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Legislative Update: Wyden's mark-to-market plan for capital gains

U.S. Senator Ron Wyden (D-OR)—the ranking member of the Senate Finance Committee—today released a report describing a proposal for a “mark-to-market” system for taxing capital income of certain individual taxpayers who satisfy income or asset thresholds.

Read the report from the Senate Finance Committee Democrats—[Treat Wealth Like Wages](#) [PDF 865 KB] (33 pages)

The plan generally would apply to individuals, estates, or trusts that meet certain income or asset requirements. The plan proposes an income threshold of \$1 million and an asset threshold of \$10 million of applicable assets. The thresholds would be the same for single taxpayers and joint filers, but would be indexed for inflation.

For applicable taxpayers, the proposed policy would eliminate the rate preference for long-term capital gains and apply new anti-deferral rules that would generally require annual recognition of unrealized gains and losses from tradable assets. To calculate the tax due on gains from non-tradable assets such as investment real estate, closely held businesses, and valuable collectibles, the proposed mark-to-market system generally would use a “lookback” rule upon realization (disposition of the asset). The resulting lookback charge would tax the gain in a way intended to diminish the benefit of deferring tax until the sale or disposition.

The report also references a variety of other rules, including rules for passthrough entities and C corporations, transition rules, and special rules for personal residences, retirement accounts, and family farms.

Comments requested

The plan states that Senator Wyden is continuing to develop and refine the proposal and comments and feedback are welcomed.

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