

Proposals for Tax Increases

Wealth and Estate Planning Strategists | Family Office Resources

The House Ways and Means Committee has voted on proposals for tax increases to fund its portion of the Administration's Build Back Better agenda. The legislation will now be made ready for eventual floor consideration. **The legislation is likely to change in the coming months as negotiations between the Senate and House proceed.** However, we now have insight as to items currently in scope, including a reduction of the estate and gift tax exemption effective 1/1/2022, and changes to the rules relating to grantor trusts. Also, note the effective dates for certain income tax increases and a potential limitation on the QSBS exclusion. We highlight selected provisions below that may impact planning.

These proposals are in draft form and are subject to revision at any time. We encourage you to refer to the legislative text and consult with your tax advisor for more information.

Sec. 138150

LIMITATION ON CERTAIN SPECIAL RULES FOR SECTION 1202 GAINS

- The 75% and 100% exclusion rates for capital gains realized from QSBS will not be permitted for taxpayers with adjusted gross income equal or exceeding \$400,000. They will generally be limited to 50% of the gain effective for sales occurring after 9/13/21.

Sec. 138201

INCREASE OF THE TOP MARGINAL INCOME TAX RATES FOR HIGH INCOME EARNERS AND TRUSTS AND ESTATES

- The highest bracket will be increased to 39.6% generally for taxable income in excess of \$400,000 for an individual or \$450,000 for married couples and for trusts and estates with income in excess of \$12,500. Effective 1/1/2022.

Sec. 138202

INCREASE IN CAPITAL GAINS RATE FOR CERTAIN HIGH INCOME INDIVIDUALS

- The provision increases the long-term capital gains tax rate (including qualified dividends) to 25%, effective for sales occurring after 9/13/2021, with an exception for transactions with a binding date prior to then.

Sec. 138206

SURCHARGE ON HIGH INCOME INDIVIDUALS, TRUSTS, AND ESTATES

- This provision imposes an additional tax equal to 3% of a taxpayer's AGI in excess of \$5,000,000 (or in excess of \$2,500,000 for a married individual filing separately). Effective 1/1/2022.

Sec. 138207

TERMINATION OF TEMPORARY INCREASE IN UNIFIED CREDIT

- The estate tax exemption will be decreased to its 2010 level of \$5,000,000 per individual, indexed for inflation. Effective 1/1/2022.

Sec. 138209

CERTAIN TAX RULES APPLICABLE TO GRANTOR TRUSTS

- Assets in newly created grantor trusts and gifts to existing grantor trusts will be includable in the estate of the grantor. Sales between a grantor and the grantor trust will be taxable events. Distributions from a grantor trust will be taxable gifts. (The rules would be applicable to trusts created after the date of enactment and contributions to existing grantor trusts after such date.)

Sec. 138210

VALUATION RULES FOR CERTAIN TRANSFERS OF NONBUSINESS ASSETS

- Eliminates valuation discounts for entities that are passive and not engaged in an active trade or business. (Applicable to transfers after the date of enactment.)

Sec. 138301

CONTRIBUTION LIMIT FOR INDIVIDUAL RETIREMENT PLANS OF HIGH-INCOME TAXPAYERS WITH LARGE ACCOUNT BALANCES

- Places a cap on IRA contributions if the value of an individual's IRA and other retirement accounts exceeds \$10MM.

Sec. 138302

INCREASE IN MINIMUM REQUIRED DISTRIBUTIONS FOR HIGH-INCOME TAXPAYERS WITH LARGE RETIREMENT ACCOUNT BALANCES

- Will require minimum distributions from retirement accounts with a value in excess of \$10MM equal to 50% of such excess.

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