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GMS Flash Alert

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United States - President Releases FY 2022 Budget, Measures Affecting Individuals

On Friday, May 28, 2021, the U.S. Treasury Department released its "Green Book" (*General Explanation of the Administration's Fiscal Year 2022 Revenue Proposals*), which provides details with respect to the tax proposals contained in the Biden administration's budget for the fiscal year beginning October 1, 2021.[1] This *GMS Flash Alert* highlights the individual income tax proposals contained in Treasury's Green Book that may impact global mobility programs and their assignees.

WHY THIS MATTERS

While the Treasury's Green Book provides a description of proposals that lawmakers may introduce as legislation, and thus Congress can be expected to add, drop, and modify proposals as it considers implementing legislation, it nevertheless provides valuable details concerning individual income tax proposals that may be incorporated into future legislation. Even though a majority of the individual income tax proposals contained in the Green Book were outlined in the American Families Plan Fact Sheet that was released by the White House on April 28,[2] the Green Book provides additional technical details, such as effective dates, that were not included in the American Families Plan Fact Sheet.

Individual Income Tax Proposals Included in the Green Book

The Treasury's Green Book includes the following individual income tax proposals:

- **Raise the top individual income tax rate** from 37 percent back to 39.6 percent[3] (proposal would be effective for taxable years beginning after December 31, 2021);

- **Tax long-term capital gains and qualified dividends at ordinary tax rates** for taxpayers with adjusted gross income in excess of $1,000,000, but only to the extent that the taxpayer's income exceeds $1,000,000 ($500,000 for married filing separately) (proposal would be effective from the announcement date, which is reportedly April 28, 2021);

- **Extend the child tax credit expansion** enacted in the *American Rescue Plan Act* through 2025 and make the child tax credit fully refundable on a permanent basis[4] (proposal would be effective for taxable years beginning after December 31, 2021);

- **Make permanent the temporary changes to the child and dependent care tax credit** included in the *American Rescue Plan Act of 2021*[5] (proposal would be effective for taxable years beginning after December 31, 2021);

- **Tax unrealized capital gains on appreciated assets transferred by gift or death and eliminate stepped-up basis for gains in excess of $1,000,000** per-person, with certain exceptions (proposal would be effective for gains on property transferred by gift, and on property owned at death by decedents dying, after December 31, 2021, and on certain property owned by trusts, partnerships, and other non-corporate entities on January 1, 2022);

- **Treat carried interest as ordinary income for partners with taxable income in excess of $400,000** (proposal would be effective for taxable years beginning after December 31, 2021);

- **End tax deferral for Internal Revenue Code (I.R.C.) section 1031 like-kind exchanges for gains in excess of $500,000** ($1,000,000 for married individuals filing a joint return) (proposal would be effective for taxable years beginning after December 31, 2021);

- **Permanently extend the current limitation in place that restricts large, excess business losses** (proposal would be effective for taxable years beginning after December 31, 2026);[6]

- **Make permanent the American Rescue Plan expansion of Premium Tax Credits** (proposal would be effective for taxable years beginning after December 31, 2021);

- **Make permanent the earned income tax credit (EITC) expansion for workers without qualifying children** (proposal would be effective for taxable years beginning after December 31, 2021);

- Ensure that **all trade or business income of high-income taxpayers is subject to the 3.8-percent Medicare tax**, either through the Net Investment Income Tax or Self Employment Contributions Act (proposal would be effective for taxable years beginning after December 31, 2021);

- **Provide a new nonrefundable disaster mitigation tax credit for homeowners** and businesses in areas, or in areas adjacent to, where a federal disaster declaration has been made within the preceding 10-year period (proposal would be effective for taxable years beginning after the date of enactment);

- **Extend the credit for nonbusiness energy property for five years** and increase the lifetime limit, credit rate, and credit amounts for certain types of residential energy property (proposal would be effective after December 31, 2021).

The Green Book also proposes a number of oversight and reporting requirements that would impact individuals:

- Introduce comprehensive financial account reporting to improve tax compliance;

- Increase oversight on paid tax return preparers;

- Enhance accuracy of tax information;

- Expand broker information reporting with respect to crypto assets;
- Address taxpayer noncompliance with listed transactions.

Notably, the Green Book *did not include* the following income tax proposals:

- Repeal of the qualified business income deduction under I.R.C. section 199A for certain noncorporate taxpayers;
- Repeal of the $10,000 limitation on the deduction for state and local taxes;
- Subject wages in excess of $400,000 to the Old Age, Survivors, and Disability Income portion of the Social Security tax.

KPMG NOTE

KPMG LLP (U.S.) is actively monitoring the progress of these proposals through the legislative process and will endeavor to advise of any significant developments.

FOOTNOTES:

1 The full text of the Green Book can be found at: https://home.treasury.gov/system/files/131/General-Explanations-FY2022.pdf . The Treasury press release on the release of the Green Book can be found at: https://home.treasury.gov/news/press-releases/jy0204 .

2 See *GMS Flash Alert 2021-126* (April 28, 2021) for an overview of the individual income tax proposals contained in the American Families Plan.

3 The 2017 tax law commonly known as the "Tax Cuts and Jobs Act" temporarily lowered the top individual tax rate to 37 percent for tax years 2018 through 2025. In taxable year 2022, the top marginal tax rate would apply to taxable income over $509,300 for married individuals filing a joint return, $452,700 for unmarried individuals (other than surviving spouses), $481,000 for head of household filers, and $254,650 for married individuals filing a separate return. After 2022, the thresholds would be indexed for inflation using the C-CPI-U, which is used for all current tax rate thresholds for the individual income tax.

4 See *GMS Flash Alert 2021-079* (March 10, 2021) for an overview of the changes the *American Rescue Plan Act* made to the child tax credit.

5 See *GMS Flash Alert 2021-079* (March 10, 2021) for an overview of the changes the *American Rescue Plan Act* made to the child and dependent care tax credit.

6 See *GMS Flash Alert 2021-079* (March 10, 2021) for an overview of the changes the *American Rescue Plan Act* made to the limitation on excess business losses for noncorporate taxpayers.

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The above information is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230 as the content of this document is issued for general informational purposes only.

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