

Biden returns to familiar corporate, high-wealth tax proposals in State of the Union message

In a State of the Union address February 7 that leaned heavily on the mantra, “Let’s finish the job,” President Biden refrained from announcing any new tax proposals and instead urged Congress to revisit certain revenue-raisers aimed at large corporations and “billionaires” that didn’t make the final cut in last year’s Inflation Reduction Act—and in one case pushed for significantly expanding a new corporate tax in that recently enacted legislation.

Stock buyback excise tax

On the corporate side of the tax code, President Biden proposed increasing the excise tax on stock buybacks, which was enacted in the Inflation Reduction Act (P.L. 117-169) last August and took effect for stock repurchases after December 31, 2022, to a rate of 4 percent from its current level of 1 percent.

URL: <https://www.congress.gov/117/plaws/publ169/PLAW-117publ169.pdf>

In calling for the increase, Biden argued that certain large energy companies earned record profits last year “in the midst of an oil crisis” and that instead of investing those profits in increased production to keep prices down for consumers, they “reward[ed] their CEOs and shareholders” by repurchasing their own stock.

“Corporations ought to do the right thing,” he said. “That’s why I propose we quadruple the tax on corporate stock buybacks and encourage long-term investments. They’ll still make considerable profit.”

‘Billionaire minimum tax’

On the individual side of the tax code, Biden argued that the bulk of currently available benefits are skewed to wealthier taxpayers, and he called on Congress to pass his so-called “billionaire minimum tax.” Although he did not offer details, this presumably would follow the contours of a proposal in his fiscal year 2023 budget blueprint for a tax of 20 percent on total income, generally inclusive of unrealized capital gains, for all taxpayers with wealth—generally calculated by subtracting liabilities from assets—greater than \$100 million.

Because this tax would apply to unrealized gains on tradeable assets and not just income, some critics have questioned its constitutionality. However, Biden, consistent with previous policy pronouncements, declared in his address that the tax code needs to “reward work, not just wealth.”

Returning to another theme that dates back to his days on the 2020 presidential campaign trail, Biden also reiterated that he would “not raise taxes on anyone making under \$400,000 a year.”

Child tax credit enhancements

To provide relief for less affluent taxpayers, Biden urged Congress to “restore the full child tax credit”—a reference to the enhanced and expanded credit passed as part of Democrats’ American Rescue Plan Act of

2021 (P.L. 117-2), which temporarily increased the maximum credit amount to \$3,600 per child under six years old and \$3,000 per child six years and older (from \$2,000), made the credit fully refundable, and allowed families to receive the benefit in direct monthly payments. Those enhancements expired at the end of 2021.

URL: <https://www.congress.gov/117/plaws/publ2/PLAW-117publ2.pdf>

Many congressional Democrats have sought a long-term extension of the American Rescue Plan’s child tax credit provisions and attempted during the lame duck legislative session following last November’s midterm congressional elections to use the enhanced credit as a bargaining chip in exchange for their support of certain business-focused tax relief sought by Republicans—for example, delays in implementing certain tax code changes mandated under the Tax Cuts and Jobs Act (P.L. 115-97) such as the phase-down of the bonus depreciation percentage, mandatory amortization of research expenditures under section 174, and stricter rules for applying the limitation on deductions of net business interest expense under section 163(j). Those efforts were unsuccessful, however, and Democrats are likely to pursue a similar deal this year.

URL: <https://www.congress.gov/115/plaws/publ97/PLAW-115publ97.pdf>

Although many Republicans say they also support some form of a strengthened child tax credit, a number of key taxwriters—as well as some moderate Democrats, including Sen. Joe Manchin of West Virginia—have opposed enhancements that do not include a work requirement for recipients—something that is not in current law and was not part of the now-expired enhanced credit.

In a January 9 statement following his selection as the new chairman of the House Ways and Means Committee, Rep. Jason Smith, R-Mo., laid out his argument against a straightforward reprise of the recent policy, stating, “Domestically, we cannot expect our labor force to recover if Congress makes work less valuable than a government check, as Democrats did when they dismantled the child tax credit in 2021. We must provide an on-ramp for able-bodied adults to transition into the workforce, and we must also take seriously our responsibility to create the economic conditions that allow them to thrive upon reentry.”

URL: <https://waysandmeans.house.gov/j-smith-statement-on-selection-as-next-chairman-of-the-house-ways-and-means-committee/>

Smith also has said he would be open to collaborating with Democrats to increase the child tax credit or expand other tax incentives for low-income taxpayers if Democrats agree to a work requirement, however. (For prior coverage, see *Tax News & Views*, Vol. 23, No. 41, Dec. 9, 2022.)

URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/TNV/221209_1.html

Debt ceiling

One of the more politically charged moments of the president’s speech came as he discussed the looming deadline for Congress to address the federal debt ceiling.

Treasury Secretary Janet Yellen officially notified congressional leaders last month that the government hit the current \$31.381 trillion cap on federal debt on January 19 and that her department would use “extraordinary measures” beginning on that date to prevent the US from defaulting on its obligations until at least early June. President Biden and most congressional Democrats have said the nation’s borrowing limit should be

suspended or increased with no strings attached—in a “clean” bill—but Republicans have insisted that any such move must be paired with meaningful federal spending cuts and a plan to address future levels of debt.

[URL: https://home.treasury.gov/system/files/136/Debt-Limit-Letter-to-Congress-McCarthy-20230113.pdf](https://home.treasury.gov/system/files/136/Debt-Limit-Letter-to-Congress-McCarthy-20230113.pdf)

In this week’s address, Biden contended that some Republicans have called for cuts to Social Security and Medicare in exchange for agreeing to raise or suspend the debt limit. He also referred to a controversial government reform proposal advanced in some Republican circles that would require federal legislation to sunset after five years and give Congress the option to renew specific laws and programs or allow them to remain lapsed—an approach that some have argued could lead to the permanent expiration of the Social Security and Medicare systems.

[URL: https://rescueamerica.com/steps/6-government-reform-debt/](https://rescueamerica.com/steps/6-government-reform-debt/)

Although Biden acknowledged that this is not a proposal backed by a majority of the GOP, his assertion prompted vocal denunciations from numerous Republicans in the House chamber. In an unusual move for the typically formal State of the Union address, the president engaged in some back-and-forth with the audience and concluded: “[W]e all apparently agree, Social Security and Medicare [are] off the books (sic) now, right? . . . We’ve got unanimity.”

House Speaker Kevin McCarthy, R-Calif., who held a meeting with Biden on February 1 to begin discussions about addressing the debt ceiling, has repeatedly said that entitlement cuts are not up for consideration. McCarthy has also ruled out tax increases as part of the negotiations, saying Republicans are focused on cutting government spending—and especially “waste”—while finding budgetary “efficiencies.” House Republicans will have to outline their proposed spending cuts in the budget resolution they plan to release this spring, which is already causing some anxiety among defense hawks in the party, who do not want a decrease in military funding.

More details on March 9

The Biden administration will unveil its full menu of tax and spending proposals—including those mentioned in the State of the Union message—when it sends its fiscal year 2024 budget blueprint to Congress on March 9. The president said in his address that the budget will cut the deficit by \$2 trillion, although he did not cite a specific budget window for achieving that level of reduction.

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