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Tax-Favored Billionaires Targeted: Minimum Tax Proposed for UberWealthy

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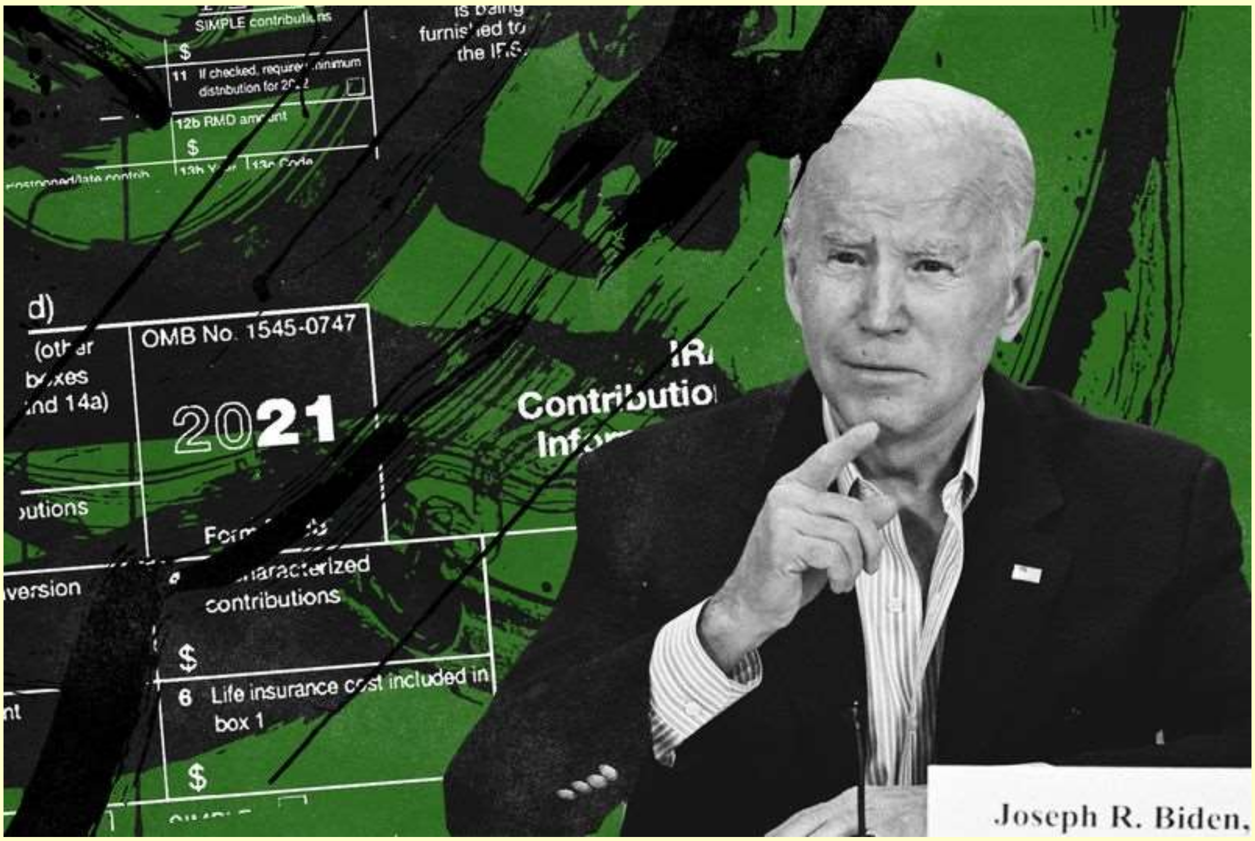

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Last year ***ProPublica***, drawing on a trove of IRS data, gave the public its most extensive view ever of the taxes of the wealthiest Americans. The [first article in the Secret IRS Files series] put real numbers to a core truth about the U.S. tax system: Billionaires like Jeff Bezos, Elon Musk and Warren Buffett can easily shield their fortunes from taxation by avoiding the sorts of income captured on a tax return.

A proposal offered by the Biden administration takes direct aim at this issue. The policy, if enacted, would, for a sliver of the very wealthiest, close that escape hatch. Vast increases in wealth would result in owing taxes.

Generally, the IRS does not tax gains unless they are "realized," typically when a person sells a stock that has gained in value. Billionaires who hold on to assets that have appreciated get the benefit of those unrealized gains — they often borrow against them — without owing any tax.

This is by no means a new bug in the U.S. system. But as ***ProPublica*** explained last year, the explosion of wealth inequality in recent decades, coupled with the particular nature of how these new fortunes have been built, has made unrealized gains particularly important at this point in our history.

Past U.S. presidents have, on occasion, pushed for higher taxes on the rich, but usually by hiking traditional income tax rates. Biden's proposal calls for a paradigm shift: It would change what gets counted as income. "Although the taxation of unrealized gain is still far from enactment, and even if enacted would await an uncertain fate in the Supreme Court, presidential endorsement of the concept is a milestone in the history of the income tax," said Lawrence Zelenak, a Duke University School of Law professor whose expertise includes income and corporate tax and tax policy.

As outlined by the White House, the new tax would apply only to households worth over $100 million. They would owe a tax of at least 20% on their "full income," as a White House document terms it, a definition that includes unrealized gains. News of the proposal, which was included as part of Biden's 2023 budget plan, was first reported by ***The Washington Post***.

Under the current system, the wealthiest Americans pay nowhere close to that tax rate on gains in their wealth. The 25 richest Americans, as measured by Forbes, got $401 billion richer from 2014 to 2018. ***ProPublica***'s analysis of the IRS data found that the group paid a total of $13.6 billion in federal income taxes during that time, a rate of only 3.4%.

In an analysis posted on Twitter, University of California Berkeley economist Gabriel Zucman estimated that the 10 richest Americans alone would owe at least $215 billion under the plan.

In all, the Biden Administration estimates, the new tax would generate $360 billion in extra revenue over 10 years.

The plan would allow those hit by the tax a period of nine years to pay their "initial" obligations: In other words, someone whose fortune has increased by $10 billion as of when the bill became law would have that time to pay the $2 billion they owe. Going forward, further increases of wealth would result in taxes owed over a five-year period. Although Biden's Billionaire Minimum Income Tax, as it's called, is a major departure from past presidential proposals, it would deploy features that are already part of current tax law.

For instance, there is the Alternative Minimum Tax, a measure first enacted decades ago in response to revelations that the richest were easily avoiding paying income taxes. The AMT is supposed to work as a kind of fail-safe, imposing taxes on rich people who have used huge deductions to wipe out income for tax purposes and thus avoid taxes. But it often fails. For instance, there are multiple examples of billionaires paying not a penny in income taxes, sometimes for years at a time.

Like the AMT, Biden's minimum tax would work alongside the current tax code. If a billionaire happened to already be paying 20% of their full income, the Biden plan would result in no extra tax.

The existing tax code also has provisions that tax unrealized gains in certain situations. For instance, professionals who trade in securities, such as hedge fund managers, often elect to have their portfolios "marked to market" and owe tax based on their gains or losses relative to the previous year. Similarly, another provision hits wealthy Americans who choose to renounce their citizenship: All their property is valued and taxed as if it had been sold.

Versions of a tax on mark-to-market gains have been proposed before, going back several years, most notably last year by Sen. Ron Wyden, D-Ore., chair of the Senate Finance Committee. The idea, however, has its share of critics, both Republicans and tax experts who worry it would be too complicated to administer and would risk being struck down by the Supreme Court.

John Brooks of Georgetown University Law Center is among the supporters. He argued the idea is squarely constitutional, given "the many examples of taxing unrealized gain already in the tax code." And as for complaints about its complexity, the wealthy already value their assets for their own financial purposes, he told ***ProPublica***: "In the end, it would be a simple, formulaic approach that would require minimal work in addition to what wealthy taxpayers are already doing."

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