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Under Biden Tax Plan, Capital Gains Tax Will Exceed 50% In 11 States



President Joe Biden floated a bevy of tax increase proposals as part of the president's [FY 2025 budget](#). That budget comes in at a cool \$7.3 trillion, and someone has to pay for it. That likely means serious tax increases, and the president is not shy about proposing them. Much of his focus is on getting

higher income taxpayers to pay more, but the one that seems to be capturing the biggest headlines is his planned reboot of [capital gain](#) taxes. Higher federal rates plus state taxes will mean paying more than 50% in some cases.

Capital Gain Tax Increase

If you sell your stock, property or crypto and you've held it for more than one year, you get a classic tax break. Long-term capital gains are taxed at lower rates than ordinary income. But how much lower depends on your income. If your taxable income is \$47,025 or less, you pay zero tax on your long-term capital gain. If your taxable income is from \$47,026 to \$518,900, you'll pay 15% on your long-term capital gain.

If your taxable income is more than \$518,900, you pay 20% on your long-term capital gain. Under current law, even if you have millions in long-term gains, your top capital gains tax is 20%. But before we discuss Biden's proposal, it's important to note that many long-term capital gains are *also* subject to the net investment income tax, sometimes called the Obamacare tax.

That is another 3.8%, bringing the typical top tax rate on long-term capital gains to 23.8%. This 3.8% net investment income tax applies if you have modified adjusted gross income above \$250,000 if you are married and filing taxes jointly. If you are single, the threshold is \$200,000.

How would the capital gains tax change under Biden's FY 2025 budget proposal? For high income taxpayers, the [long-term capital gains tax](#) could nearly double to 39.6%. That proposed capital gains rate increase would apply to investors who make at least \$1 million a year. In fact, it is possible to go even higher, as high as 44.6%. Portions of the [General Explanations of the Administration's FY 2025 Revenue Proposals](#) note that for some taxpayers, if

you add several proposals together, they could increase the top marginal rate on long-term capital gains and qualified dividends to 44.6%. It seems unlikely that this major capital gains tax change will be enacted, but time will tell.

How about state taxes, you might wonder? The Daily Mail noted that there are [11 states where Americans will face at least 50% capital gain tax under this plan](#). If the Biden plan passes, for the taxpayers caught by the new rule, here are the combined state and federal rates taxpayers might pay on their [capital gains](#):

1. California: 57.9%
2. New York: 55.5%
3. New Jersey: 55.5%
4. Minnesota: 55.45%
5. Oregon: 54.5%
6. Maine: 51.75%
7. Nebraska: 50.44%
8. Idaho: 50.4%
9. Iowa: 50.3%
10. Kansas: 50.3%
11. Georgia: 50.09%

Ordinary Income Rates Plus Medicare

There are other proposals too. Currently, the top federal rate on ordinary income is 37%. Biden has proposed increasing it to 39.6%, which was the top rate back in 2017. Starting in 2018, President Donald Trump signed into law the Tax Cuts and Jobs Act that made many cuts, including the 2.6% cut to the top ordinary income tax rate. Notably, though, the new 39.6% rate is only supposed to apply to taxpayers making \$400,000 or more.

President Biden is also proposing a tax increase for people making more than \$400,000 a year to help finance Medicare. The increase would hike the Medicare tax rate from 3.8% to 5%.

1031 Exchanges

Under [Section 1031](#), if you exchange real estate for like-kind real estate, the gain is postponed until you sell your replacement property. Properties are of like-kind if they are of the same nature of character, whether they're improved or unimproved. For example, an apartment building would generally be like-kind to another apartment building. Starting in 2018, swaps of Bitcoin for Ethereum, exchanges of private aircraft, paintings, or coin collections don't qualify. Only *real estate* qualifies, and it must be of [like-kind](#). It has to be business or investment property, not your personal residence.

Still, improved real estate can be exchanged for unimproved real estate. And city real estate can be exchanged for a ranch or farm. The real estate industry has counted on this provision for generations, but President Biden's FY 2025 budget would repeal this code section. The [White House has said](#) that it "amounts to an indefinite interest-free loan from the government."

Other Tax Increases

[President Biden has a range of other proposed tax increases.](#) For example, he wants to impose a minimum tax on billionaires. The provision is controversial in part because it is a type of wealth tax rather than a traditional income tax. Despite the billionaire label on the proposal, this new tax would also apply to people who are wealthy but a long way from being a billionaire. If passed, the billionaire tax would be a minimum of 25% for households with net worth exceeding \$100 million.