



Tracking Federal Tax Legislative Proposals

As the Biden administration's tax priorities continue to take shape, so too does the need for careful planning around the possible changes. Track the status of the various federal tax proposals below to understand how [possible new legislation](#) could impact you and your business.



OCTOBER 2021

BUSINESS PROVISIONS



Item	Current Law	Treasury Green Book Proposal	House Ways & Means Committee Proposal (approved in Committee September 15, 2021)	Wyden Discussion Draft
			H.R. 5376 (Rept. No. 117-130), To provide for reconciliation pursuant to title II of S. Con. Res. 14. (Tax Provisions), introduced Sept. 27, 2021	
Corporate income tax rates	Corporate income generally is subject to tax at a 21% rate.	<p>The proposal would increase the corporate income tax rate to 28%.</p> <p>The proposal would be effective for tax years beginning after December 31, 2021, with a phase-in for fiscal tax years beginning in 2021.</p>	<p>The proposal would establish a corporate income tax table:</p> <ul style="list-style-type: none"> ▶ Income up to \$400,000: 18% ▶ Income over \$400,000 and up to \$5 million: 21% ▶ Income over \$5 million: 26.5% <p>In addition, the proposal would increase the corporate tax by 3% of taxable income in excess of \$10 million - by an amount not to exceed \$287,000 - in order to phase-out the benefits of the lower 18% and 21% tax brackets.</p> <p>The proposal would be effective for tax years beginning after December 31, 2021.</p> <p>Sec. 138101 of H.R. 5376; IRC Sec. 11.</p>	TBD
Minimum tax on book earnings of certain corporations	No provision.	The proposal would impose a 15% minimum tax on worldwide book income for corporations with such income over \$2 billion. The proposal would be effective for tax years ending after December 31, 2021.	No proposal.	TBD
Limitation on certain	IRC Sec. 1202 permits a taxpayer, other than a	No proposal.	The proposal would amend the rules to provide that the special 75% and 100%	TBD

Item	Current Law	Treasury Green Book Proposal	House Ways & Means Committee Proposal (approved in Committee September 15, 2021)	Wyden Discussion Draft
special rules for IRC Sec. 1202 gains (qualified small business stock, QSBS)	<p>corporation, to exclude up to 100% of the gain from the sale or exchange of QSBS held for more than five years.</p> <p>IRC Sec. 1202 was originally enacted in 1993 to encourage investment in small companies. The provision initially granted a 50% exclusion of gain, which was later increased to 75% for QSBS stock acquired after February 17, 2009 and then to 100% for QSBS stock acquired after September 27, 2010.</p>		<p>H.R. 5376 (Rept. No. 117-130), <i>To provide for reconciliation pursuant to title II of S. Con. Res. 14.</i> (Tax Provisions), introduced Sept. 27, 2021</p>	
			<p>exclusion rates for gains realized from certain QSBS would not apply to taxpayers with adjusted gross income equal to or exceeding \$400,000, effective for sales and exchanges (not original issuances) after September 13, 2021, subject to a binding contract exception.</p> <p>While a section-by-section summary of the proposal prepared by Ways & Means staff states that it would apply to sales and exchanges <i>after</i> September 13, 2021, the text of the draft legislation provides that the proposal would apply to sales and exchanges <i>on or after</i> September 13, 2021, subject to a binding contract exception.</p> <p>Sec. 138150 of H.R. 5376; IRC Sec. 1202.</p>	

INTERNATIONAL PROVISIONS



The Senate Finance Committee has not yet marked up legislation; however, Finance Committee Chair Ronald Wyden and committee members Sherrod Brown and Mark Warner on August 25, 2021 released their “International Tax Reform Framework”.

Item	Current Law	<u>Treasury Green Book Proposal</u>	<u>House Ways & Means Committee Proposal</u> (approved in Committee September 15, 2021) H.R. 5376 (Rept. No. 117-130), <i>To provide for reconciliation pursuant to title II of S. Con. Res. 14.</i> (Tax Provisions), introduced Sept. 27, 2021	<u>Wyden Discussion Draft</u>
Global intangible low-taxed income (GILTI)	<p>Domestic corporations are allowed a 50% deduction of their GILTI. For tax years beginning after December 31, 2025, the deduction for GILTI is reduced to 37.5 %.</p> <p>The calculation of GILTI and the associated foreign tax credit (FTC) are made on an aggregate basis. The GILTI taxes available for FTC are subject to a 20% reduction.</p> <p>Taxpayers receive a reduction for GILTI inclusions equal to 10% of the qualified business asset investment (QBAI) of their controlled foreign corporations (CFCs).</p>	<p>The proposal would reduce the GILTI deduction to 25%.</p> <p>GILTI and the associated FTC would be calculated on a country-by-country basis.</p> <p>The GILTI and Subpart F high-tax exclusion election would be repealed.</p> <p>The reduction of GILTI for QBAI would be repealed.</p> <p>The proposal would be effective for taxable years beginning after December 31, 2021.</p> <p>Read more.</p>	<p>The proposal would reduce the GILTI deduction to 37.5%.</p> <p>GILTI and the associated FTC would be calculated on a country-by-country basis.</p> <p>A country with an aggregate tested loss would be permitted to carry that loss forward to the succeeding taxable year.</p> <p>The reduction of GILTI for QBAI would be reduced from 10% to 5%.</p> <p>The proposal would be effective for taxable years beginning after December 31, 2021, with a transition rule for fiscal-year taxpayers.</p> <p>Sec. 138126 of H.R. 5376; IRC Sec. 951A and IRC Sec. 250.</p>	<p>The discussion draft would change the GILTI deduction to a yet-to-be-determined percentage.</p> <p>GILTI and the associated FTC would be calculated on a country-by-country basis, with an automatic high-tax exclusion for countries with a tax rate equal to the GILTI rate.</p> <p>The reduction of GILTI for QBAI would be repealed.</p> <p>The proposal would be effective for tax years beginning after December 31, 2021.</p>
Foreign tax credit categories and carryover rules	<p>Taxpayers determine their FTC limitation separately for each category of income included in IRC Sec. 904(d), including passive, general, foreign branch, GILTI and treaty-based.</p>	<p>In addition to the changes to the GILTI FTCs being calculated on a country-by-country basis, the proposal would also extend the country-by-country FTC</p>	<p>The proposal would amend IRC Sec. 904(d) so that the FTC would be calculated on a country-by-country basis for all categories of income.</p> <p>The FTC carryover provisions would be amended to provide that, for all categories of income (including GILTI) there would be</p>	<p>The discussion draft provides that the branch category would be changed to be computed on a country-by-country basis, with an automatic high-tax exclusion</p>

Item	Current Law	<u>Treasury Green Book Proposal</u>	<u>House Ways & Means Committee Proposal</u> (approved in Committee September 15, 2021)	<u>Wyden Discussion Draft</u>
	<p>Other than the GILTI category, which has no carryback or carryover for FTCs, all other categories are entitled to a one-year carryback and 10-year carryforward of excess FTCs.</p> <p>Current law provides a complex set of expense allocation and apportionment rules for expenses contained in the IRC Sec. 861 regulations for purposes of determining the FTC limitation. IRC Sec. 904(b)(4) provides that expenses allocated and apportioned against IRC Sec. 245A income increase the denominator of the FTC limitation fraction for each category of income.</p>	<p>limitation to the branch category.</p> <p>The proposal contains no changes to the FTC carryover provisions.</p> <p>The proposal also would repeal IRC Sec. 904(b)(4) and, instead, modify IRC Sec. 265 to provide that any expenses allocated and apportioned to IRC Sec. 245A income or to income for which an IRC Sec. 250 deduction is claimed against GILTI are treated as if they generated tax-exempt income and would not be deductible.</p> <p>The proposal would be effective for taxable years beginning after December 31, 2021.</p>	<p>H.R. 5376 (Rept. No. 117-130), <i>To provide for reconciliation pursuant to title II of S. Con. Res. 14.</i> (Tax Provisions), introduced Sept. 27, 2021</p> <p>no FTC carryback and the FTC carryforward period would be reduced from 10 years to five years.</p> <p>The proposals would modify the expense allocation and apportionment rules for purposes of determining the FTC to indicate that the only expense allocable to GILTI income is the IRC Sec. 250 deduction.</p> <p>The proposal also would repeal IRC Sec. 904(b)(4).</p> <p>The proposal would generally be effective for taxable years beginning after December 31, 2021. The modifications to the carryback and carryforward provisions, would apply to taxes paid or accrued in taxable years beginning after December 31, 2021. The modification relating to the redetermination of foreign taxes would be effective 60 days after the date of enactment.</p> <p>Sec. 138124 of H.R. 5376; IRC Sec. 904</p>	<p>provision similar to the GILTI high-tax exclusion provisions.</p> <p>The discussion draft does not include any proposed modifications to the FTC carryover rules.</p> <p>The discussion draft would modify the expense allocation and apportionment rules for purposes of determining the FTC limitation under IRC Sec. 904 by providing that stewardship and research and development expenses would be treated as US-source if the activities are conducted in the U.S. Expenses for activities conducted outside the U.S. would be sourced under the existing rules.</p> <p>The proposal would be effective for taxable years beginning after December 31, 2021.</p>
Foreign-derived intangible income (FDII) deduction	<p>Domestic corporations are allowed a 37.5% deduction for FDII for any taxable year beginning after December 31, 2017, and 21.875% for any taxable year beginning after December 31, 2025.</p>	<p>The FDII deduction would be repealed.</p> <p>The proposal would be effective for taxable years beginning after December 31, 2021.</p>	<p>The FDII percentage change to the 21.875% would be accelerated to be effective generally for any taxable year beginning after December 31, 2021.</p> <p>The proposal generally would be effective for taxable years beginning after December 31, 2021, with a transitional rule for fiscal-year taxpayers.</p>	<p>The discussion draft provides that the FDII rules would become the foreign-derived innovation income rules.</p> <p>The IRC Sec. 250 deduction for FDII would be harmonized with the GILTI IRC Sec. 250 deduction rate.</p>

Item	Current Law	<u>Treasury Green Book Proposal</u>	<u>House Ways & Means Committee Proposal</u> (approved in Committee September 15, 2021)	<u>Wyden Discussion Draft</u>
Base erosion and anti-abuse tax (BEAT)	<p>An additional tax is imposed on certain multinational corporations with respect to payments made to foreign affiliates; it applies to corporations with average gross receipts over \$500 million.</p> <p>The BEAT rate is generally 10% for taxable years beginning in 2021 through 2025 and 12.5% for taxable years beginning after 2025.</p>	<p>The proposal would replace BEAT with the Stopping Harmful Inversions and Ending Low-Tax Developments (SHIELD) provisions.</p> <p>SHIELD would deny deductions to corporations or branches by reference to gross payments made to “low-taxed members,” which would be any financial reporting group member whose income is subject to an effective rate below a designated minimum rate.</p> <p>The proposal would be effective for taxable years beginning after December 31, 2022.</p>	<p>Sec. 138121 of H.R. 5376; IRC Sec. 250.</p> <p>The proposal modifies the applicable percentage.</p> <p>For taxable years beginning after December 31, 2021, and ending before January 1, 2024, the BEAT rate would be 10%. For taxable years beginning after December 31, 2021, and ending before January 1, 2026, the BEAT rate would be 12.5%. For taxable years beginning after December 31, 2025, the BEAT rate would be 15%.</p> <p>Sec. 138131 of H.R. 5376; IRC Sec. 59A.</p>	<p>Changes to the calculation would include limitations based on qualifying wages and various modifications to the existing method of calculation.</p> <p>The proposal would be effective for taxable years beginning after December 31, 2021.</p> <p>The discussion draft would modify the BEAT rules to include a second, higher rate of tax when determining the base erosion tax liability. (This second, higher rate is still under consideration.) The higher rate would apply to “base erosion income,” which is the amount of income added to taxable income to determine modified taxable income (MTI).</p> <p>IRC Sec. 38 domestic business credits are provided full value under BEAT by providing that not all IRC Sec. 38 general business credits reduce regular tax liability for purposes of determining the base erosion minimum tax amount.</p>

Item	Current Law	<u>Treasury Green Book Proposal</u>	<u>House Ways & Means Committee Proposal</u> (approved in Committee September 15, 2021)	<u>Wyden Discussion Draft</u>
IRC Sec. 245A deduction for eligible foreign-source dividends	A 100% deduction is provided for qualifying foreign-source dividends received from 10% or more owned foreign corporations held by a U.S. corporation that meets various ownership and holding period requirements.	No proposal.	<p>The proposal would change the requirements to be eligible for an IRC Sec. 245A deduction from qualifying foreign-source dividends received from 10% or more owned foreign corporations to qualifying foreign-source dividends received from CFCs, limiting the availability of the IRC Sec. 245A deduction and eliminating the deduction for those foreign corporations that are so-called “10-50 companies.”</p> <p>The proposal would be effective for distributions made after the date of enactment.</p> <p>Sec. 138128 of H.R. 5376; IRC Sec. 245A and new Sec. 951B.</p>	<p>The proposal would be effective for base erosion payments paid or accrued for tax years beginning after the date of enactment.</p> <p>No proposal.</p>
Downward attribution provisions for CFC status and various other provisions	IRC Sec. 958(b)(4) had provided that, when determining whether a foreign corporation was a CFC, ownership by a foreign corporation of another foreign corporation could not be attributed under IRC Sec. 318 to a U.S. corporation (the so-called downward attribution rule).	No proposal.	<p>The proposal would reinstate IRC Sec. 958(b)(4), thereby providing that, for purposes of IRC Sec. 318(a)(3), when determining attribution of ownership to a U.S. person, such ownership will not be attributed if the stock of the foreign corporation is not owned by a U.S. person.</p> <p>The proposal would establish new IRC Sec. 951B, which would apply IRC Secs. 951A and 965 to foreign-controlled U.S. shareholders of a foreign CFC. The</p>	No proposal.

Item	Current Law	<u>Treasury Green Book Proposal</u>	<u>House Ways & Means Committee Proposal</u> (approved in Committee September 15, 2021)	<u>Wyden Discussion Draft</u>
	<p>IRC Sec. 958(b)(4) was repealed as part of the Tax Cuts and Jobs Act. The repeal of the rule caused complexity for various individual shareholders, private equity funds and foreign-parented groups in the determination of CFC status for certain foreign subsidiaries and the implications of such determination.</p>		<p>H.R. 5376 (Rept. No. 117-130), <i>To provide for reconciliation pursuant to title II of S. Con. Res. 14.</i> (Tax Provisions), introduced Sept. 27, 2021</p> <p>provisions would essentially create a new status of foreign corporation for which U.S. owners would have inclusions for GILTI and IRC Sec. 965 purposes as if IRC Sec. 958(b)(4) were still repealed.</p> <p>The effective dates of these provisions would be retroactive and would apply to the last taxable year of foreign corporations beginning before January 1, 2018, and each subsequent taxable year of such foreign corporation and taxable years of U.S. persons in which or with which such taxable years of foreign corporations end.</p> <p>Sec. 138128 of H.R. 5376; IRC Sec. 958 and new Sec. 951B.</p>	

INDIVIDUAL PROVISIONS



Item	Current Law	Treasury Green Book Proposal	House Ways & Means Committee Proposal (approved in Committee September 15, 2021)	Wyden Discussion Draft
			H.R. 5376 (Rept. No. 117-130), To provide for reconciliation pursuant to title II of S. Con. Res. 14. (Tax Provisions), introduced Sept. 27, 2021	
Individual income tax rates	Top marginal rate is 37%.	Top marginal rate would be raised to 39.6%. The proposal would be effective for taxable years beginning after December 31, 2021.	Top marginal rate would be raised to 39.6%. The proposal would be effective for taxable years beginning after December 31, 2021. Sec. 138201 of H.R. 5376; IRC Sec. 1.	TBD
Surcharge on high-income individuals, estates and trusts	No provision.	No proposal.	The proposal would impose a 3% tax on modified adjusted gross income (MAGI) that exceeds \$100,000 for estates or trusts and \$5 million for individuals (\$2.5 million for married individuals filing separately). The proposal would apply to taxable years beginning after December 31, 2021. Sec. 138206 of H.R. 5376; IRC Sec. 1A.	TBD
Capital gains rate	Long-term capital gains are taxed at rates of 0%, 15% and 20%, depending on the taxpayer's income.	Long-term capital gains would be taxed at the highest individual marginal rate to the extent taxpayer's adjusted gross income (AGI) exceeds \$1 million. The proposal also would treat transfers of appreciated property by gift or at death as realization	The top long-term capital gains rate would be increased to 25%. The proposal to increase the capital gains rate would be effective for taxable years ending after the date of introduction (September 13, 2021); transitional rules would allow taxable years that include September 13, 2021 to tax net gains realized before September 13, 2021 at 20%. Agreements subject to a binding contract in place before September 13, 2021 would be subject to the 20% top rate (unless the	TBD

Item	Current Law	Treasury Green Book Proposal	House Ways & Means Committee Proposal (approved in Committee September 15, 2021)	Wyden Discussion Draft
		<p>events, subjecting the gain to tax, with some exclusions.</p> <p>The proposal for an increased capital gains rate would be effective for gains after the date of announcement (understood to be April 28, 2021).</p> <p>The proposal for capital gains tax on the transfer of appreciated property by gift or at death would be effective for decedents dying after December 31, 2021.</p>	<p>H.R. 5376 (Rept. No. 117-130), <i>To provide for reconciliation pursuant to title II of S. Con. Res. 14.</i> (Tax Provisions), introduced Sept. 27, 2021</p>	
Net investment income tax	A 3.8% tax is imposed on the lesser of net investment income or the excess of MAGI over a threshold amount (\$250,000 for married joint filers; \$200,000 for single filers).	The proposal would expand the application of the net investment income tax for taxpayers with AGI in excess of \$400,000 by subjecting to the net investment income tax gross income and gains from any trades or businesses that are not otherwise subject to employment taxes.	<p>contract was materially modified after September 13, 2021).</p> <p>Sec. 138202 of H.R. 5376; IRC Sec. 1(h).</p> <p>The proposal would expand the application of the net investment income tax of high-income individuals (MAGI over \$500,000 for joint filers, \$250,000 for married filers filing separately, \$400,000 for single filers) and expand the definition of net investment income subject to tax.</p> <p>The proposal would be effective for taxable years beginning after December 31, 2021.</p> <p>Sec. 138203 of H.R. 5376; IRC Sec. 1411.</p>	TBD
Taxation of carried interest	Carried interest allocations attributable to property with a holding period of less than three years are taxed at ordinary rates.	The proposal would tax all carried interest allocations at ordinary rates , provided the recipient's taxable	The proposal would expand the holding period requirement from three to five years, except in the case of taxpayers with taxable income below \$400,000 or	TBD

Item	Current Law	<u>Treasury Green Book Proposal</u>	<u>House Ways & Means Committee Proposal</u> (approved in Committee September 15, 2021) H.R. 5376 (Rept. No. 117-130), <i>To provide for reconciliation pursuant to title II of S. Con. Res. 14.</i> (Tax Provisions), introduced Sept. 27, 2021	<u>Wyden Discussion Draft</u>
		income (from all sources) exceeds \$400,000.	allocations from real property trades or businesses. Sec. 138149 of H.R. 5376; IRC Sec. 1061	
Qualified business income deduction	Individuals, fiduciaries and trust/estate beneficiaries may deduct 20% of qualified business income from a partnership, S corporation or sole proprietorship (20% of total qualified real estate investment trust dividends and publicly traded partnership income are also eligible). There is no cap on the deduction.	No proposal.	The proposal would impose a dollar limitation on the deduction. For a taxable year, the deduction would not exceed \$500,000 for joint filers, \$250,000 for married filers filing separately, \$400,000 for single filers, or \$10,000 for estates and trusts. The proposal would be effective for taxable years beginning after December 31, 2021. Sec. 138204 of H.R. 5376; IRC Sec. 199A.	TBD

ESTATE & GIFT TAX PROVISIONS



Item	Current Law	Treasury Green Book Proposal	House Ways & Means Committee Proposal (approved in Committee September 15, 2021) H.R. 5376 (Rept. No. 117-130), <i>To provide for reconciliation pursuant to title II of S. Con. Res. 14.</i> (Tax Provisions), introduced Sept. 27, 2021	Wyden Discussion Draft
Temporary unified credit exemption equivalent amount	<p>For estates of decedents dying and gifts made after December 31, 2017, and before January 1, 2026, the unified credit exemption equivalent amount is \$10 million, which indexed for inflation, is \$11,700,000 for 2021.</p> <p>For decedents dying and gifts made prior to January 1, 2018, and after December 31, 2025, the exclusion amount is \$5 million, indexed for inflation.</p>	No proposal.	<p>The proposal would accelerate the expiration of the \$10 million unified credit exemption equivalent amount. For decedents dying and gifts made after December 31, 2021, the exemption equivalent amount would be \$5 million, indexed for inflation. (The Joint Committee staff estimates the indexed amount would be \$6,020,000 for 2022.)</p> <p>Sec. 138207 of H.R. 5376; IRC Sec. 2010.</p>	TBD
Inclusion of grantor trusts in a decedent's estate	<p>When a deemed owner of a grantor trust dies, the assets of that grantor trust (other than a fully revocable trust) are generally not included in the gross estate of the deceased deemed owner.</p>	No proposal.	<p>The proposal would require that assets in a grantor trust be included in the gross estate of the deceased owner.</p> <p>Additionally, the proposal would treat distributions (other than to the deemed owner or spouse) during the life of the deemed owner and the termination of grantor trust status during the life of the deemed owner as completed gifts.</p> <p>The proposal would also disregard grantor trust status when determining whether a transfer between a deemed owner and his or her grantor trust is a sale or an</p>	TBD

Item	Current Law	Treasury Green Book Proposal	House Ways & Means Committee Proposal (approved in Committee September 15, 2021)	Wyden Discussion Draft
------	-------------	------------------------------	---	------------------------

exchange, possibly resulting in a taxable event.

The proposal would apply to trusts created on or after the date of enactment of this provision and to any portion of a trust established before the date of enactment attributable to contributions made on or after the date of enactment.

The portion of the provision relating to sales and exchanges between a deemed owner and a grantor trust is *intended** to be effective for sales and other dispositions after date of enactment. (* The staff description of the provision notes that a technical correction may be needed to reflect this intended effective date.)

Sec. 138209 of H.R. 5376; IRC Secs. 1062, 2091.

Valuation discounts for estate and gift tax purposes

Valuation discounts, such as discounts for lack of control and marketability, are available for certain transfers of nonbusiness assets.

No proposal.

The proposal would eliminate valuation discounts for certain transfers of nonbusiness assets.

The proposal would apply to transfers after the date of enactment.

Sec. 138210 of H.R. 5376; IRC 2031.

RETIREMENT PLAN PROVISIONS



Item	Current Law	Treasury Green Book Proposal	House Ways & Means Committee Proposal (approved in Committee September 15, 2021)	Wyden Discussion Draft
Requirement for Employers to Maintain or Facilitate Automatic Employee Contributions to Retirement Plans			<p>H.R. 5376 (Rept. No. 117-130), <i>To provide for reconciliation pursuant to title II of S. Con. Res. 14.</i> (Tax Provisions), introduced Sept. 27, 2021</p> <p>The proposal would impose a \$10, indexed for inflation, per day tax for each employee that the employer does not facilitate automatic retirement savings to an employer sponsored plan or IRA.</p> <p>The proposal would apply to plan years beginning after December 31, 2022.</p> <p>Sec.131101 and Sec. 131102 of H.R. 5376</p>	
Changes to Credits for Small Employer Pension Plan Startup Costs	<p>Allows a credit for two tax years to eligible employers to offset the cost of setting up a qualified retirement plan equal to 50% of the qualified startup costs. The credit can range from \$500 to \$5,000 based on the number of eligible employees.</p>		<p>Increases the number of years that the credit is allowed from 2 to 4 taxable years. 50% credit for plan startup costs for eligible employer under current law increased to 100 with 25 or fewer employees.</p> <p>Also, terminates the credit for non-automatic contribution plans or arrangements after 2022.</p> <p>The proposals would apply to plan years beginning after December 31, 2021. Provisions terminating the credit for non-automatic contribution plans/arrangements effective for taxable years beginning after December 31, 2022.</p> <p>Sec. 131103 of H.R. 5376</p>	

Item	Current Law	Treasury Green Book Proposal	House Ways & Means Committee Proposal (approved in Committee September 15, 2021)	Wyden Discussion Draft
Matching Payments for elective deferral and IRS contributions by certain individuals			H.R. 5376 (Rept. No. 117-130), <i>To provide for reconciliation pursuant to title II of S. Con. Res. 14.</i> (Tax Provisions), introduced Sept. 27, 2021	
Deadline to Fund IRA with Tax Refund			New \$500 credit established for certain small employer automated deferral only retirement arrangements. The proposals would apply to plan years beginning after December 31, 2021. Sec. 131104 of H.R. 5376	
Limitations on contributions to IRAs and Roth IRAs for high-income taxpayers with large account	Taxpayers may contribute to IRAs, Roth IRAs and defined contribution plans regardless of how much they already have saved in such accounts.	No proposal.	This proposal would provide a personal income tax credit up to \$500(phased out based on AGI) for individuals contributing to an applicable retirement savings vehicle This proposal would be effective for tax years beginning after December 31, 2024. Sec. 131201 of H.R. 5376 Taxpayers can fund IRAs with tax refund by electing it be deposited directly into the IRA account. This provision would apply to taxable years beginning after December 31, 2022. Sec. 131202 of H.R. 5376 The proposal would prohibit contributions by "applicable taxpayers" to IRAs and Roth IRAs if the total value of "applicable retirement plans" (includes traditional and Roth IRAs, 403(b) plans and annuities, 475(b) deferred compensation plans and defined contributions qualified under IRC Sec. 401(a)) exceeds the "applicable dollar amount" as of the end of the prior year.	

Item	Current Law	Treasury Green Book Proposal	House Ways & Means Committee Proposal (approved in Committee September 15, 2021)	Wyden Discussion Draft
balances in IRAs, Roth IRAs or defined contribution retirement plans			H.R. 5376 (Rept. No. 117-130), <i>To provide for reconciliation pursuant to title II of S. Con. Res. 14.</i> (Tax Provisions), introduced Sept. 27, 2021	
New reporting requirement for employer-sponsored defined contribution plans	Reporting to IRS does not include account balances of active plan participants.	No proposal.	<p>The proposal would require defined contribution plan sponsors to report employees who have aggregate vested balances of more than \$2.5 million to the IRS and notify the employee that this information is being reported.</p> <p>The proposal would be effective for taxable years beginning after December 31, 2021.</p> <p>Sec.138301 of H.R. 5376.</p>	
Increased minimum required distributions (MRD) from	MRD is required only based on age, not on the retirement asset amount.	No proposal.	The proposal would require applicable taxpayers, as defined above, to take an additional MRD, regardless of their age, equal to 50% of the aggregate vested balances in applicable retirement plans in	

Item	Current Law	Treasury Green Book Proposal	House Ways & Means Committee Proposal (approved in Committee September 15, 2021)	Wyden Discussion Draft
IRAs, Roth IRAs and defined contribution retirement plans			H.R. 5376 (Rept. No. 117-130), <i>To provide for reconciliation pursuant to title II of S. Con. Res. 14.</i> (Tax Provisions), introduced Sept. 27, 2021	
High-income taxpayers cannot convert pretax IRA and employer-sponsored defined contribution plan accounts to Roth IRAs	Contributions to Roth IRAs have income limitations; Roth IRA conversions do not have income limitations.	No proposal.	<p>The proposal would eliminate Roth conversions for IRAs and employer-sponsored defined contribution plans for applicable taxpayers, as defined above.</p> <p>The proposal would be effective for rollovers and conversions after December 31, 2031.</p> <p>Sec. 138311 of H.R. 5376.</p>	
“Back-door” Roth strategy	Taxpayers who cannot contribute directly to a Roth IRS can make nondeductible	No proposal.	The proposal would amend the definition of rollovers and conversions to Roth IRAs to include only amounts that would be	

Item	Current Law	Treasury Green Book Proposal	House Ways & Means Committee Proposal (approved in Committee September 15, 2021)	Wyden Discussion Draft
	contributions to a traditional IRA or after-tax contributions to an employer-sponsored defined contribution plan and convert to a Roth IRA shortly thereafter. This is commonly known as a “back-door” Roth.		includable in gross income and subject to tax regardless of the taxpayer’s income level. The proposal would be effective for distributions, transfers and contributions made after December 31, 2021. Sec. 138311 of H.R. 5376.	
Limits on IRA and Roth IRA investments	IRA and Roth IRA owners can be required to satisfy certain requirements to be accredited for certain IRA or Roth IRA investments.	No proposal.	The proposal would prohibit IRAs and Roth IRAs from holding any security that requires the IRA owner to have certain income or education levels. The proposal would be generally effective for taxable years beginning after December 31, 2021. For existing investments in newly prohibited assets, IRA the effective date would be for taxable years beginning after December 31, 2023. Sec. 138312 of H.R. 5376.	
Limits on IRA and Roth IRA investments in which the IRA owner owns a substantial interest	Generally, IRAs and Roth IRAs can invest in investments in which the IRA owner has an interest, provided the IRA owner’s interest is less than 50%.	No proposal.	The proposal would expand the definition of prohibited investments in IRAs and Roth IRAs to include investments in which the IRA owner has a substantial interest. A substantial interest is defined as (a) a direct or indirect interest in a security not tradeable on an established market in which the IRA owner has at least 10% of the (i) the combined voting power or value of all classes of stock, (ii) capital or profits interest of a partnership, or (iii) beneficial interest of a trust or estate; or (b) a corporation, partnership or other	

Item	Current Law	<u>Treasury Green Book Proposal</u>	<u>House Ways & Means Committee Proposal</u> (approved in Committee September 15, 2021)	<u>Wyden Discussion Draft</u>
			H.R. 5376 (Rept. No. 117-130), <i>To provide for reconciliation pursuant to title II of S. Con. Res. 14.</i> (Tax Provisions), introduced Sept. 27, 2021	

unincorporated enterprise in which the IRA owner is an officer or director (or similar).

The proposal would be effective for investments made in taxable years beginning after December 31, 2021. For existing investments in newly prohibited assets, IRA the effective date would be for taxable years beginning after December 31, 2023.

EMPLOYEE BENEFITS



Item	Current Law	Treasury Green Book Proposal	House Ways & Means Committee Proposal (approved in Committee September 15, 2021)	Wyden Discussion Draft
Acceleration of the expiration date for Family Medical Leave Act (FMLA) business income tax credits	FMLA business income tax credits expire in 2025.	No proposal.	H.R. 5376 (Rept. No. 117-130), <i>To provide for reconciliation pursuant to title II of S. Con. Res. 14.</i> (Tax Provisions), introduced Sept. 27, 2021	
Work Opportunity Tax Credit (WOTC)	The WOTC is 10% of the first \$10,000 of wages and is available only for the first year of employment.	No proposal.	The proposal would increase the WOTC to 50% for the first \$10,000 in wages through December 31, 2023, for all WOTC-targeted groups except for summer youth employees. The WOTC also would be extended to include the second year of employment. Sec. 138513 of H.R. 5376; IRC Sec. 51.	
Executive Compensation	Effective for tax years beginning after December 31, 2026, the American Rescue Plan Act of 2021 (ARPA) expanded the set of applicable employees under IRC Sec. 162(m) to include the eight most highly compensated officers other	No proposal.	The proposal would move up the effective date of the amendment to IRC Sec. 162(m) in the ARPA to tax years following December 31, 2021. The set of applicable employees under IRC Sec. 162(m) would be expanded to include the eight most highly compensated officers other than the principal executive and principal financial officers. The additional five employees	

Item	Current Law	<u>Treasury Green Book Proposal</u>	<u>House Ways & Means Committee Proposal</u> (approved in Committee September 15, 2021)	<u>Wyden Discussion Draft</u>
	<p>than the principal executive and principal financial officers. The additional five employees ARPA added are not considered permanent covered employees for purposes of that section. The provision also applies the IRC Sec. 414 aggregation rules for covered health insurance providers to IRC Sec. 162(m), expands the IRS's regulatory authority under the general rule and expands the definition of applicable employee remuneration.</p>		<p>H.R. 5376 (Rept. No. 117-130), <i>To provide for reconciliation pursuant to title II of S. Con. Res. 14.</i> (Tax Provisions), introduced Sept. 27, 2021</p>	
			<p>ARPA added are not considered permanent covered employees for purposes of that section. The provision also applies the IRC Sec. 414 aggregation rules for covered health insurance providers to IRC Sec. 162(m), expands the IRS's regulatory authority under the general rule and expands the definition of applicable employee remuneration.</p> <p>The proposal would be effective for tax years beginning after December 31, 2021.</p> <p>Sec. 138501 of H.R. 5376; IRC Sec. 162(m).</p>	

IRS PROVISIONS



Item	Current Law	<u>Treasury Green Book Proposal</u>	<u>House Ways & Means Committee Proposal</u> (approved in Committee September 15, 2021)	<u>Wyden Discussion Draft</u>
Funding for the IRS		The proposal would provide the IRS an additional \$417 million in FY 2022 for new enforcement and compliance initiatives, part of a proposed \$6.7 billion "program integrity" adjustment proposed for FYs 2022 through 2031. The IRS would also receive \$72.5 billion in mandatory funding for FYs 2022 through 2031 for enforcement, compliance, enhanced information technology capabilities, implementing the proposed financial information reporting regime and improving taxpayer service.	H.R. 5376 (Rept. No. 117-130), <i>To provide for reconciliation pursuant to title II of S. Con. Res. 14.</i> (Tax Provisions), introduced Sept. 27, 2021 The proposal would provide the IRS \$79 billion to strengthen tax enforcement activities, increase voluntary compliance, and modernizing information technology to effectively support enforcement activities. No use of these funds is intended to increase taxes on any taxpayer with taxable income below \$400,000. Another \$41 billion would be appropriated for the Treasury Inspector General for Tax Administration to provide oversight of the IRS. Finally, \$157 million would be appropriated for the Tax Court. Sec. 138401 of H.R. 5376.	Not applicable.

BDO is the brand name for BDO USA, LLP, a U.S. professional services firm providing assurance, tax, and advisory services to a wide range of publicly traded and privately held companies. For more than 100 years, BDO has provided quality service through the active involvement of experienced and committed professionals. The firm serves clients through more than 70 offices and over 750 independent alliance firm locations nationwide. As an independent Member Firm of BDO International Limited, BDO serves multi-national clients through a global network of more than 91,000 people working out of more than 1,650 offices across 167 countries and territories.

BDO USA, LLP, a Delaware limited liability partnership, is the U.S. member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms. BDO is the brand name for the BDO network and for each of the BDO Member Firms. www.bdo.com

Material discussed in this publication is meant to provide general information and should not be acted on without professional advice tailored to your needs.

© 2021 BDO USA, LLP. All rights reserved.