Biden Tax Plan & Pass-Through Businesses

Presented by:

S-CORP

Defending America's Individually & Family Owned Businesses

The Biden Plan & Pass-Throughs

Overview

- Biden’s tax plan poses a “Triple Threat” to pass-through businesses:
  - Higher taxes on their operations
  - Higher taxes on the sales of the business
  - Higher taxes when they pass it on to the next generation
- It takes the tax code to a place it has never been – high rates coupled with a very broad tax base
- Biden plan threatens the ability of individually- and family-owned businesses to continue to exist

The Biden Plan & Pass-Throughs

Threat #1: Higher Taxes on Operations

- Biden plan includes two rate hikes on pass-through business income:
  1. Increases the top rate from 37.0% to 39.6%
  2. Imposes the 3.8% tax (NIIT, SECA) on all business income earned by S corporations, partnerships, and LLCs
- This raises the top tax rate on these businesses by 6.4 percentage points
  - With full 199A deduction: 35.5%
  - With no 199A deduction: 43.4%

S-CORP
Defending America's Small & Family Owned Businesses

The Biden Plan & Pass-Throughs

Threat #2: Higher Taxes on Business Sales

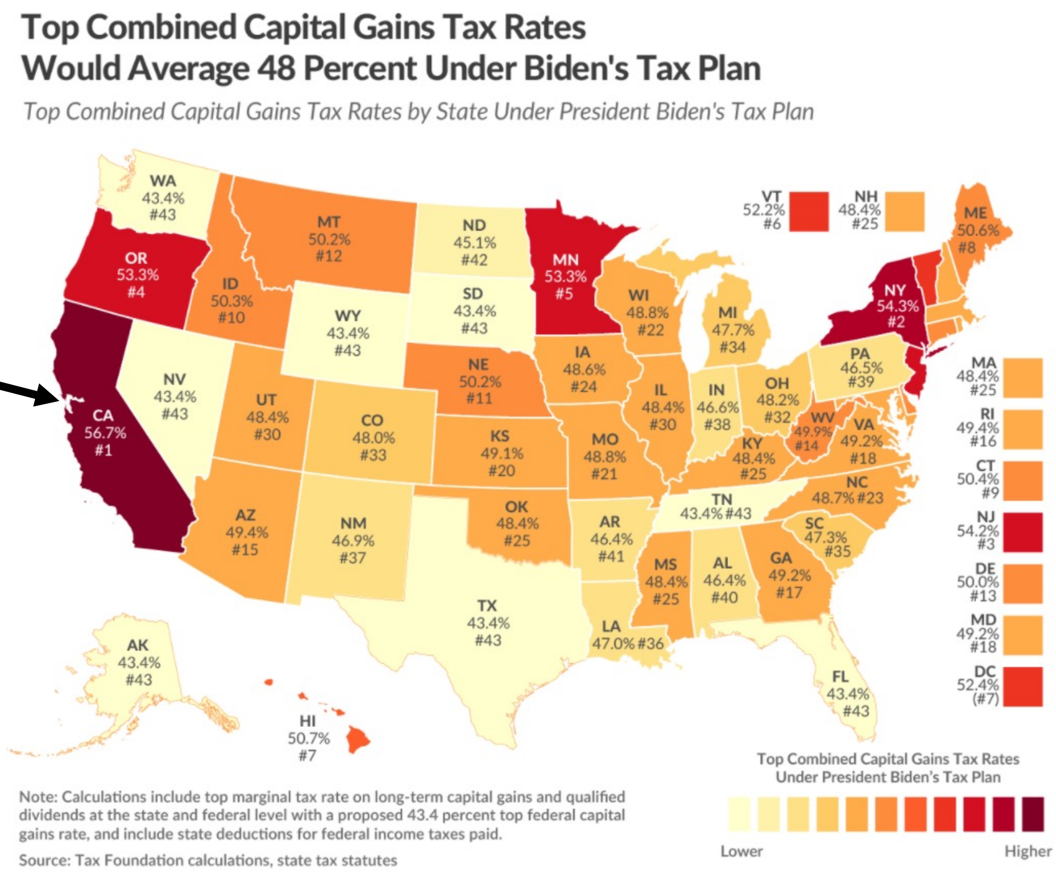
- Biden plan would raise the capital gains tax from 23.8% to 43.4% on taxpayers with incomes > $1 million
- Tax applies to taxpayers who earn $1 million-plus annually and to those pushed into the highest brackets by one-time sales of their businesses
- In a 2014 survey, 35% of business owners said they were counting on the sale of their business to fund their retirement
- Coupled with state levies, total tax would be half the value of the business or more

S CORP
Defending America's Small & Family Owned Businesses

The Biden Plan & Pass-Throughs

<u>Threat #2: Higher Taxes on Business Sales</u>

56.7% in CA
<u>Ouch</u>



S-CORP
Defending America's Small & Family Owned Businesses

The Biden Plan & Pass-Throughs

Threat #3: Biden's Double Death Tax

- This is *not* repeal of step up basis – it's worse
- Includes a new "capital gains at death" proposal
  - This 43.4% tax would apply to any unrealized capital gains over $1 million in an estate
- Next, it imposes the traditional estate tax on the same assets
  - The value of the estate is reduced by the new capital gains at death tax
  - The tax is 40% of the remaining value exceeding $11.7 million ($23.4 million with a spouse)
- The total tax could be 60% of an estate's value under existing rules
  - Note: Congress could adopt additional estate tax hikes

S-CORP

Defending America's Small & Family Owned Businesses

The Biden Plan & Pass-Throughs

Threat #3: Biden's Double Death Tax

- The total tax could be 60% of an estate's value under existing rules

President Biden's Taxes on Wealthy Estates
(All dollar figures in millions)

Value of Original Asset ($100 million)	**$100.00**
Value of asset after $1 million step-up in basis repeal exemption	$99.00
Capital gains taxed at ordinary rates 39.6% + 3.8% NIIT = 43.4%	43.4%
Capital gains tax owed	**$42.96**
Value of remaining assets in the estate	**$57.04**
Biden's estate tax exemption ($11.7 million)	$11.70
Taxable estate	$45.34
Estate tax rate (40%)	40%
Taxes owed on the estate	**$18.13**
Total taxes paid on $100 million asset =	**$61.10**
Effective tax rate	**61.1%**

Source: Tax Foundation calculations.

TAX FOUNDATION @TaxFoundation

S-CORP
Defending America's Small & Family Owned Businesses

The Biden Plan & Pass-Throughs

Not A Modest Roll-Back of TCJA

- Rate hikes are on top of significant base broadening from TCJA and Biden plan [Corporate slide]
- Biden has proposed a 28% corporate rate – that's less than the pre-TCJA 35% rate, but when you take all the base-broadening into account, it's a huge tax hike

	Corporate Rate	Tax Base	Corporate Tax
Before TCJA	35%	$1,000	$350
TCJA	21%	$1,500	$315
Biden Plan	28%	$1,800	***$504***

40% Increase

The Biden Plan & Pass-Throughs

Not A Modest Roll-Back of TCJA

- For pass-throughs, their rates are going higher and the base broadening is going to be broader than Pre-TCJA

TCJA Base Broadening

- SALT deduction cap
- NOL/Loss Limitation rules
- 163(j) interest deduction cap
- Section 199 (manufacturing deduction) repeal
- Section 212 repeal

- Biden's new base-broadening proposals include repealing 1031 exchanges, capping the value of charitable deductions, restoring the Pease limitation, etc.

S CORP
Defending America's Small & Family Owned Businesses

The Biden Plan & Pass-Throughs

Biden Plan: Where are the 199A & Estate Tax Hikes?

- 199A repeal & Estate Tax hikes are NOT off the table
- Democrats seeking SALT deduction cap changes will be looking for $300+ billion in revenue offsets
- JCT table shows those offsets will have to target high-income earners

Table 4.–Distributional Effects of a Proposal to Repeal the Limitation on the Deduction for State and Local Taxes(1)

Calendar Year 2019

Income Category (2)	Number of Taxpayer Units Millions	Change in Tax Liability $Billions
Less than $10,000................................	(3)	(4)
$10,000 to $20,000..............................	(3)	(4)
$20,000 to $30,000..............................	(3)	(4)
$30,000 to $40,000..............................	(3)	(4)
$40,000 to $50,000..............................	(3)	(4)
$50,000 to $75,000..............................	0.3	-0.1
$75,000 to $100,000............................	0.5	-0.3
$100,000 to $200,000..........................	4.3	-4.0
$200,000 to $500,000..........................	6.2	-18.2
$500,000 to $1,000,000.......................	1.2	-14.4
$1,000,000 and over............................	0.6	-40.4
Total, All Taxpayers.........................	**13.1**	**-77.4**

Source: Joint Committee on Taxation

Half the benefit of repealing SALT Cap goes to $1 million-plus income earners

S-CORP

Defending America's Small & Family Owned Businesses

The Biden Plan & Pass-Throughs

Biden Plan Means Fewer Jobs, Lower Wages

- Diamond/Zodrow [analysis]() of combined corporate and pass-through tax hikes
- Bottom line: 1 million fewer jobs

Workers suffer

Table 1. Macroeconomic Effects of Policy P1

(Percentage changes in aggregate variables, relative to steady state with no reform)

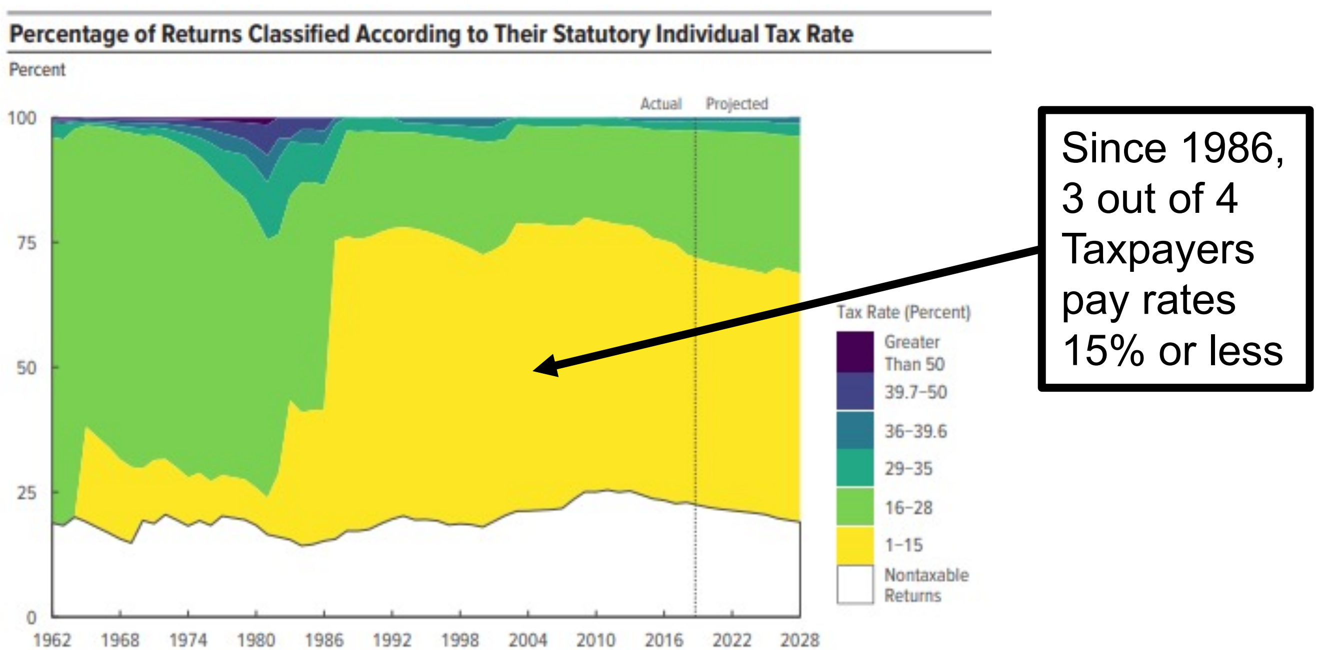
Variable % Change in Year:	**2***	**5****	**10*****	**20**	**50**	**LR**
GDP	-0.5	-0.8	-0.4	-0.5	-0.6	-0.6
Consumption	-0.1	-0.5	-0.2	-0.4	-0.4	-0.4
Investment in ordinary *K* in US	-1.9	-1.9	-1.3	-1.4	-1.5	-1.6
Imports of ordinary *K* into US	-0.4	-0.4	-0.4	-0.3	-0.1	0.2
Stock of ordinary *K* in US	-0.1	-0.4	-0.6	-0.8	-1.1	-1.2
Stock of *FSK* in US	-2.7	-3.8	-3.5	-3.3	-3.1	-2.9
Employment (hours worked)****	-0.7	-0.6	-0.1	-0.1	0.0	0.0
Labor compensation	-0.6	-0.6	-0.3	-0.4	-0.6	-0.6
Real wage	0.1	0.1	-0.3	-0.4	-0.5	-0.6
Government transfers (not incl. SS)	12.1	11.6	6.3	5.9	5.5	5.3

The Biden Plan & Pass-Throughs

Biden Plan Based on Three Faulty Assumptions

Faulty Assumption #1: Tax Code is less progressive

- The Tax Code has become much **more** progressive since the 1950s
- According to the OECD, the US has the most progressive tax code of all its trading partners



S-CORP
Defending America's Small & Family Owned Businesses

The Biden Plan & Pass-Throughs

<u>Biden Plan Based on Three Faulty Assumptions</u>

Faulty Assumption #2: Americans support high tax rates

- Voters are very reasonable regarding top tax rates
- Winston Group asked respondents to estimate what's the most taxpayers *should* pay
- The "maximum" responses are at or below what they already pay

These rates are less than what they already pay

Entity	Maximum
Wealthy individuals	30.8
Public corporations	23.4
Private businesses	19.7

S CORP
Defending America's Small & Family Owned Businesses

The Biden Plan & Pass-Throughs

Biden Plan Based on Faulty Assumptions

Faulty Assumption #3: America thrived under high tax rates

- Few taxpayers paid the top marginal rates of the 1960s and 70s
- The wealthy used C corps as tax avoidance vehicles and took profits as capital gains:

  "In the 1960s and 1970s, companies usually reinvested their profits rather than giving raises to executives — the high tax rates meant those salaries would be largely taxed away. Reinvesting the money ultimately benefited shareholders in the company by increasing the company's value, and benefiting shareholders means benefiting rich people." Vox

- The 1986 tax Reform Act ended this practice

Table A1.
Top Federal Marginal Tax Rates

Year	Ordinary Income (1)	Earned Income (2)	Capital Gains (3)	Corporate Income (4)
1952-1963	91.0	91.0	25.0	52
1964	77.0	77.0	25.0	50
1965-1967	[illegible]	70.0	[illegible]	48
1968	75.3	75.3	26.9	53
1969	77.0	77.0	27.9	53
1970	71.8	71.8	32.3	49
1971	70.0	60.0	34.3	48
1972-1975	70.0	50.0	36.5	48
1976-1978	70.0	50.0	39.9	48
1979-1980	70.0	50.0	28.0	46
1981	68.8	50.0	23.7	46
1982-1986	50.0	50.0	20.0	46
1987	38.5	38.5	28.0	40
1988-1990	28.0	28.0	28.0	34
1991-1992	31.0	31.0	28.0	34
1993	39.6	39.6	28.0	35
1994-1996	39.6	42.5	28.0	35
1997-2000	39.6	42.5	20.0	35
2001	39.1	42.0	20.0	35
2002	38.6	41.5	20.0	35
2003-2009	35.0	37.9	15.0	35

66 Point Rate Differential!

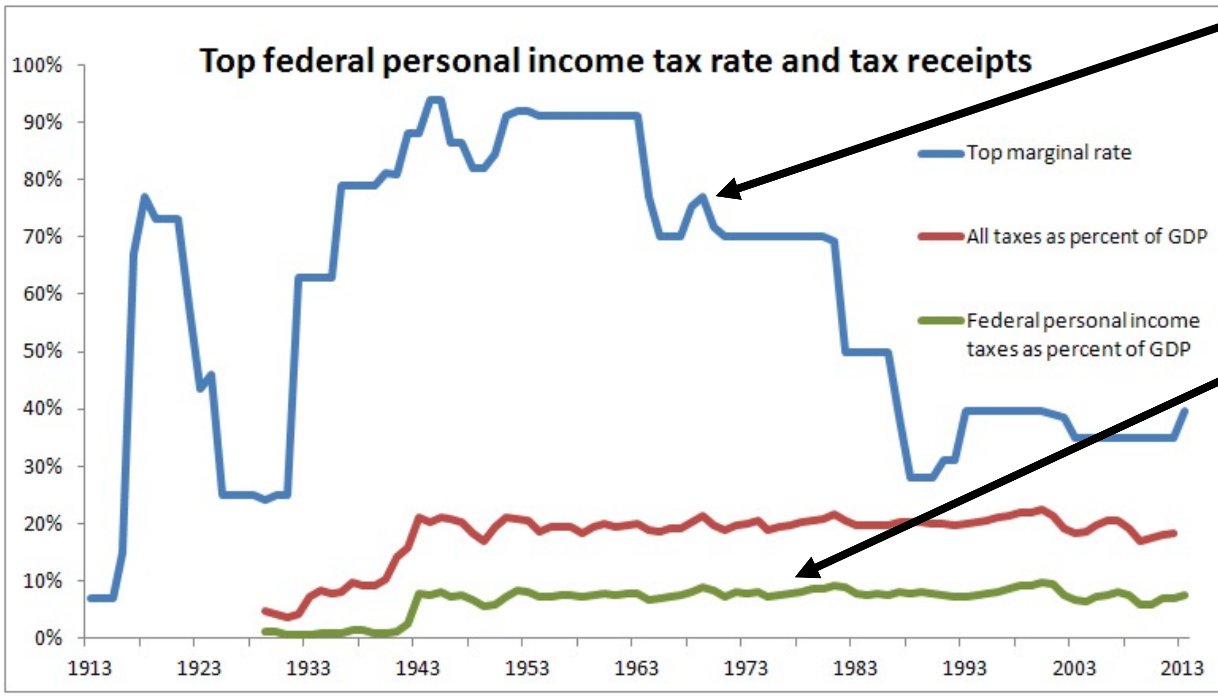
The Biden Plan & Pass-Throughs

<u>Biden Plan Based on Faulty Assumptions</u>

Faulty Assumption #3: America thrived under high tax rates

- Tax collections steady regardless of rates

Roller-Coaster Top Rates



Rock Steady Revenues

The Biden Plan & Pass-Throughs

Biden Plan Poses a "Triple Threat" Summary

- Raises taxes on owners when they earn income, sell the business, or pass it on to their kids – it's a triple whammy
  - Goes way beyond rolling back the TCJA – we have never contemplated rates this high with a base this broad
  - Is based on faulty assumptions that will be rejected by voters
  - Means fewer jobs and lower wages
- Main Street Employers will fight this policy:
  - Working with our Main Street Employers coalition, we will work with our association allies to educate private businesses to the threat and arm them with the facts to defeat this tax hike
  - These proposals represent an existential threat to individually and privately-owned businesses and the business community needs to rally in opposition to them

Biden Tax Plan & Pass-Through Businesses

Presented by:

S CORP

Defending America's Individually & Family Owned Businesses