Billionaire Minimum Income Tax

Proposed by President Biden | Introduced by Reps. Cohen and Beyer

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Summary: This bill would enact President Biden's request for a 20% minimum income tax on the very wealthiest taxpayers. As outlined in the Administration's FY23 Green Book (pp. 34-36), this bill would require households worth over $100 million to pay a 20% annual minimum tax on their full income, including realized and unrealized gains.

Background

There is overwhelming public support for ensuring billionaires pay a fairer share, including nearly two-thirds of likely voters and a majority of Republicans who said they favored this specific Billionaire Minimum Income Tax (BMIT) proposal. Additionally, a majority of voters – including a majority of independents – believe that raising taxes on the wealthy will help alleviate inflation.

Under current law, capital gains taxes are only due when an asset is sold. But the ultrawealthy don't need to sell their assets to generate billions of dollars in untaxed income. While ordinary workers are taxed on their wages as they earn them, billionaires can borrow against their growing investments year after year without owing a dime in taxes, allowing them to pay lower tax rates on their income than ordinary Americans pay on theirs.

The White House estimates that America's more than 700 billionaires typically pay just 8 percent in taxes on their realized and unrealized income. In some years, billionaires such as Jeff Bezos, Elon Musk and George Soros paid no federal income taxes at all.

Billionaires avoid these taxes by taking out special ultra-low-interest loans available only to them and using their assets as collateral. This income works just like any other kind of income, allowing ultrawealthy to purchase homes, yachts, or even, Twitter. Since the loan is not considered income, it allows them to reap the value of their growing assets without ever triggering a tax bill. Families like the Waltons, Kochs, and Mars can avoid capital gains taxes forever by holding onto assets without selling, borrowing against their assets for income, and using the stepped-up basis loophole at inheritance. That loophole allows the increased value of assets to be passed to their heirs tax-free.

Policy Solution: Billionaire Minimum Income Tax

The minimum tax would not only restore fairness between the wealthy and the middle class, but even between the wealthy and the ultrawealthy 0.01%. For example, a well-paid entertainer or athlete earning $100 million a year (taxed mostly at 37%) will *not* owe this tax unless the taxpayer also had substantial unrealized capital gains (roughly $85 million). Even a wealthy investor living off $50 million a year in dividend or long-term capital gains income (taxed mostly at 23.8%) and $50 million in short-term capital gains (taxed mostly at 40.8%) would only begin to owe this tax if the taxpayer had more than roughly $61 million in unrealized gains.

Meanwhile, someone worth at least $100 million who pays themselves a nominal income (for example, Jeff Bezos receives an annual salary from Amazon of roughly $80,000) but lives primarily off of untaxed income derived from borrowing against their billions in growing wealth, *would* be subject to this tax.

Policy Design

Unlike a wealth tax, which is levied every year against an individual's total wealth, regardless of whether it has increased or decreased, the BMIT would only be levied against an individual's previously untaxed *gain*. Minimum tax payments made under the BMIT would be credited against any future payments as well as capital gains taxes owed when an asset is finally sold. If the taxpayer has no additional unrealized gains, they will owe nothing further in future years. In fact, if the value of their assets falls, they will be due a credit or refund from their minimum tax payments, but a refund could in no case exceed what they already paid. Moreover, to smooth out the effects of annual fluctuations, the tax and any credits due are spread out over multiple years.

The minimum tax is thus a kind of prepayment on capital gains taxes that will be owed once assets are eventually sold. Because the BMIT is levied on each year's gains, regardless of whether the asset is sold now or later, it encourages economic growth and rewards innovation by encouraging investors to unload less productive assets and reinvest in more productive ones.

The bill relies on market valuation for publicly traded assets. For non-tradeable assets, the bill adopts a multi-pronged approach. First, the bill establishes a default methodology that values these assets based on recent market transactions inflated for reasonable returns. Second, the bill gives the Treasury authority to establish more precise rules for different categories of assets. Third, the bill offers illiquid taxpayers or taxpayers with non-tradeable assets the choice of deferring payment of the tax. The bill establishes a methodology that will ensure that taxpayers who opt for deferral do not benefit (or suffer) because of choosing that option.

To the extent that ultrawealthy taxpayers engage in tax planning under current rules to escape taxes on gains in perpetuity, the minimum tax is a kind of backstop. Accordingly, this bill contains anti-avoidance rules to ensure that taxpayers at least pay the minimum tax and do not avoid it through, for example, the creative use of trusts.

Constitutionality

The BMIT is constitutional. Congress has the power to lay and collect taxes under Section 8's taxing power and under the necessary and proper clause. The Sixteenth Amendment explicitly authorizes "taxes on incomes from whatever sources derived." The BMIT is simply a tax on income, and Congress has broad authority to decide when and how to measure a taxpayer's income.