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Biden's Tax Increase On Death That No One Is Talking About

Most people think primarily about income tax, not estate tax. That makes perfect sense, since very few people end up paying estate tax, or even having to worry about it at all. With a \$23 million allowance per married couple going free of gift or estate tax, only those over that number face taxes. Yet Mr. Biden's tax plans reflect a massive change in how income and estate taxes interact, amounting to a big tax increase that will transform *income* taxes on death. First, the obvious points. Biden has proposed taxing long-term capital gains and qualified dividends at ordinary income tax rates of 39.6 percent on income above \$1 million. But how about on death? This is where the change is much bigger. Recall that Hillary Clinton proposed a 65% death tax for the very rich, and Bernie Sanders has more recently said he wants to drop the \$11.5 million exemption to \$3.5 million. Biden has been less clear, but has also suggested that the current exemption is too high. Yet Mr. Biden's plan cuts deeper on many more regular people for much higher *income* taxes once you die. Here's how. After the Democratic National Convention, Mr. [Biden pledged 'no new taxes' on incomes under \\$400,000 and on mom & pop businesses](#), but some of the [\\$4 trillion tax plan](#) he previously rolled out

suggests otherwise. Currently, up to \$23 million per married couple can pass to one's heirs free of federal gift and estate tax.



However, income taxes are another matter, and that's where Mr. Biden proposes big changes. [Biden's plan could leave you paying higher income taxes](#) after a death by repealing present law's step-up in basis that increases the tax basis for inherited assets to their full fair market value upon death. [Biden's tax plan](#) calls for carrying *over* an asset's tax basis from the the decedent to the next generation. No amount of estate tax exemption would help you, because this is a big *income* tax increase. Under present law, inherited property receives a full fair market value tax basis on death. The step-up in basis provides tax benefits for everyone passing down appreciated assets, including real estate, stock, family companies and more. For generations, assets held at death have received a stepped-up basis—to market value—when you die. Small businesses count on this. Say you have a family

business worth \$20 million that you started from scratch. How is it taxed if the married couple dies?

Right now, the business goes free of estate tax to the kids. If both parents die, the \$23 million estate tax exemption should mean no estate tax for that \$20 million business. And the business gets a step-up in basis for income taxes too. Say mom and dad die, and junior gets the stock in the family company. No matter how small mom and dad's tax basis was in the stock, the stock gets stepped up to market value on death, \$20 million. That way, junior can run the business, or can sell it for \$20 million and should pay no income tax. Or, junior could try running the business for a year or two—it might even be worth \$22 million then—but if he sells it, he has that \$20 million date of death value basis. Of course, this example is simplistic, and ignores the fact that the business *itself* might make the sale. Most buyers won't buy stock, and insist on buying assets, and the business would be taxed. Remember, [on a business sale, the company, owners or both may have to pay the IRS.](#)

A hallmark of our estate tax system for generations is that *everybody* gets a stepped-up basis on death for income taxes. Mr. Biden's proposal would tax an asset's *unrealized appreciation* at transfer, so Junior gets taxed whether or not he sells the business. The idea that you could build up your small business and escape death tax and income tax to pass it to your kids is on the chopping block. By taxing the unrealized gain at death, heirs would get hit at the transfer, regardless of whether they sell the asset. In total, Mr. Biden has floated a [\\$4 trillion tax plan](#), hiking income tax rates on households with taxable income over \$400,000, according to [a study done by the Tax Policy Center](#). Capital gains tax rates would soar too. Under current law, the [long-term capital gain rate](#) is 20% for those with over \$441,451 in taxable income (\$496,601 for married-filing-jointly). Biden's proposal would subject capital gain to the same tax rate as ordinary income for incomes over \$1 million. If

subjecting appreciation in assets to income tax on death happens, small businesses and many other assets such as personal residences, could be in for even more income taxes.

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