

## Wyden introduces Billionaires Income Tax proposal

Senate Finance Committee Chairman Ron Wyden, D-Ore., introduced legislation this week that would impose an annual mark-to-market regime on high-wealth households.

[URL: https://www.finance.senate.gov/imo/media/doc/billionaires\\_income\\_tax\\_legislative\\_text.pdf](https://www.finance.senate.gov/imo/media/doc/billionaires_income_tax_legislative_text.pdf)

Wyden explained in a news release that his proposed Billionaires Income Tax, which was unveiled on November 29, is intended to address the so-called “buy, borrow, die” strategy in which an ultrawealthy investor buys an asset such as a business, borrows against that asset’s appreciating and untaxed value over a period of years to fund “their extravagant lifestyle,” and then passes the asset on to their heirs at death subject to minimal taxes, or in some cases no tax at all. (“Buy, borrow, die” was the centerpiece of a Finance Committee hearing last month that examined how the tax code allows the most affluent individuals to minimize their tax bills. For prior coverage, see *Tax News & Views*, Vol. 24, No. 38, Nov. 10, 2023.)

[URL: https://www.finance.senate.gov/chairmans-news/wyden-leads-democratic-colleagues-in-introducing-billionaires-income-tax](https://www.finance.senate.gov/chairmans-news/wyden-leads-democratic-colleagues-in-introducing-billionaires-income-tax)

[URL: https://dhub.deloitte.com/Newsletters/Tax/2023/TNV/231110\\_2.html](https://dhub.deloitte.com/Newsletters/Tax/2023/TNV/231110_2.html)

“America’s tax code is riddled with loopholes that allow the ultrawealthy to get away without paying their fair share, while working families have to play by a different set of rules and pay taxes out of each paycheck,” Wyden said in the release. “You can only have a successful economy if you have a tax code that treats everyone fairly. My Billionaires Income Tax will make that a reality by ensuring those at the very top start paying their fair share, just like the rest of us.”

Co-sponsors of the measure include Finance Committee Democrats Debbie Stabenow, of Michigan, Sherrod Brown of Ohio, Bob Casey of Pennsylvania, Sheldon Whitehouse of Rhode Island, and Elizabeth Warren of Massachusetts. They are joined by Democratic Sens. Brian Schatz of Hawaii, Mazie Hirono of Hawaii, Tammy Baldwin of Wisconsin, Jeff Merkley of Oregon, John Fetterman of Pennsylvania, Tina Smith of Minnesota, Peter Welch of Vermont, Jack Reed of Rhode Island, and Ed Markey of Massachusetts, along with Independent Sen. Bernie Sanders of Vermont.

### How it would work

According to a one-page summary from the Finance Committee staff, Wyden’s proposal would take a three-pronged approach to taxing high-wealth individuals, defined as those with \$100 million in annual income or more than \$1 billion in assets for three consecutive years.

[URL: https://www.finance.senate.gov/imo/media/doc/billionairesincometaxonepager.pdf](https://www.finance.senate.gov/imo/media/doc/billionairesincometaxonepager.pdf)

- **Mark-to-market treatment of gains and losses from tradable assets:** Under the proposal, tradable assets (such as stocks) owned by covered taxpayers would be marked to market each year. Covered taxpayers would pay tax on gains or take deductions for losses, whether or not they sell the asset, and would be able to carry back their losses for up to three years in certain circumstances. (A capital gain or

capital loss related to a tradable covered asset generally would be treated as long-term capital gain or long-term capital loss, respectively, regardless of holding period.)

- **Deferral charge on gains from nontradable assets:** A covered taxpayer who sells a nontradable asset (such as real estate or a business interest) would pay their usual tax on the gain, plus a “deferral recapture amount,” which the summary describes as being akin to interest on tax deferred while the taxpayer held that asset. According to the summary, this approach would simplify compliance by eliminating the need for annual valuations of nontradable assets. The amount owed would be calculated by allocating an equal amount of gain to each year the covered taxpayer held that specific asset, determining how much tax would have been owed on the gain in each year, and assessing interest on unpaid tax for the time the tax was deferred. Interest would be assessed using the short-term federal rate plus 1 percentage point. No interest would accrue prior to the date of enactment of the proposal or the first tax year the individual becomes subject to the Billionaires Income Tax, whichever is later.
- **Transition and anti-abuse rules:** The proposal provides that the first time a covered taxpayer’s tradable assets are marked to market, the taxpayer may elect to pay the resulting tax over five years. The taxpayer may also elect to treat up to \$1 billion of tradable stock in a single corporation as a nontradable asset, which, according to the summary, would help to ensure that the proposal does not affect the ability of an individual who founds a successful company to maintain their controlling interest. The proposal also contains anti-abuse and anti-avoidance rules.

A more detailed section-by-section summary of the proposal is also available from Finance Committee staff.

**URL:** [https://www.finance.senate.gov/imo/media/doc/billionairesincometaxsection.pdf](https://www.finance.senate.gov/imo/media/doc/billionairesincometaxsectionbysection.pdf)

Wyden did not provide a formal revenue estimate for the proposal, but he stated in Senate floor remarks on November 30 that it would increase federal receipts by \$557 billion over 10 years. That amount is consistent with a preliminary estimate he received from the Joint Committee on Taxation staff when he unveiled a draft version of a Billionaires Income Tax with a mark-to-market component in 2021 as part of the discussion around what was then known as President Biden’s “Build Back Better” tax-and-spending agenda. (“Build Back Better” was ultimately supplanted by a narrower legislative effort that culminated in the Inflation Reduction Act, which did not include any sort of mark-to-market regime for wealthy individuals.)

**URL:** <https://www.finance.senate.gov/chairmans-news/wyden-statement-on-billionaires-income-tax-score>

**URL:** <https://www.finance.senate.gov/chairmans-news/wyden-unveils-billionaires-income-tax>

In his floor remarks this week, Wyden stated the revenue generated by his proposal would be sufficient to avert the looming solvency crisis for the Medicare program.

“If the ultrawealthy started paying their fair share under my Billionaires Income Tax proposal, Medicare would be financially sound, and we could protect the Medicare guarantee for millions of Americans,” he said.

## **Beyer announces Billionaire Minimum Income Tax Act**

Across the Capitol, House Ways and Means Committee member Don Beyer, D-Va., and Rep. Steve Cohen, D-Tenn., waded into the wealth tax debate on November 29 as they reintroduced their proposed Billionaire Minimum Income Tax Act.

Text was not available at press time, but Beyer and Cohen explained in a joint news release that the measure “would require households worth over \$100 million to pay an annual minimum 25 percent tax rate on their full income, including regular income along with realized and unrealized gains.”

**URL:** <https://beyer.house.gov/news/documentsingle.aspx?DocumentID=6037>

According to Beyer and Cohen, the measure is nearly identical to legislation they introduced in 2022, with the notable exception of a higher proposed minimum tax rate—25 percent, compared to 20 percent in the prior bill—plus “a handful of technical revisions.” (Last year’s proposal was referred to the Ways and Means Committee but never received a mark-up.)

**URL:** <https://www.congress.gov/bill/117th-congress/house-bill/8558/text>

### **Laying down markers**

Wyden has not announced plans for a Finance Committee mark-up of his proposal in the near term and the Beyer-Cohen bill is not expected to be taken up in the Republican-controlled House Ways and Means Committee. Indeed, neither measure has an apparent path forward in the current Congress, where the GOP holds the majority in the House of Representatives. Both proposals, however, represent the kind of legislation Democrats might try to advance if they win back the House and retain control of the Senate and the Oval Office in the 2024 elections, though it is unclear if the concept of a wealth tax enjoys unanimous support among Democrats, which might be necessary for the proposals to advance unless the party has substantial majorities in each chamber. A wealth tax proposal was considered, but not included, in the Inflation Reduction Act in the previous Congress.

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