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Biden's 20% 'Billionaire' Tax Hits \$100M Up Taxing Unrealized Gains

President Biden is unfurling his proposed "Billionaire Minimum Income Tax," as part of his new budget, but his chances of success remain murky. Not even all democrats are likely to agree. As he [unveils a new tax on billionaires](#), it is supposed to "ensure that the very wealthiest Americans pay a tax rate of at least 20 percent on their full income, including unrealized appreciation." The unrealized part means there's really no "income" in the usual sense to tax. Let's say you buy crypto and it goes up stratospherically in value. Up until now, you can't be taxed until you sell it. Now, that could change, for if the president has his way, there would be a new 20% minimum tax rate on U.S. households worth more than \$100 million. One goal is fairness, so "the wealthiest Americans no longer pay a tax rate lower than teachers and firefighters." Another goal is deficit reduction, hoping to slim the deficit by \$360 billion in the next decade.

But how would it work if you are in the elite group of people facing this? If you are already paying 20% on your full income, you are not supposed to have to

pay an additional tax under the proposal. But if you pay less than 20%, you will owe a “top-up payment” to meet the new minimum. “As a result, this new minimum tax will eliminate the ability for the unrealized income of ultra-high-net-worth households to go untaxed for decades or generations.” Sounds like a wealth tax, but proponents say this isn’t a wealth tax as they try to distance themselves from the unvarnished wealth tax the Democrats floated last year. The new White House approach represents another attempt at a billionaire tax that can be passed and administered by the IRS. Last year’s proposal required an annual valuation and assessment that was clearly unworkable. The new plan gives wealthy households five years to be in compliance with the minimum 20 percent tax.



But can the IRS collect taxes if you haven’t sold anything? The proposed plan gives people nine years from enactment to pay previously unrealized income. Yet even if this unusually ambitious tax passes, it is possible that it might be struck down as unconstitutional. Last year, Congress proposed the [Ultra-Millionaire Tax](#), but some features of the new plan are similar. The 2021

version would have imposed a tax on the net value of all taxable assets on the last day of each calendar year. That was clearly a wealth tax, with the tax 2% of the amount of taxpayer's assets exceeding \$50 million. Then, it was supposed to go up to 3% or 6% if your taxable assets exceed \$1 billion. In the 2021 proposal, the IRS was going to have to audit at least 30% of all taxpayers required to pay the tax. Given the annual appraisal requirements (for all assets!) and 30% mandatory audit standard, it hardly seemed realistic and did not pass. The President hopes his wealth tax 2.0 stands a better chance with a five-year compliance window that is supposed to make critics more comfortable. We'll see.

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