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This Biden Tax Hike Will Hit Mom & Pop Hard

After the Democratic National Convention, former VP Joe [Biden pledged 'no new taxes' on incomes under \\$400,000 and on mom & pop businesses](#), but that vague commitment seems to conflict with much of the [\\$4 trillion tax plan](#) he previously rolled out. With up to \$23 million per married couple currently free of federal gift and estate tax, most of us won't pay the death tax anyway. So most mom and pop businesses think mostly about income tax, not estate tax. Yet as President, Biden's tax plans reflect a massive change to how the income and the estate tax interact, amounting to a big tax increase. He needs Congress' approval to raise taxes, of course, but many people on Wall Street and around the kitchen table think he will win and he will get it. Biden 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 danger is even bigger. Hillary Clinton proposed a 65% death tax for the very rich, and Bernie Sanders more recently said he wants to drop the \$11.5 million exemption to \$3.5 million. Yet Biden's plan cuts even deeper on many more regular people like mom and pop. Here's how.



Under current tax law, assets that pass directly to your heirs get a step-up in basis for income tax purposes. It doesn't matter if you pay estate tax when you die or not. For generations, assets held at death get 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. After all, most buyers won't buy stock, and insist on buying assets, and the business would be taxed. After all, [on a business sale, the company, owners or both may have to pay the IRS.](#)

Yet this simple example shows a hallmark of our estate tax system for generations. *Everybody* gets a stepped-up basis on death, for income taxes. But Biden says maybe no longer. Biden says that'll be gone once he is President. Biden's proposal would tax an asset's *unrealized appreciation* at transfer. You mean Junior gets taxed whether or not he sells the business? Essentially, yes. 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. Biden would levy a tax on unrealized appreciation of assets passed on at death. By taxing the unrealized gain at death, heirs would get hit at the transfer, regardless of whether they sell the asset.

In all, 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. Biden would also do away with the current top ordinary income tax rate of 37%, going back to 39.6%. If subjecting mere appreciation in assets to income tax on death happens, mom and pop businesses—and many other assets—such as personal residences, could be in for even more income taxes.

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