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Green Book Previews Biden Administration's Opening Offer in 2025 Tax Reform Debate

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On March 11, 2024, the Treasury Department released the General Explanations of the Administration's Fiscal Year 2025 Revenue Proposals, known as the Green Book. The Green Book details the nearly \$5 trillion in individual and corporate tax hikes that President Biden has called for in his FY 2025 budget. In addition to reaffirming previous proposals, including raising the corporate income tax rate and imposing a minimum tax on wealthy households, the 2025 Green Book includes new proposals to increase the corporate alternative minimum tax (CAMT) rate and eliminate business deductions for excess employee compensation.

Because Republicans control the House of Representatives, no action on the Green Book proposals is currently expected. That said, because the proposals would serve as a starting point for future tax reform negotiations with Democrats, they are worth understanding better. Moreover, with parts of the Tax Cuts and Jobs Act (TCJA) set to expire at the end of 2025, Republicans may have to accept tax increases to preserve current-law benefits for families and small businesses. This means that many of the proposed revenue raisers, particularly the increased corporate rate, can no longer be dismissed as merely aspirational.

Business Tax Proposals

The President's FY 2025 budget proposes to increase business taxes by more than \$2.7 trillion over the next 10 years. The bulk of this revenue would come from corporate and international tax increases, including proposals to:

- Increase the top federal corporate tax rate to 28%.
- Raise the CAMT rate to 21%.
- Quadruple the excise tax rate on corporate stock repurchases (from 1% to 4%).
- Disallow corporate deductions for any employee compensation exceeding \$1 million.
- Reform international taxation by:
 - Increasing the global intangible low-taxed income rate.
 - Adopting the undertaxed profits rule.
 - Repealing the foreign-derived intangible income deduction.

Insight: In 2025, the lower corporate rate enacted in the TCJA will face a renewed assault, but this time without the support of two key senators, Joe Manchin (D-WV) and Kyrsten Sinema (I-AZ), who are not seeking reelection. The lack of support across the aisle will complicate Republican efforts to maintain the status quo, and modest corporate tax rate increases may be the price of bipartisan action. Similar dynamics may also affect efforts to preserve preferential tax rates for carried interest.

Other business tax proposals in the FY 2025 budget include:

- Making permanent the excess business loss limitation for noncorporate taxpayers.
- Repealing deferral of gain from exchanges of like-kind real estate.
- Increasing taxes on oil and gas, including eliminating the expensing of intangible drilling costs and the use of percentage depletion for oil and gas wells.
- Extending the wash sale and other tax rules to digital assets.
- Making permanent the new markets tax credit.

Individual Tax Proposals

The President's FY 2025 budget proposes to increase taxes on wealthy individuals by nearly \$2 trillion. It would do so in part by:

- Increasing the top marginal income tax rate to 39.6%.
- Imposing a 25% minimum income tax on all taxpayers worth more than \$100 million.
- Taxing capital gain at ordinary rates for households earning more than \$1 million.
- Subjecting all pass-through business income of taxpayers making at least \$400,000 per year to either the net investment income tax (NIIT) or Self-Employment Contributions Act tax.
- Increasing the maximum NIIT rate and additional Medicare tax rate from 3.8% to 5%.

Other individual tax proposals in the FY 2025 budget include:

- Taxing carried (profits) interests as ordinary income.
- Modifying estate and gift taxation to treat transfers of appreciated property by gift or on death as realization events for income tax purposes.
- Restricting the use of tax-favored retirement accounts by "high-income" taxpayers.
- Imposing ownership diversification requirements for small insurance company election.

Insight: The White House has made clear that while the President supports extending the TCJA's middle-class tax cuts, he does not support preserving tax breaks for Americans earning \$400,000 or more per year. The President has also said that any extension must be paid for with additional (unspecified) reforms. Given the enormous cost of maintaining even the middle-class tax cuts (estimated to be \$2–2.5 trillion over the next 10 years), revenue-raising proposals will factor heavily in this discussion if divided government persists. Commentators have suggested that revenue constraints could force lawmakers to reduce or phase out the Section 199A pass-through deduction, and if so, high-income pass-through business owners may face a top marginal tax rate of 44.6%.

Key Takeaways

While many of the Administration's tax proposals are nonstarters for House Republicans, these proposals cannot be ignored heading into 2025. As Republicans fight to extend the sunseting TCJA provisions, they may have to accept legislative reality and, thus, some Democratic tax increases. Gaining an early understanding of how the Green Book tax proposals may impact your business or tax planning is, therefore, essential.

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