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GMS Flash Alert

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United States - The Green Book: Treasury's Budget Proposals for FY23

On Monday, March 28, 2022, the United States Treasury Department released the "Green Book" (*General Explanation of the Administration's Fiscal Year 2023 Revenue Proposals*).[1] This *GMS Flash Alert* highlights the individual income tax proposals contained in the Treasury's Green Book that may impact global mobility programs and their assignees.

WHY THIS MATTERS

The Green Book contains the administration's tax priorities and provides valuable technical details that may serve as a framework for lawmakers in crafting future legislative proposals. This year's Green Book includes a number of individual income tax proposals that were included in the last year's version of the Green Book and also in the *Build Back Better Act* (BBBA) that could not muster enough support in the Senate to pass. However, if the proposals in the Green Book were adopted by Congress and eventually enacted into law, they would have significant impact for global-mobility programs and international assignees.

Individual Income Tax Proposals Included in the Green Book

The Treasury's Green Book includes the following individual income tax proposals and the proposals would be effective for taxable years beginning after December 31, 2022, unless noted otherwise.

- **Raise the top individual income tax rate** from 37 percent back to its previous rate of 39.6 percent for taxable income over $450,000 for married individuals filing a joint return, $400,000 for unmarried individuals (other than surviving spouses), $425,000 for head of household, and $225,000 for married individuals filing a separate return.

- **Tax long-term capital gains and qualified dividends at ordinary tax rates** for taxpayers with taxable income in excess of $1,000,000, but only to the extent that the taxpayer's income exceeds $1,000,000 and $500,000 for married filing separately, indexed for inflation after 2023. The proposal would be effective for gains required to be recognized and for dividends received on or after the date of enactment.

- **Treat transfers of appreciated assets by gift or death as realization events**. The donor or deceased would realize a capital gain at the time of transfer. The proposal would be effective for gains on property transferred by gift and on property owned at death by decedents dying after December 31, 2022, and on certain property owned by trusts, partnerships, and other non-corporate entities on January 1, 2023.

- **Impose a minimum tax of 20 percent on total income, including unrealized capital gains** for all taxpayers with wealth in an amount of more than $100 million.

- **Treat carried interest as ordinary income for partners** with taxable income (from all sources) in excess of $400,000.

- **End tax deferral for Internal Revenue Code section 1031 like-kind exchanges** for each taxpayer with gains in excess of $500,000 ($1,000,000 for married individuals filing a joint return).

- **Require 100-percent recapture of the deprecation deduction as ordinary income** for certain depreciable real property. The proposal would not apply to individuals with adjusted gross income below $400,000 ($200,000 for married individuals filing separate returns).

- **Simplify foreign exchange gain or loss rules for individuals** by allowing use of an average rate for the year to calculate compensation received in foreign currency. The proposal would also increase the personal exemption amount for foreign currency gain from $200 to $500, indexed to annual inflation rate. Individuals would be permitted to deduct foreign currency losses realized with respect to mortgage debt secured by a personal residence to the extent of any gain taken into income on the sale of the residence as a result of foreign currency fluctuations.

- **Permanently extend the temporary income exclusion for student debt relief**. The proposal would be effective on date of enactment.

- **Increase the threshold for the foreign tax credit limitation exception from $300 to $600** ($1,200 for married individuals filing a joint return).

- **Require reporting with respect to foreign digital asset accounts.**

- **Require employers to withhold 20-percent additional tax and additional interest tax on failed NQDC plans**.

- **Extend the period of assessment of taxes to three years** after the date on which Form 8854 is filed.

KPMG NOTE

Most notably, the Green Book includes a new minimum billionaire tax which would require the wealthiest taxpayers to pay at least 20 percent on their annual income and omitted contentious or hotly debated proposals. The Green Book omitted a bank reporting proposal that would allow banks to share information with the IRS, a proposal that would expand the federal deduction for state and local taxes (SALT), and other proposals that would expand existing social safety nets (e.g., universal free pre-school, extension of expanded child tax credit, changes to the child and dependent care credit).

FOOTNOTE:

1 For additional information, see KPMG *TaxNewsFlash*: FY 2023 budget: "Green Book"–Treasury's explanation of tax proposals, a publication of the KPMG International member firm in the United States. The full text of the Green Book can be found at: General Explanations of the Administration's Fiscal Year 2023 Revenue Proposals (treasury.gov) .

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