



## Potomac Perspective

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### Summary

In yesterday's weekly note, we explained that the effective date of a potential capital gains tax hike could be at a yet to be determined date between now and the end of 2021. In this note, we provide additional information and explain that the Biden administration could propose making a higher capital gains tax rate effective as soon as next week.

We expect that the Biden administration will release the president's FY2022 budget on Thursday, May 27, which could become the date that any capital gains tax hike becomes effective.

The budget is typically accompanied by the Treasury Department's "Green Book" which is a summary of the budget's revenue proposals. The Green Book will probably provide more details about President Joe Biden's tax plans than did the earlier releases of the American Jobs Plan and the American Families Plan (AFP). Among the details that could be included in the Green Book are effective dates for the various proposals including the capital gains tax hike. Increases in income taxes will probably be effective as of January 1, 2022, since it is difficult for taxpayers to "time" income. However, that is not the case with capital gains. Given advanced warning, taxpayers could sell assets ahead of a capital gains tax increase to lock in the current lower rate. We believe the administration is wary of this scenario since it could reduce revenue generated from the tax increase.

In previous notes, we have advised that the effective date for a capital gains tax increase could be some date between now and the end of 2021 and that it could be linked to some key point in the political process. The release of the Green Book could be that date. Of course, Congress could later decide to make a capital gains tax increase effective as of date later than May 27, but investors should be prepared that the Biden administration could announce its intent to make the release of the Green Book the effective date.

The AFP proposed treating capital gains tax as ordinary income for taxpayers earning over \$1 million which would mean the highest tax rate on capital gains could be 43.4 percent – the 39.6 income tax rate proposed by the Biden administration plus the 3.8 percent Obamacare surcharge. We continue to believe that several congressional Democrats are wary of raising the capital gains tax rate as high as the Biden administration has proposed and that a 28 percent capital gains tax rate, which was the rate between 1986 and 1997, could be the compromise higher rate.

The political situation is fluid and subject to change but investors who are trying to manage a capital gains tax liability should be prepared to see headlines next week in which May 27, 2021 could be effective date of a possible capital gains tax increase.

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