Insight

Tax Policy in the "American Jobs Plan"

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Executive Summary

- Under the American Jobs Plan (AJP), the Biden Administration is proposing eight major tax policy changes, largely tax increases, on American businesses.
- Combined, the AJP would raise taxes on U.S. companies by about $1.8 trillion over the next decade.
- The policies would return the U.S. corporate tax rate to among the highest of major economies and unwind an international tax policy regime that improved the U.S. business climate.

Introduction

With its American Jobs Plan (AJP), the Biden Administration has proposed another round of multi-trillion-dollar spending programs on a range of items, including infrastructure and other domestic commitments. Unlike the last spending package, the spending proposed in the AJP is partially offset by tax increases on U.S. employers, largely in accord with those proposed by the Biden presidential campaign. The administration's AJP proposes eight major tax policy changes that combined would raise taxes by on the order of $1.8 trillion over the next decade.

Traditionally, infrastructure spending has been substantially financed by users to various degrees. While these linkages are somewhat frayed – not unlike the overall linkage between spending and revenue – they nevertheless reflected an efficient mechanism for financing infrastructure. The appetite for additional domestic spending, however, far exceeds the appetite for offsetting it, particularly on individuals. Accordingly, the Biden Administration is targeting U.S. businesses for new tax increases to pay for some of the administration's

planned spending. These tax policies would move the taxation of business back to a more globally uncompetitive posture and potentially harm the economic recovery.

Major Tax Policy Changes in the American Jobs Plan[1]

Policy ($ Billions)	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2022-2031
1. Increase the Corporate Tax Rate at 28 percent	51	60	64	69	77	84	86	87	88	91	756
2. Establish a Global Minimum Tax of 21 Percent	50	69	72	76	75	70	68	66	65	66	676
3. "End the Race to the Bottom Around the World"	0	0	0	0	0	0	0	0	0	0	0
4. "Prevent U.S. Corporations from inverting or claiming tax havens as their residence."	0	1	1	2	2	3	4	5	5	6	28
5. "Deny Companies Expense Deductions for Offshoring Jobs and Credit Expenses for Onshoring."	0	0	0	0	0	0	0	0	0	0	0
6. Eliminate FDII	12	12	17	23	21	18	22	26	31	35	217
7. Enact A Minimum Tax on Large Corporations' Book Income	8	9	9	9	10	10	10	11	11	11	97
8. Eliminate Tax Preferences for Fossil Fuels	1	1	1	1	1	1	1	1	1	1	10

Combined, the AJP proposes roughly $1.8 trillion in tax increases. It's important to note, however, that there is considerable uncertainty about the specific policies. These estimates have interactions and are drawn from different sources, and as a result they are not perfectly summable. While they do provide a fair order of magnitude for the proposed tax increases, these policies taken together could raise more or less revenue than the estimates presented here.

1. *Increase the Corporate Tax Rate to 28 percent*

Before the enactment of the Tax Cuts and Jobs Act (TCJA), the United States had the highest statutory corporate tax rate in the world. Corporate taxes, despite the headlines, are inefficient and have an outsized effect on economic growth. Nevertheless, the AJP would return to the United States the dubious distinction of having the highest corporate tax rate in the Organisation for Economic Co-operation and Development (OECD), and potentially cost 159,000 jobs and reduce wages over time. According to the Congressional Budget Office, increasing the corporate tax rate by 7 percentage points would raise about $750 billion over the period 2022-2031.

2. *Establish a Global Minimum Tax of 21 Percent*

One of the practical realities of taxing businesses in the modern world is that business is global and investment capital is global. When U.S. firms invest abroad, they necessarily compete with foreign firms in those areas. Prior to the enactment of the TCJA, the United States had a hybrid worldwide tax system in which U.S. firms were taxed on their overseas earnings. To compete with foreign firms whose overseas profits were largely untaxed, however, the United States allowed companies to defer paying taxes overseas. The TCJA replaced the worldwide tax system with a system more akin to a territorial system that exempts the foreign-sourced income of U.S. firms. In so doing, the United States joined 29

of the 34 economies in the OECD that had adopted some form of a territorial system. The AJP would return the U.S. international tax system to a worldwide system *without* deferral by imposing a global minimum tax of 21 percent. To be sure, the United States currently imposes a minimum tax on certain income (global intangible low-taxed income, or GILTI), but typically at a fraction of the headline rate. The AJP would functionally supplant that tax with a global tax of 21 percent. Prior research has found that eliminating deferral, in the context of a prevailing worldwide tax system, could cost as many as 2.2 million jobs. A recent estimate by the JCT found that a 21 percent global minimum tax would raise $676 billion over the next 10 years.

3. *"End the Race to the Bottom Around the World"*

This policy reflects the practical reality of taxing global firms – other nations have an interest in attracting investment. While the United States may be embarking on an effort to increase taxes on employers, other nations may not. Indeed, while the United States is a relatively low-tax country, other nations tend to have lower corporate tax rates. This incongruity is, of course, inconvenient to a policy of returning the United States to the highest rate of global business taxation. Accordingly, the AJP includes the proposal to "encourage other countries to adopt strong minimum taxes on corporations." While there are any number of ongoing multinational negotiations to address international tax issues, the most conspicuous are those convened under the OECD's Inclusive Framework. The other major issue being negotiated under the inclusive framework are digital taxing rights. An indication for how effective this forum has been in addressing U.S. interests in international tax is the recent announcement by the Biden Administration that it would reinstitute the Trump Administration's potential retaliatory tariffs against major European nations for asserting new digital taxing rights.

4. *"Prevent U.S. Corporations from inverting or claiming tax havens as their residence."*

Prior to the enactment of the TCJA, the news regularly reported on multinational firms pulling up stakes and heading overseas – known as inversions – to escape the U.S. tax code. These moves essentially stopped after the TJCA was enacted, as it improved the U.S. investment climate. To the extent the Biden Administration seeks to undo the TCJA, inversions would return to headlines. According to the administration, "President Biden is proposing to make it harder for U.S. corporations to invert." Unless there is a new incentive to invert, this is a policy in search of a problem. Previous research by the American Action Forum indicated that this type of policy will simply increase the incentive to move domestic operations and employment overseas. Analysis by the Tax Policy Center found this policy would raise about $28 billion over the next decade.

5. *"Deny Companies Expense Deductions for Offshoring Jobs and Credit Expenses for Onshoring."*

This policy is also a regular feature of progressive budgets, and appears similar to a proposal in the Obama Administration's budget. That there is a significant tax break for the expense of closing and moving factories is largely a myth. Indeed, over a decade, the Treasury Department estimated in 2016 that this policy would raise on average about $20 *million* a year. For amounts that small, it is often convention to denote with an asterisk. As fiscal matter, AEI found that the policy would actually lose money, though the amounts are sufficiently small as to round to zero.

6. *Eliminate FDII*

The global economy and taxation therein is increasingly confounded by the challenge of taxing highly mobile income. The income derived from "intangible" income such as intellectual property (IP) is the prime example. This income can be relocated for tax purposes somewhat more easily than real property such as a factory. Despite the TCJA's reduction in the corporate tax rate, the U.S. corporate rate was still above average among major U.S. trading partners. All else equal, there would remain a tax incentive to locate mobile intangible income abroad. The GILTI regime ensured U.S. firms would have to pay some tax on that income. Foreign-derived intangible income (FDII) describes income derived abroad from U.S. IP. Fundamentally, the policy was designed to act in concert with other aspects of the TCJA to incentivize firms to locate and retain IP in the United States. Indeed, notwithstanding assertions to the contrary by the Biden Administration, the TCJA improved incentives to invest in the United States. A recent estimate by the JCT found this policy would raise $217 billion over the next 10 years.

7. *Enact A Minimum Tax on Large Corporations' Book Income*

Major U.S. multinational firms file periodic financial disclosures to the Securities and Exhange Commission (SEC) that detail their businesses' financials according to generally accepted accounting principles (GAAP) as set forth by the Financial Accounting Standards Board. These financial statements include some details on a firm's tax expense. But an SEC filing is not a tax return. GAAP accounting is done on an accrual bases, where tax returns are on a cash basis. GAAP accounting also treats investment expenses substantially different than the tax code. But that does not prevent progressives from regularly conflating the two concepts. Indeed, Amazon is often accused by progressives of not paying a "fair share." This accusation is based on the fact that Amazon reports low tax expense in its SEC filings. But these filings don't reflect that Amazon engages in substantial investment that is deducted

for tax purposes. Indeed, the tax code is expressly supposed to account for such investments. Progressives have manufactured this "problem" and have devised a "solution" in the form of a minimum tax on a firm based on its book income. Such a proposal would complicate the tax code and introduce investment distortions. The Tax Foundation found this policy would raise about $200 billion over the next decade, while an estimate by AEI found this policy would raise about $100 billion over the next decade.

8. *Eliminate Tax Preferences for Fossil Fuels*

The elimination of tax "preferences" is a regular feature of progressive budgets and tax policies. While there is every reason to eliminate extraneous deductions and tax benefits that complicate the tax code and distort investment decisions, there is no tax policy argument for taxing similarly situated firms differently. While there is a potentially important role for taxation in climate policy, discriminating against lawful U.S. firms is not a sound approach to this challenge. An estimate by AEI found this proposal would raise $10 billion over the next decade.

Conclusion

The AJP draws heavily form the Biden campaign tax proposals, which in turn drew heavily form Obama-era tax policy proposals. Recall that during the Obama Administration, U.S. firms were regularly in the news for fleeing the U.S. tax code. The AJP proposes nearly $2 trillion in business taxes at a time when the international tax environment is more competitive than ever, threatening to cede important progress made under the TCJA in improving the U.S. business tax climate.

[1] Sources: CBO, JCT, TPC, AEI, author's calculations