

insights

TYPES NOT MAPPED YET April 22, 2021 | TTR not mapped yet | Sarah J. Chang

With the government's attention turning to taxes, your estate plan may need your attention

Now that the COVID-19 relief bill has been signed, the President and Congress have turned their attention to tax changes. President Biden has announced his "Made in America Tax Plan" and bills have been filed by Senators Chris Van Hollen (D-MD) and Bernie Sanders (I-VT), all of which have a number of income and transfer tax proposals that would radically change the planning tools utilized in the past and could be costly to corporations and wealthy Americans.

The following is a list of some of the proposals on the table:

- Increase the top individual income tax rate to 39.6% from 37% (for those who earn more than \$400,000).
- Grantor Retained Annuity Trust ("GRAT") restrictions with a minimum annuity term of 10 years and the requirement that a minimum gift amount be contributed).
- Increase in capital gains rate, either small (25%-30%) or large (39%) (in each case, this would apply to those making more than \$1 million; 3.8% net investment income tax added on top).
- Cap itemized deductions at 28% and reinstate limit for income greater than \$400,000.
- Increase gift and estate tax rates to minimum 45% from 40% (and possibly higher for the ultrawealthy).
- Reduce transfer tax (i.e., estate/gift/generation-skipping transfer) exclusions from \$11.7 million to \$3.5 million (no inflation) or \$5 million (with inflation).
- Limit valuation discounts for transfers of closely held business interests, including family limited partnerships and family limited liability companies.
- Changes to sales to grantor trusts (sale or exchange with a grantor trust could cause the property (including income and appreciation) to be (i) subject to estate taxes; (ii) subject to gift tax if grantor trust status terminates; and (iii) treated as a taxable gift if distributed to another beneficiary during the grantor's life).
- Eliminate capital gain basis step-up at death and possibly tax that appreciation at death.
- Expand payroll tax (expand 12.4% to earnings above the \$400,000 thus creating a "donut hole" in the current payroll tax where wages between \$142,800 and \$400,000 are not taxed).

As many of these changes would impact gift and estate planning, you may want to consult an attorney before any new law becomes effective.

[Sarah J. Chang](#) counsels individuals, families, and business owners in developing comprehensive estate plans through the use of wills, trusts, powers of attorney, and gifting strategies.



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