

# Biden Framework & Pass-Through Businesses

Presented by:



# Biden Framework & Pass-Throughs

## Overview

- The Biden Framework continues the assault on pass-through businesses. Higher rates include:
  - Imposing the 3.8% Net Investment Income Tax to all S corporation and partnership profits (\$250 billion)
  - Expanding and making permanent the loss-limitation rules (\$170 billion)
  - Creating a new 5% and 8% surtaxes on AGI exceeding \$10 or \$25 million (\$230 billion)
- For pass-through businesses that qualify for the 199A, these changes increase their top rate from 29.6% to 41.4%
  - For businesses that don't qualify for 199A, the top rate goes from 37% to 48.8%!
- It creates an imbalance between C corps and pass-throughs that can't be ignored:

**48.8% ≠ 21.0%**

- This imbalance threatens the ability of family-owned businesses to survive

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## Trusts and Estates

- The \$10 million and \$25 million thresholds for the surtax are much lower for family-owned businesses
- These businesses rely on trusts to ensure their succession from one generation to the next
- Every rate hike to date has included lower thresholds for trusts and estates than individuals:
  - The 199A cap in the House bill applied to QBI over \$2.5 million. For trusts, the threshold was \$50,000
  - The 5% Surtax in the House bill applied to income over \$5 million. For trusts, it was \$100,000
- The framework would do the same, imposing the new surtaxes on family businesses held in trust that make as little as \$200,000 for the 5% surtax and \$500,000 for the 8% surtax.

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## Rate Comparisons

- Framework would raise 199A pass-through rates from 29.6% to over 40%
- This rate will apply to businesses making as little as \$500,000

Date	Rate (w/ 199A)	Income Threshold	Trusts & Estates
Pre-2017	39.60%		
Post-2017	37% ordinary tax rate	\$622,051	NA
	Less 20% deduction for pass-through businesses		
	= 29.6%		
Biden "Framework"	Current Law: 29.6%		
	Expansion of the net investment income tax to active business owners (=3.8%)	\$500,000	\$500,000
	Surtax on AGI over \$10 million (+5%)	\$10 million	\$200,000
	Surtax on AGI over \$25 million (+3%)	\$25 million	\$500,000
	= 41.4%	> \$25 million	\$500,000

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## Rate Comparisons

- Framework would raise non-199A pass-through rates from 37.0% to over 48%!
- This rate will apply to businesses making as little as \$500,000

Date	Rate (w/o 199A)	Income Threshold	Trusts & Estates
Pre-2017	39.60%		
Post-2017	37% ordinary tax rate	\$622,051	NA
	= 37%		
Biden "Framework"	Current Law: 37.0%		
	Expansion of the net investment income tax to active business owners (=3.8%)	\$500,000	\$500,000
	Surtax on AGI over \$10 million (+5%)	\$10 million	\$200,000
	Surtax on AGI over \$25 million (+3%)	\$25 million	\$500,000
	= 48.8%	> \$25 million	\$500,000