

Memo from Steve Pierson
(pierson@seldenfox.com)
Tuesday, September 14, 2021
Re. What's in the Democratic Tax Proposal?

SUMMARY AND KEY POINTS:

- Reinstatement of highest individual tax bracket of 39.6% (to include individuals with annual incomes >\$400,000 and married couples of >\$450,000)
- New capital gains rate of 25% effective today (September 13) (same applies to dividend income)
- New 3% surtax on individuals with annual AGI over \$5 million
- No elimination of step-up basis
- Reinstatement of former estate tax exemption amount of \$5.5 million for individuals (\$11 million for married couples) to be effective on January 1, 2022
- No SALT provisions in the draft of the bill (though we believe they will be added later)
- No provisions relating to individual tax/information reporting by financial services companies (this too could be added later)
- New corporate tax rate of 26.5%
- Significant changes to taxes paid by US corporations with international profits and foreign companies operating in the US
- No provisions relating to 1031 real estate exchanges

This House draft bill is likely to pass out of committee this week. It will then go before the full House later this month, where it is also likely to pass. It will pass with all Democratic votes, which (given the very narrow majority of Democrats in the House) allows for any single Democratic member or a group of Democratic members to exert influence over the bill's composition.

Opposition by a few Democrats could slow the likely approval process down and force some changes to the bill but not necessarily defeat it. This draft bill has been largely pre-cleared with most House Democrats and is unlikely to be derailed, though further changes could still be made.

This House draft bill will also differ from the Senate's proposed tax provisions. The Senate has not yet released its full set of tax proposals. Some reconciliation between the House and Senate bills is inevitable, and this will take a little time to resolve.

Bottom Line: The draft released today by the House is a first step and not a final step. However, many of the House provisions will become final, while others may be changed to reflect the Senate's preferred positions.