



רפורמת המס הצפויה בארה"ב

רו"ח ישראל יוסוביץ
שותף, מיסוי בינלאומי

BDO



BUSINESS PROVISIONS

Corporate income tax rates

Current Law	The Proposal
Corporate income generally is subject to tax at a 21% rate	<p>Income up to \$400,000: 18%</p> <p>Income over \$400,000 and up to \$5 million: 21%</p> <p>Income over \$5 million: 26.5%</p> <ul style="list-style-type: none">• The proposal would increase the corporate tax by 3% of taxable income in excess of \$10 million - by an amount not to exceed \$287,000 - in order to phase-out the benefits of the lower 18% and 21% tax brackets.• The proposal would be effective for tax years beginning after December 31, 2021.



Minimum tax on book earnings of certain corporations

Current Law	The Proposal
Minimum tax on book earnings of certain corporations	<ul style="list-style-type: none">• The proposal would impose a corporate alternative minimum tax (AMT) at a rate of 15% on the adjusted financial statement income for corporations with such income over \$1 billion.• The proposal would be effective for taxable years beginning after December 31, 2022.



INTERNATIONAL PROVISIONS



Global intangible low-taxed income (GILTI)

Current Law

- Domestic corporations are allowed a 50% deduction of their GILTI. For tax years beginning after December 31, 2025, the deduction for GILTI is reduced to 37.5 %.
- The calculation of GILTI and the associated foreign tax credit (FTC) are made on an aggregate basis. The GILTI taxes available for FTC are subject to a 20% reduction.
- Taxpayers receive a reduction for GILTI inclusions equal to 10% of the qualified business asset investment (QBAI) of their controlled foreign corporations (CFCs).

The Proposal

- Reduce the GILTI deduction to 28.5%.
- GILTI and the associated FTC would be calculated on a country-by-country basis.
- A country with an aggregate tested loss would be permitted to carry that loss forward to the succeeding taxable year.
- The reduction of deemed paid taxes under GILTI would be reduced from 20% to 5%.
- The reduction of GILTI for QBAI would be reduced from 10% to 5%.
- The proposal would be effective for taxable years beginning after December 31, 2022.



Base erosion and anti-abuse tax (BEAT)

Current Law	The Proposal
<ul style="list-style-type: none">• An additional tax is imposed on certain multinational corporations with respect to payments made to foreign affiliates; it applies to corporations with average gross receipts over \$500 million.• The BEAT rate is generally 10% for taxable years beginning in 2021 through 2025 and 12.5% for taxable years beginning after 2025.	<ul style="list-style-type: none">• For taxable years beginning after December 31, 2021, and before January 1, 2023, the BEAT rate would be 10%. For taxable years beginning after December 31, 2022, and before January 1, 2024, the BEAT rate would be 12.5%. For taxable years beginning after December 31, 2023, and before January 1, 2025, the BEAT rate would be 15%. For taxable years beginning after December 31, 2024, the BEAT rate would be 18%. The BEAT rate would be determined by taking into account tax credits.• The proposal would add to the definition of base erosion payments amounts paid to a foreign related party that are required to be capitalized and payments to a foreign related party for inventory which exceed the costs of the property to the foreign related party.• The proposal would add an exception for payments subject to U.S. tax and for payments that are subject to sufficient foreign taxes (generally the BEAT rate).• The proposal would be effective for taxable years beginning after December 31, 2021.



INDIVIDUAL PROVISIONS



Individual income tax rates

Current Law	The Proposal
Top marginal rate is 37%	<ul style="list-style-type: none">• Top marginal rate would be raised to 39.6%.• The proposal would be effective for taxable years beginning after December 31, 2021.



Surcharge on high-income individuals, estates and trusts

Current Law	The Proposal
Surcharge on high-income individuals, estates and trusts	<ul style="list-style-type: none">• The proposal would impose a 5% surcharge on MAGI (Modified Adjusted Gross Income) that exceeds \$5 million for married filing separately, \$200,000 for estates and trusts and \$10 million for all other individuals; an additional 3% surcharge would further be imposed on MAGI in excess of \$12.5 million for married filing separately, \$500,000 for estates and trusts and \$25 million for all other individuals.• The proposal would apply to taxable years beginning after December 31, 2021.

Capital gains rate

Current Law	The Proposal
Long-term capital gains are taxed at rates of 0%, 15% and 20%, depending	<ul style="list-style-type: none">• The top long-term capital gains rate would be increased to 25%.• The proposal to increase the capital gains rate would be effective for taxable years ending after the date of introduction (September 13, 2021); transitional rules would allow taxable years that include September 13, 2021 to tax net gains realized before September 13, 2021 at 20%. Agreements subject to a binding contract in place before September 13, 2021 would be subject to the 20% top rate (unless the contract was materially modified after September 13, 2021).



ESTATE AND GIFT PROVISIONS



Temporary unified credit exemption equivalent amount

Current Law	The Proposal
<ul style="list-style-type: none">• For estates of decedents dying and gifts made after December 31, 2017, and before January 1, 2026, the unified credit exemption equivalent amount is \$10 million, which indexed for inflation is \$11,700,000 for 2021.• For decedents dying and gifts made prior to January 1, 2018, and after December 31, 2025, the exclusion amount is \$5 million, indexed for inflation.	<ul style="list-style-type: none">• The proposal would accelerate the expiration of the \$10 million unified credit exemption equivalent amount. For decedents dying and gifts made after December 31, 2021, the exemption equivalent amount would be \$5 million, indexed for inflation. (The Joint Committee staff estimates the indexed amount would be \$6,020,000 for 2022.)



Inclusion of grantor trusts in a decedent's estate

Current Law	The Proposal
<p>When a deemed owner of a grantor trust dies, the assets of that grantor trust (other than a fully revocable trust) are generally not included in the gross estate of the deceased deemed owner</p>	<ul style="list-style-type: none">• The proposal would require that assets in a grantor trust be included in the gross estate of the deceased owner.• The proposal would treat distributions (other than to the deemed owner or spouse) during the life of the deemed owner, and the termination of grantor trust status during the life of the deemed owner, as completed gifts.• The proposal would also disregard grantor trust status when determining whether a transfer between a deemed owner and his or her grantor trust is a sale or an exchange, possibly resulting in a taxable event.• The proposal would apply to trusts created on or after the date of enactment of this provision and to any portion of a trust established before the date of enactment attributable to contributions made on or after the date of enactment.• The portion of the provision relating to sales and exchanges between a deemed owner and a grantor trust is intended to be effective for sales and other dispositions after date of enactment.



Valuation discounts for estate and gift tax purposes

Current Law	The Proposal
Valuation discounts, such as discounts for lack of control and marketability, are available for certain transfers of nonbusiness assets	<ul style="list-style-type: none">• The proposal would eliminate valuation discounts for certain transfers of nonbusiness assets.• The proposal would apply to transfers after the date of enactment.



BUSINESS CREDITS



Renewable Energy Investment Tax Credit (ITC)

Current Law	The Proposal
Qualified energy facilities that begin construction before January 1, 2023 are eligible for a 26% ITC. The credit is 22% for projects that begin construction after December 31, 2022 and before January 1, 2024 and placed in service before 2026; thereafter, the credit is 10%.	<ul style="list-style-type: none">• The proposal would extend the ITC for projects that begin construction before January 1, 2027.• The ITC rate for wind and solar projects would increase to 30%, subject to the prevailing wage and apprenticeship requirements (would apply to facilities placed in service after December 31, 2021).• The proposal would provide for an increased credit rate of 10% of the credit amount for projects that meet domestic content requirements.• The proposal would expand the ITC to energy storage technology, linear generators, microgrid controllers, dynamic glass and biogas property.• The ITC rate would be reduced to 0% for qualified fuel cell property, qualified small wind property, waste energy property, waste energy property and certain solar property, the construction of which begins before January 1, 2027 and that is not placed in service before January 1, 2029.• The taxpayer would be able to elect a cash payment in lieu of the tax credit.

