US Tax Increases May Be Coming. Are You Ready to Pay More for Your US Citizenship?

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Drastic tax changes are likely coming from the Biden administration in the not-so-distant future, and there are plenty of reasons for US expats to be nervous. While still being hashed out in the halls of Congress as we speak, proposed changes could see $US2.1 trillion worth of tax increases aimed at individual and corporate taxpayers (a low-end estimate) to pay for the largest social spending plan in decades.

In September, Biden's proposals took a big step towards this becoming a reality after the House Ways and Means Committee approved the increases. An even bigger step was taken on November 5th, 2021, when the $US1.2 trillion-dollar infrastructure bill was passed in Congress, with an all but guaranteed signature into law by the President to come. Next up on the spending spree list is a move never seen before in human history – the Build Back Better Plan and its estimated **$US4 trillion+** price tag. Within these bills would be a slew of tax increases that have US expats worldwide watching with bated breath on what survives the political wrangling and what doesn't.

If you're a US citizen living outside the United States, these potential tax increases will almost certainly negatively impact your family's financial situation. Many feel it's only a matter of time before tax increases, in one form or another, come to fruition as a centrepiece of this administration's tax and spend agenda. And with the Democrats holding power in the House, Senate, and Oval Office, the smart money is on them accomplishing their goals.

<u>Some specific proposals that could create the biggest concerns for US expats</u>:

1. **<u>Income Tax Rate Increases</u>**: An increase to the top US individual income tax rate **from 37% to 39.6%** with significant compression of the top tax bracket.

2. **<u>Capital Gains Rate Increases</u>**: A top capital gains tax rate **from 20% to as high as 44% in certain situations.**

Where will a US expat see and feel this capital gains rate increase in common transactions? Real estate, real estate, real estate. If you want to sell your home for a hefty capital gain, get ready to pay even more in US tax. US citizens are taxed on their worldwide income regardless of where they live in the world. When a US citizen living abroad sells their principal residence (non-US real estate), the gain is tax-free in the majority of countries outside the US. But if you are a US citizen, that capital gain from the sale of your Toronto home, for example, is not tax-free in the US.

While you will receive the same exemption on the first US$250,000 of gain, you can expect a potentially higher tax bill on any amount that exceeds $US1 million of gain. The current rate of 20% could balloon to as high as 44%. In booming real estate markets like Toronto, Vancouver, Sydney, Melbourne, Auckland, and scores of other cities across the globe experiencing real estate bonanzas, that could easily translate into hundreds of thousands in additional US tax owing on the sale of your home. A huge win for Uncle Sam, a big loss for the US expat.

3. **Estate and Gift Tax: Unified Credit Reduction and Increased Tax Rate**: When a US citizen passes away, the US estate tax regime applies. The current exemption amount is $US11.7m for 2021. Thus, if a US citizen dies today with a net worth less than $US11.7m, the US estate tax owing would be $0. Anything above that mark would be taxed at 40% of the fair market value of the assets above the credit line. A reduction of this exemption to as low as US$2m would have a drastic effect on US citizens living abroad in death. A tax rate above that US$2m could reach as much as 55%. It's always tough to pick the right time, order, and administration to die under.

4. **Elimination of the Basis Bump in Death**: Additionally, under current legislation, if an individual dies with their US citizenship under the unified credit amount of $US11.7m, any assets under that mark with built-in gains would automatically receive a bump in basis to fair market value. In plain terms, if one died under the unified credit amount, the assets pass free and clear to their loved ones. If, for example, a stock worth $10,000 that had a basis of $2,000 was passed along, the decedent's family would get a bump in basis to $10,000. In turn, they could sell the stock the day after the loved one died and avoid $8,000 in taxable capital gains. The Biden administration is pushing to scrap this rule. In our example, if Biden's policies are passed, the decedent's family would receive the $10,000 of stock, but if sold, they would be liable for the $8,000 of taxable capital gains (keeping the $2,000 basis from the descendent). A very big difference for US families at all wealth levels!

5. **GILTI Tax Rate Increases**: The Global Intangible Low-Taxed Income provision was passed under the Trump administration and is a punishment for US citizens with interests in certain non-US corporations. This hits many US expat entrepreneurs hard. The Biden tax proposal would increase the GILTI tax rate from the current 10.5% to 21%. The plan would eliminate the exemption from GILTI of a net deemed tangible income return (qualified business asset investment), currently equal to 10% of a US shareholder's share of a controlled foreign corporation's (CFC) adjusted basis in qualified business asset investments. This would determine a US shareholder's GILTI inclusion and FTC limitation on a country-by-country basis,

thereby preventing excess foreign tax credits from high-tax jurisdictions from being credited against GILTI inclusions from low-tax jurisdictions. In plain English, **if you are a US citizen with interest in a non-US corporation that gets hit by GILTI, you will probably owe a lot more to Uncle Sam.**

6. **NIIT Expansion and Tax Rate Increase**: The 3.8% Net Investment Income Tax would also expand to include the definition of net investment income to include any income derived in the ordinary course of business for single filers with greater than $400,000 in taxable income ($500,000 for joint filers). Right now, this 3.8% tax only applies to passive investment income (interest, dividends, gain on sale of a stock, etc.). This tax is an Obama-era gift that is in line to keep on giving under the Biden administration at a higher rate and expanded coverage. Not ideal for expats with investments abroad.

Everyone can agree that if Biden's Build Back Better plan and costly tax provisions are passed, these changes will only increase the current filing obligations and US tax-owing for many Americans living abroad. Logically, someone needs to pay for the trillions in spending. The profoundly negative impacts of these changes can be eliminated if one successfully renounces their US citizenship (in an ideal world, prior to these changes becoming law).

Not only are US citizens living in the US glued to what this administration will pass, but arguably, US citizens living abroad should be watching with even more interest. What happens, when it happens, and how the chips fall will play out in the coming weeks and months. But most US citizens living abroad see the writing on the wall. Many are looking at renouncing their US citizenship as a solution to stop the double tax madness and not be left holding the bill for a country's spending habits, that they don't live in anymore.

Under the Build Back Better plan, the kicker is the tens of billions in funding for the IRS to help with collections and enforcement, both domestically and abroad. More spending, higher taxes, and record increases in IRS agents and resources for collections will likely create a flood of US citizen expats renouncing beyond even the current all-time numbers we see expatriating today.

The US has many pitfalls and landmines (exit tax, inheritance tax, disbarment from the US for life, loss of benefits, etc.) that one must successfully navigate to renounce properly. Our team specializes in making sure you renounce the right way to avoid any obstacles.

If you would like more information on renouncing your US citizenship, we strongly recommend you attend one of our webinars on the topic. We know that you will have many questions about how these changes will affect you and your family. Our attendees are invited to submit questions ahead of time that we strive to answer during our session.

Click here to view our upcoming Renunciation Webinars and register

Our team of US lawyers represents more than 600 US citizens renouncing their US citizenship every year on six continents – more than any other firm in the world. Our webinars are completely free, and we'll walk you through everything you need to know to ensure you renounce your US citizenship the right way.