Capitol Tax Partners Summary of Tax Proposals Contained in President Biden's "American Jobs Plan"

March 31, 2021

Corporate tax	Increase from 21 percent to 28 percent to "help fund critical investments in infrastructure, clean energy, R&D, and more to maintain the competitiveness of the United States and grow the economy."
Book minimum tax	Enact a 15 percent minimum tax on the book income of "the very largest corporations" to "ensure that large, profitable corporations cannot exploit loopholes in the tax code to get by without paying U.S. corporate tax." Assume structured like an alternative minimum tax where (i) both Federal and foreign income taxes are credited; and (ii) book losses can be carried forward.
GILTI	To "discourage offshoring by strengthening the global minimum tax for U.S. multinational corporations," reform GILTI as follows: • *Rate:* Increase rate to 21 percent so that U.S. companies are not "reward[ed] ... to shift profits and jobs overseas" (if 20 percent FTC haircut retained, results in effective tax rate of 26.5 percent); • *Calculation:* Calculate it on a country-by-country basis "so it hits profits in tax havens" (assume this includes application of the foreign tax credit limitation on a per-country basis); and • *Base*: Eliminate the exclusion for a deemed return equal to 10 percent of a company's qualified business asset investment (QBAI), "which allows U.S. companies to pay zero taxes on the first 10 percent of return when they locate investments in foreign countries."
FDII	• *Repeal FDII:* To "eliminate a loophole for intellectual property that encourages offshoring jobs", repeal FDII, "a tax break for shifting assets abroad and is ineffective at encouraging companies

	to invest in R&D." • *Use FDII revenue for R&D:* "All of the revenue from repealing the FDII deduction will be used to expand more effective R&D investment incentives."
OECD (Pillar Two, including BEAT)	To "end the race to the bottom around the world ... a minimum tax on U.S. corporations alone is insufficient." To prevent foreign companies from stripping profits out of the U.S. and U.S. companies from inverting, the U.S. " will seek a global agreement ... through multilateral negotiations" with the following 2 features: • *Global minimum tax:* "Proposing to encourage other countries to adopt strong minimum taxes on corporations, just like the United States, so that foreign corporations aren't advantaged and foreign countries can't try to get a competitive edge by serving as tax havens." • *Undertaxed payments rule to replace BEAT:* "Denies deductions to foreign corporations on payments that could allow them to strip profits out of the United States if they are based in a country that does not adopt a strong minimum tax.... replac[ing] an ineffective provision in the 2017 tax law that tried to stop foreign corporations from stripping profits out of the United States." Assume this proposal would deny deductions where foreign related party is not subject to a minimum tax similar to the U.S. minimum tax (i.e., only payments made by U.S. corporations that are subsidiaries of foreign corporations in countries without an adequate minimum tax).
Other international tax modifications	• *Offshoring:* Deny companies a deduction for expenses that come from offshoring jobs and provide a tax credit to support onshoring jobs. • *Anti-inversion legislation:* "Prevent U.S. corporations from inverting or claiming tax havens as their residence ... [which] will backstop the other reforms which should address the incentive to do in the first place." Assume similar to Obama budget proposal that generally would make treatment as a

	US corporation the sole consequence of an inversion and change the 80 percent shareholder continuity test to a greater than 50 percent test, among other changes.
Tax preferences for fossil fuels	Eliminate tax preferences for fossil fuels, which "includes billions of dollars in subsidies, loopholes, and special foreign tax credits for the fossil fuel industry" and "restore payments from polluters into the Superfund Trust Fund so that polluting industries help fairly cover the cost of cleanups." Assume similar to Obama budget proposals to (i) eliminate 13 provisions for fossil fuels, including expensing of intangible drilling costs, percentage depletion, and publicly traded partnerships; and (ii) reinstate and extend Superfund excise taxes and environmental income tax.
Corporate tax enforcement	Since "large corporations have at their disposal loopholes they exploit to avoid or evade tax liabilities," while "an under-funded IRS lacks the capacity to scrutinize these suspect tax maneuvers," ensure that the IRS has the resources necessary to effectively enforce the tax laws against corporations. This will be paired with a broader enforcement initiative to be announced in the coming weeks that will address tax evasion among corporations and high-income Americans.
Energy and community-related tax credits and incentives	• *Electric vehicles*: Propose a $174 billion investment "to win the EV market", including "tax incentives to buy American-made EVs." • *Vulnerable communities:* Invest in "vulnerable communities through a range of programs", including a "tax credit to provide incentives to low- and middle-income families and to small businesses to invest in disaster resilience, and transition and relocation assistance to support community-led transition for the most vulnerable tribal communities." • *Electricity transmission:* Create a "targeted investment tax credit that incentivizes the buildout of at least 20 gigawatts of high-voltage capacity power lines and mobilizes tens of billions in private capital."

	• *Electricity generation and storage:* Propose "ten-year extension and phase down of an expanded direct-pay investment tax credit and production tax credit for clean energy generation and storage ... paired with strong labor standards to ensure the jobs created are good-quality jobs with a free and fair choice to join a union and bargain collectively." Assume this means the project must meet Davis-Bacon prevailing wage standards to qualify for the credit. • *Next-generation industries, such as hydrogen*: Create new production tax credit to support "decarbonized hydrogen demonstration projects" that will "spur capital-project retrofits and installations that bolster and decarbonize our industry." • *Carbon capture:* To "accelerate responsible carbon capture deployment and ensure permanent storage," reform and expand the section 45Q credit, "making it direct pay and easier to use for hard-to-decarbonize industrial applications, direct air capture, and retrofits of existing power plants." • *Underserved communities:* Tax credits to extend "affordable housing rental opportunities to underserved communities nationwide, including rural and tribal areas." Offer $20 billion of Neighborhood Homes Investment Act (NHIA) tax credits over the next five years. • *Energy efficiency:* Extend and expand home and commercial energy efficiency tax credits • *Child care facilities:* Propose expanded tax credit to encourage businesses to build child care facilities at places of work, in which "employers will receive 50 percent of the first $1 million of construction costs per facility." • *Advanced energy projects:* Extend the section 48C tax credit program to "modern[ize] supply chains" for domestic manufacturers, "including in the auto sector."