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## **Tax policy and inbound companies: What the Biden administration may propose and the process, timing, and political considerations involved**

More than three months after the nation went to the polls on Election Day, questions around who will control the levers of power in the White House and on Capitol Hill are now finally settled. Joe Biden became the nation's 46th president at noon on January 20 and will be working with a Democratic Congress.

A change in presidential administrations often signals the possibility of changes in tax policy, and this is certainly true in the case of the current transition. President Biden campaigned on a platform of ensuring that businesses and wealthy individuals pay “their fair share” in taxes. To that end, he has proposed modifying or repealing key provisions of the 2017 tax code overhaul known informally as the Tax Cuts and Jobs Act (TCJA, P.L. 115-97). Among other things, he has called for increasing the top tax rates on corporations, along with a number of tax changes affecting international operations. On the individual side of the tax

code, he has proposed changes such as increasing the top rate on upper-income taxpayers (generally those with income greater than \$400,000). If signed into law, these proposed changes may affect inbound companies.

However, some significant caveats are worth keeping in mind when considering the tax policy landscape over the coming weeks and months. First, newly minted Treasury Secretary Janet Yellen has indicated that the administration's immediate fiscal priority is addressing the impact of the coronavirus pandemic, and tax increases of any kind likely will wait until the economic outlook is more clear. Any tax increases the administration does eventually propose are expected to be part of a larger program to invest in priorities such as infrastructure, research and development, and domestic manufacturing.

Second, very little detail is currently available on many of the proposals President Biden has put forward. Over the course of the campaign, he did not release detailed tax policy documents to the public or deliver a substantial, tax-focused economic address.

Third, it's important to note that tax law originates in Congress, not the White House, so any legislation that is enacted into law inevitably will reflect the priorities of congressional leaders. The fact that Democrats control both chambers in the 117th Congress potentially provides an opportunity to enact some level of tax increases in the coming two years. But the shape, breadth, and timing of any legislative proposals that advance on Capitol Hill are likely to be affected by:

- **Differing priorities:** The Democratic party has historically brought together politicians with widely disparate views on many issues, including tax policy, and finding common ground could prove to be challenging in 2021 and 2022. While Democratic tax writers are united in their public criticism of the Republicans' 2017 tax overhaul, they have not, for the most part, weighed in on many of the specific proposals President Biden laid out during his campaign.
- **Narrow majorities:** House Democrats currently control 221 seats in the 117th Congress, compared with 211 for Republicans—a significantly smaller majority than over the past two years. (Three current vacancies will be filled by special elections later this spring.) Democratic victories in the two Georgia Senate runoff races on January 5 mean that Democrats and the GOP control 50 seats each in that chamber, but Democrats effectively hold the majority since Vice President Kamala Harris, in her role as president of the Senate, will cast the tiebreaking vote whenever lawmakers are deadlocked. Democrats' slender majorities in both chambers will leave leaders with little room for error as they navigate the sometimes conflicting priorities of lawmakers in the progressive and moderate wings of the party.

The full impact of any tax law changes enacted in the early days of the Biden administration will depend on whether those provisions take effect prospectively or are retroactive to January 1, 2021. Retroactive enactment of tax law changes is uncommon and generally is viewed as unlikely. In recent remarks before the American Bar Association Section on Taxation, Mark Mazur, who has been tapped to serve as Treasury deputy assistant secretary for tax policy, seemed to downplay the notion that the Biden administration would pursue such a strategy when it eventually introduces revenue-raising proposals.

“You want to have a tax system where . . . taxpayers can react to the increases in the tax system so that they can change their behavior,” he said. “When you do retroactive tax increases, that’s not possible. That tends to be not the first choice.”

Despite the present uncertainty over how much of President Biden's tax policy agenda can advance through a closely divided Congress and get enacted into law, significant tax law changes over the next few years remain a possibility. President Biden's tax proposals may affect inbound companies so it is important to start evaluating the tax proposals the Biden administration puts forward, analyzing potential outcomes, and considering the appropriate actions to take if and when these proposals go from high-level plans and talking points to fully framed legislation with substance and effective dates.

For additional details on President Biden's tax proposals, see [A change in course: Tax policy implications of the Joe Biden presidency](#) from Deloitte Tax LLP.

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## Accelerating the future of work

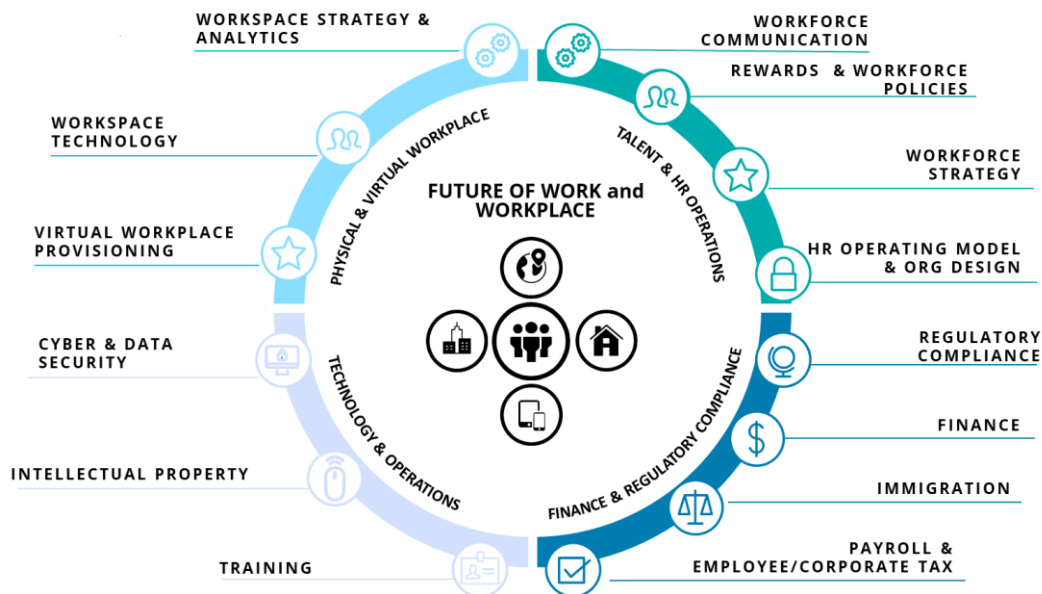
With the influx of technology and a hyper-connected world, the future of work—shifts in organizations' **work, workforce, and workplace**—was already in motion prior to COVID-19. Remote working, in particular, was gaining considerable momentum. Over five million employees, or 3.6% of the US workforce, worked at home half-time or more as of 2018, and a 2019 remote work report found that **54% of US respondents worked remotely at least once a month.**<sup>1</sup>

With the onset of the pandemic, many companies were compelled to support remote work, and most organizations were able to successfully transition to remote working, seeing unexpected benefits for both employers and employees. In a 2020 survey on remote work, employers reported a **39% increase in productivity**, a **40% increase in innovation**, and a **50% increase in job satisfaction and work-life balance.**<sup>2</sup>

What was a growing trend will most likely become a corporate mainstay in a post-pandemic world. In a recent poll<sup>2</sup>, 69% of CEOs expect over 50% of their workforce to be remote **in January 2021** and 32% of CEOs expect one-third of their workforce to be remote **in January 2022.**

### The many considerations of remote work

While the transition to remote working seemingly happened “overnight,” enabling remote work for the long-term is a cross-functional effort that requires a multitude of considerations across an organization. Companies may need to address both interim decisions, including how to track employee populations and what remote work expenses are reimbursable, as well as develop strategies, policies, and operations for remote work long-term.



<sup>1</sup> Owl Labs “State of Remote Work 2019,” Global Workplace Analytics “Latest Work-at-Home/Telecommuting/Mobile Work/Remote Work Statistics,” We Work Remotely “Remote Work Trends.”

<sup>2</sup> Fortune / Deloitte CEO Survey, October 2020.

## Addressing tax and regulatory compliance implications of working remotely

The compliance considerations in supporting remote work are vast. Approving an employee to work from another jurisdiction, state, or country can trigger apportionment changes, new registrations, new filings, new taxes, and changes in withholding, as well as immigration<sup>3</sup> and employment law<sup>3</sup> implications.



All of these issues could have a significant impact on the organization's tax risk profile. Making remote work decisions based on a full understanding of the tax implications, potential risks, and ultimate financial statement exposure is important.

## Transforming remote work through technology-enabled solutions

Operationalizing a remote work program is an increasingly important priority for companies considering a long-term remote work strategy. In addition to providing organizations with a way to effectively and efficiently manage remote work requests, a technology-enabled solution can provide organizations with the analysis they need to manage tax and regulatory compliance risk, as well as advise on the downstream implications of remote work—taking some of the complexity and uncertainty out of the process.

While the landscape of work is dynamic and ever-evolving, executing thoughtfully *now* will prepare and position organizations for the *future*—helping *unleash* the power of the future of work.

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## Tax News & Views podcast

Need to keep up with tax policy updates? Tax News & Views, our current events–focused tax podcast, can help provide clarity on the latest tax news and developments that could affect your business.

Deloitte Tax podcasts are available on several streaming services: *Apple, SoundCloud, Stitcher, Google Play, Spotify.*

[2021 Tax News & Views Podcast Series | Deloitte US](#)

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<sup>3</sup> For legal and regulatory reasons, some of the DTTL member firms, including the United States member firm, do not provide immigration or employment law services. Immigration and employment law services are provided by DTTL member firms outside the United States and their alliance partners. The Deloitte US firms do not practice law or provide legal advice.

## COVID-19 Resource Center

Business leaders are managing through one of the most sweeping crises in recent history. Deloitte's COVID-19 Resource Center can help management respond, recover, and ultimately thrive post COVID-19.

- **Combatting COVID-19 with resilience:** A collection of Global Deloitte Insights to help businesses manage and mitigate the risk associated with COVID-19  
**URL:** <https://www2.deloitte.com/global/en/pages/about-deloitte/topics/combating-covid-19-with-resilience.html?id=us:2em:3na:usic:awa:tax:122120&sfid=7011000000381ErQAI>

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## Calendars to watch

Each edition, be sure to mark your calendars for some of the more important events (recent and upcoming) as well as tax developments making in impact on businesses investing into the United States.

### Upcoming activities

- March 2**  
1:00 p.m. ET  
**Dbriefs webcast:** Disrupting the norm: Reinventing state tax compliance with technology  
Register  
**URL:** <https://www2.deloitte.com/us/en/events/tax-executives-dbriefs-webcasts/2021/disrupting-the-norm-reinventing-state-tax-compliance-with-technology.html>
- March 3**  
2:00 p.m. ET  
**Dbriefs webcast:** Employment tax controversy: Proactive risk management  
Register  
**URL:** <https://www2.deloitte.com/us/en/events/tax-executives-dbriefs-webcasts/2021/employment-tax-controversy-proactive-risk-management.html>

### View recent webcasts on demand

- February 4**  
1:00 p.m. ET  
**Dbriefs webcast:** Automation with intelligence: Pursuing organization-wide reimagination  
**URL:** <https://www2.deloitte.com/us/en/events/technology-executives-dbriefs-webcasts/2021/automation-with-intelligence.html>
- February 9**  
1:00 p.m. ET  
**Dbriefs webcast:** 2021 Life sciences and health care outlook  
**URL:** <https://www2.deloitte.com/us/en/events/industries-dbriefs-webcasts/2021/life-sciences-health-care-outlooks-2021.html>
- February 16**  
2:00 p.m. ET  
**Dbriefs webcast:** Industry outlook 2021: Industrial products & constructions  
**URL:** <https://www2.deloitte.com/us/en/events/industries-dbriefs-webcasts/2021/industry-outlook-2021-industrial-products-construction.html>
- February 18**  
1:00 p.m. ET  
**Dbriefs webcast:** Accelerating Digital: Automating the corporate compliance process  
**URL:** <https://www2.deloitte.com/us/en/events/tax-executives-dbriefs-webcasts/2021/accelerating-digital-automating-the-corporate-compliance-process.html>
- February 23**  
2:00 p.m. ET  
**Dbriefs webcast:** Industry outlook 2021: Oil, gas, & chemicals  
**URL:** <https://www2.deloitte.com/us/en/events/industries-dbriefs-webcasts/2021/oil-gas-chemicals-industry-outlook.html>

**February 24**  
1:00 p.m. ET

**Dbriefs webcast:** 2021 Technology, media, and telecommunications outlook

**URL:** <https://www2.deloitte.com/us/en/events/industries-dbriefs-webcasts/2021/technology-media-and-telecommunications-outlook-2021.html>

**February 24**  
2:00 p.m. ET

**Dbriefs webcast:** How Workday can enable a future-ready finance function

**URL:** <https://www2.deloitte.com/us/en/events/financial-executives-dbriefs-webcasts/2021/workday-enable-future-ready.html>

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