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By Robert W. Wood

Joe Biden's Big Tax Hikes Are Still Looming?

As we enter the last third of the year, will those big tax hikes discussed a few months ago pass and cut into your savings? The scary proposals have stymied many people this year in part because they are *retroactive*. That makes what to do tough. Even taxes on death may be radically increased.

For generations, there's been a big tax break for long-term capital gains, those held over a year. Up until now, the tax rate on long-term capital gain has been zero, 15% or 20%, depending on your income. Add the 3.8% Obamacare tax in some cases, but at worst, your total tax bill is 23.8%. But under one Biden proposal, the 23.8% rate may go to 43.4% in some cases, an 82% increase in the old rate.

The current long-term capital gain tax is graduated. You pay 0% on income up to $40,000, 15% over $40,000 up to $441,450, and 20% on income over $441,451. But those thresholds may change. The 43.4% rate is supposed to hit only those earning $1M or more. But if you bought a house 30 years ago that is now worth over a million, you could be impacted.

It might already be too late to sell. A natural reaction to a looming 82% tax rate hike is to sell quickly before the new law takes effect. But to prevent this, the rate hike impacts sales after April 28, 2021. It might not pass, or it might pass with a different effective date. In the meantime, it is hard to decide what to do. Do you sell now or wait and see?

There's no easy answer.

Capital gain tax applies to your gain not to your sales proceeds, so your adjusted tax basis can be subtracted, but can you prove it? Your basis is your original investment, as adjusted by things like remodeling costs, expenses related to the investment, etc. Keep your receipts, which can be relevant for decades with assets like a house. The IRS always wants receipts, and if you can't establish your basis, you could face tax on it all.

Taxes on death are coming too. Under present law, inherited property receives a full fair market value tax basis on death. Biden proposed ending step up in basis, subject only to an exemption of $1 million plus $250,000 of gain on a home. Beyond that, everything would be taxed. 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?

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. All that could be gone, but will any of these changes actually be enacted into law? It is still uncertain, and there are other tax changes in the wind too. Even the death tax itself could be increased. Right now the gift and estate tax exemption is $11.7 million per individual or $23.4 million per married couple. At one point, Biden supported lowering the $11.7 million figure to $3.5 million, and increasing the estate tax rate from 40% to 45%. He has not formally proposed that to go along with his capital gain hike and repealing step up in basis, but it's clear that takes hikes are coming.

Robert W. Wood is a tax lawyer and managing partner at Wood LLP. He can be reached at Wood@WoodLLP.com