The Whats, Whys and Hows of Joe Biden’s Tax Plan

By William E. Sigler, Esq.

I. BIDEN-SANDERS UNITY TASK FORCE RECOMMENDATIONS.

A. Increase the progressivity of the tax system by creating net (not revenue neutral) tax increases through:

1. Limiting “unequal and unproductive tax expenditures” used disproportionately by the wealthy.
2. Increasing tax payments by “ultra large banks.”
3. Expanding payroll taxes on upper-income taxpayers to fund higher Social Security benefits.

B. Also, the proposals would:

1. Expand the child and dependent care tax credit.
2. Eliminate the preference for capital gains and dividends.
3. Raise the corporate tax rate.
4. Raise estate tax rates to the “historical norm.”
5. Create more refundable tax credits for low-income persons.
6. Equalize tax benefits for retirement contributions.
7. Provide more accessible tax breaks for homeownership.
8. Eliminate tax policies that promote the offshoring of pharmaceutical manufacturing and raise prices on medications for American patients.
9. Eliminate tax breaks for prescription drug advertisements.
10. Adopt scaled-up tax credits for renewable energy projects that meet specific labor standards.
11. Provide tax incentives for efficiency upgrades, process changes, and facility retooling.
12. Create tax incentives for work at home.
13. Aggressively pursue employers who misclassify employees as independent contractors.
14. Expand and make permanent the new markets tax credit.
15. Eliminate voucher programs for private schools.

16. After 20 years of repayments, the remainder of federal student loans would be forgiven without any tax burden (and otherwise wouldn't tax education loan cancellations generally).

II. U.S. INDIVIDUAL TAXES.

A. Increase top rate to 39.6%. Taxpayers making more than $400,000 would see taxes increase.

B. Expand EITC to older workers.

C. Expand the dependent care credit to $8,000. Families would get back as a tax credit as much as half of their spending on childcare for children under age 13, up to a total of $8,000 for one child or $16,000 for two or more children. The tax credit would be refundable and ways would be explored to make it advanced. The full 50% reimbursement would be available to families making less than $125,000 a year. All families making between $125,000 and $400,000 would receive a partial credit ensuring that in no case would they get less than they are eligible for today.

D. Raise the child tax credit to $3,000 per child for children ages 6 to 17 and $3,600 for children under 6 for 2021 or as long as economic condition require. The credit would be fully refundable.

E. Cap itemized deductions at 28%. Restore PEASE for incomes above $400,000. End the SALT cap.

F. New $3,000 tax credit allowing family caregivers to defray some of what they spend to assist their loved ones.

G. Student loans would be cancelled, tax-free, after borrowers have been enrolled in an income-based repayment plan for 20 years.

III. COMPENSATION AND BENEFITS.

A. End employers intentionally misclassifying their employees as independent contractors to avoid paying employment taxes.

B. Lift the Social Security taxable wage base cap on high earners (taxpayers making more than $400,000).

C. Create an “automatic 401(k)” for workers without access to pension or 401(k) plans.

D. Allow 401(k) plans to offer hardship withdrawals for survivors of domestic violence or sexual assault and allow penalty-free distributions for those persons.

E. Equalize the tax benefits of defined contribution plans across the income scale.

F. Allow caregivers to make “catch-up” contributions to retirement accounts, even if they’re not earning income in the formal labor market.

G. Offer tax credits to small businesses to offset much of the cost of starting or maintaining retirement plans.

IV. HEALTH AND LONG-TERM CARE.

A. Eliminate the 400% income cap on tax credit eligibility for the premium tax credit.

B. Base tax credits on a gold plan (instead of silver).

C. Impose a tax penalty on drug manufacturers that increase the costs of their brand, biotech, or abusively priced generic over the general inflation rate.

D. Terminate pharmaceutical corporations’ tax deduction for advertisement spending.

E. Create a $5,000 tax credit for using informal caregivers, including family members.

F. Increase tax benefits for older Americans who buy long-term care insurance and pay for it using their savings for retirement.

G. Expand access to refundable health premium tax credits, so that no family spends more than 8.5% of their income on health insurance.

V. BUSINESS TAX RATES.

A. 28% corporate tax rate. B. 15% minimum book tax on companies reporting more than $100 million in the U.S., but paying zero or negative federal income taxes.

VI. BUSINESS CREDITS AND INCENTIVES.

A. Expand the work opportunity tax credit to include military spouses.

B. Create a new childcare construction tax credit to encourage businesses to build childcare facilities at places of work. Employers would receive 50% of the first $1 million of construction costs per facility.

C. Create a new 10% “Made in America” tax credit for companies that create jobs for American workers. Available for revitalizing closed or nearly closed facilities, retooling or expanding facilities, and bringing production or service jobs back to the U.S. and creating U.S. jobs. It would also apply when a company is increasing manufacturing wages above the pre-Covid baseline for jobs paying up to $100,000. D. Impose a 10% offshoring penalty surtax on the profits from any production by a U.S. company overseas for sale on American soil.

VII. QUALIFIED BUSINESS INCOME DEDUCTION.

A. Limit the deduction to taxpayers making $400,000 and under.

B. End special qualifying rules, including those for real estate investors.

VIII. REAL ESTATE.

A. Roll back “unproductive and unequal tax breaks for real estate investors with incomes over $400,000.”

B. End qualified business income deduction for real estate investors.

C. Eliminate like-kind exchanges.

D. Prevent investors from using real-estate losses to lower their income tax bills.

E. Create new refundable, advanceable tax credit of up to $15,000 to assist buying first home. The credit would be paid upon purchase, not when filing tax return.

F. Tax credits to renovate distressed properties in distressed communities, called Neighborhood Home Credit as part of general business credit.

G. Enact a renter's tax credit.

IX. ESTATE TAX.

A. Return estate and gift tax levels to "historical norms."

1. This could mean that, effective as of January 1, 2021, the estate tax exemption amount could be reduced to $3,500,000 ($7,000,000 per married couple), the gift tax exemption amount could be reduced to $1,000,000 ($2,000,000 per married couple), and the top gift and estate tax rate could be increased to 45 percent (i.e., the amounts and rates in effect in 2009 prior to repeal and then the bump-up in the exemption to $5,000,000).
2. The remaining gift tax exemption amount that is not used before year-end might not only be lost, but future gifts might be subject to the higher tax rate.

B. Eliminate stepped-up basis rule that allows people to pass capital gains to heirs without tax after death.

1. For a deceased taxpayer who earned more than $400,000 but less than $1 million, this would subject those unrealized gains to the current capital gains rate of 20 percent, plus the 3.8 percent Net Investment Income Tax (NIIT), for a total of 23.8 percent.
2. For a deceased taxpayer who earned more than $1 million, capital gains would be taxed at ordinary income tax rates, which would be levied at the proposed top marginal rate of 39.6 percent, plus the 3.8 percent NIIT, for a total of 43.4 percent.