |
| | Enhance accuracy of tax information | <ul style="list-style-type: none"> Expand IRS authority to require e-filing. Improve info reporting for reportable payments subject to backup withholding. | | \$1,811 |

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| | Expand broker information reporting with respect to crypto assets | <ul style="list-style-type: none"> Expand scope of info reporting by brokers who report on crypto assets to include reporting on certain beneficial owners of entities holding accounts with the broker. Require brokers, including entities such as U.S. crypto asset exchanges and hosted wallet providers, to report information relating to certain passive entities and their substantial foreign owners when reporting with respect to crypto assets held by those entities in an account with the broker. | negligible |
| | Address taxpayer noncompliance with listed transactions | <ul style="list-style-type: none"> Extend statute of limitations for listed transactions. Impose liability on shareholders to collect unpaid income taxes of applicable corporations. | \$5,396 |
| | Modify tax administration rules | <ul style="list-style-type: none"> Amend BBA p/s audit regime to address tax decreases greater than a partner's income tax liability. Modify requisite supervisory approval of penalty included in notice. | \$1,847 |
| | Authorize limited sharing of business tax return information to measure economy more accurately | Includes "give officers and employees of BEA access to FTI of those sole proprietorships with receipts greater than \$250,000 and of all partnerships. BEA contractors would not have access to FTI." | \$0 |
| TOTAL | | | \$2,393,024 |

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| | 2017 39.6% bracket starts at | 2021 37% bracket starts at | Per Greenbook (May 2021): Use 2017 bracket adjusted for inflation for 2022. 39.6% bracket starts at: |
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| MFJ | \$470,700 | \$628,300 | \$509,300 |
| Single | \$418,400 | \$523,600 | \$452,700 |
| Head-of-household | \$444,550 | \$523,600 | \$481,000 |
| Add'l info | Phase-out of itemized deductions applied. | No phase-out of itemized deductions; higher standard deduction; \$10,000 SALT cap; higher AMT exemption amount – all apparently continue through 2025 | |

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- OMB links
 - <https://www.whitehouse.gov/omb/budget/>
- Press release from Treasury of 5/28/21
 - Includes summary list of American Jobs Plan and American Families Plan tax items ---→
 - <https://home.treasury.gov/news/press-releases/jy0204>
- Greenbook of tax proposals
 - <https://home.treasury.gov/policy-issues/tax-policy/revenue-proposals>
- American Families Plan
 - Treasury press releases:
 - 5/20/21 - <https://home.treasury.gov/news/press-releases/jy0188>
 - 4/28/21 - <https://home.treasury.gov/news/press-releases/jy0150>
 - 24-page plan - <https://home.treasury.gov/system/files/136/The-American-Families-Plan-Tax-Compliance-Agenda.pdf>