Senate Version of Manchin-Biden Build Back Better

IRS audits on lower- & middle-income earners, new taxes on small business, and cure-killing drug price controls

IRS Enforcement: $80 billion to supercharge the IRS is still in the bill, allowing the IRS to hire 87,000 new agents to harass and audit thousands of families, farmers, and small businesses.

What It Does: Democrats claim this will raise revenue by $204 billion for a net of $124 billion. Data shows that this would result in targeting 710,000 value-shopping Americans earning $75,000 or less.

- **No Protections Against Audits for Middle-Income Americans:** Democrats added allegedly "clarifying" language claiming "nothing in this section is *intended* to increase taxes on any taxpayer not in the top 1 percent." "Intentions" are not legally binding, and according to the Tax Foundation, the top 1 percent means an income of around $545k. Democrats even rejected special protections for those earning less than $400,000 a year.
- **Even More Difficult for IRS to Hire and Meet Revenue Goals:** Democrats removed special hiring authority for IRS to hire 87,000 agents, when the IRS is *already* having trouble spending the $1 billion it has received to address the historic tax return backlog.
- **Less Accountability:** Removed requiring IRS to provide a multi-year spending plan and quarterly updates to Congress.

Pass-Through Loss Limitation: Over 4.7 million Main Street businesses organized as pass-throughs – employing nearly half of America's workforce – are hit with tens of billions of dollars in new taxes.

- **What It Does:** Limits the ability of Main Street "pass-through" businesses to claim losses in excess of a specified threshold—only allowing any excess loss to be carried forward in later years.
- **Billionaires over Bartenders:** Democrats opted for this new tax in order to protect SALT deductions for millionaires and billionaires.

Book Minimum Tax: This $200+ billion "Made-in-America tax," the centerpiece of the Manchin-Biden bill, hikes taxes on American businesses at the worst possible moment during a recession.

- **What It Does:** This tax creates a new 15 percent minimum tax on financial statement ("book") income on American businesses operating in the United States with net income over $1 billion.
- **No Time to Implement:** The January 1, 2023, effective date is totally unreasonable – there is no possibility that the IRS will be ready to implement this complicated tax regime within 4 months.
- **Loopholes:** Special carveouts include Green New Deal tax credits, Union pensions, and semiconductor tax credits. Worse, Democrats used a Senate amendment to impose a new tax increase on small business called "pass-through loss limitation," while protecting the SALT tax break for wealthy people in high-tax states (see below).

Stock Buybacks Tax: In addition to creating a third layer of tax on American companies, this unvetted tax scheme has a $74 billion price tag that will harm seniors and other savers the most.

- **What It Does:** One percent annual excise tax on fair market value of net stock buybacks by all publicly traded corporations with annual stock buybacks in excess of $1 million.
- Exemption for stock buybacks that facilitate contribution to an ESOP or retirement plan.
- January 1, 2023, effective date.
- **Reduces Retirement Security:** This tax would harm the 58 percent of Americans who own stock and more than 60 million workers invested in a 401(k) – a group that has already lost roughly up to $2 trillion dollars in Biden's economy.

Other Tax Items:

- **New Gas Tax:** Oil superfund tax would impose $12 billion in new taxes on American energy, increasing prices at the pump and costs for everyday items
- **Removed:** Carried interest tax changes.

Government Takeover of Drug Pricing and Obamacare Bailout: Most of the Democrats' price setting policies are still in the bill, as is their untargeted extensions of pandemic-era Obamacare subsidies that provides more affordable health care to some jobless than they could get by returning to work.

- **Price controls:** The HHS Secretary will still "negotiate," though the prices set by the Secretary:
  - Are mandated by the Secretary
  - Aren't subject a price floor, and could be set as low as $1, and
  - Are enforced by a punitive 95 percent excise tax on all sales of the product.
- **Obamacare expansion:** The Senate bill still includes a three-year expansion of ACA subsidies that were set to expire at the end of calendar year 2022.
  - Even CBO finds expanding these Obamacare subsidies reduces incentives to work, "mainly because of the enhanced health insurance subsidies, pushing down output and pushing up inflation." Health insurance inflation is already 17 percent, and this Obamacare expansion will make it worse.
  - Over half of these subsidies go to people making over 400 percent of the federal poverty level, a group that was never intended to get subsidies under the original ACA.
  - The cost of this policy for three years is $64 billion, and Democrats have hid the true $248 billion cost of permanently extending these subsidies, creating a massive funding cliff despite Senator Manchin's pledge not to do so.
- **Other changes following the Parliamentarian's rulings and final negotiations:**
  - **Insulin Price Caps:** The policy remaining in the bill institutes a $35 cap on monthly cost sharing for insulin prices for people in Medicare. This policy spends an estimated additional $6 billion, further reducing the claimed "deficit reductions," while doing nothing to expand supply or reduce high prices.
  - **Inflation Caps on Drug Prices No Longer Applied to Commercial Units of Drugs:** A manufacturer may not raise prices above inflation in Medicare programs, but now could increase prices above inflation in the commercial market, reducing the provision's $100 billion claimed in savings by 25-50 percent.
  - **Off-ramp for Drug Manufacturers:** If drug manufacturers don't agree to the Secretary's price setting demands, they can now pull their products from Medicare, avoid the 95 percent excise tax, and sell only to the commercial market. Though unlikely to happen, this is an off-ramp for drug manufacturers.

Estimated Budgetary Effects of Manchin-Biden Build Back Better

(in billions of dollars, over 10 years)

Policy	Post Byrd
OFFSETS	
15% Book Income Minimum Tax	$225
Net Estimated Revenue for Enhanced IRS Enforcement	$124
Delay Rebate Rule	$122.2
Part B&D Inflation Caps	$62.3
Drug Price Negotiation	$99
Pass-Through Loss Limitation	$50
Buyback Excise Tax	$74
Superfund Tax & Black Lung Fund	$13
CLEAN ENERGY PROVISIONS	
Clean Electricity & Reducing Carbon Emissions	$98
Clean Fuels	$19
Clean Energy Incentives for Individual	$37
Clean Vehicles	$14
Clean Energy Manufacturing	$37
Clean Electricity & Transportation	$66
Drought Resiliency	$28.1
Clean Procurement	$9.9
Clean Energy Tech Accelerator	$9.8
Ag / Forestry / Conservation	$5.8
Other / Unallocated	$43.6
HEALTH CARE PROVISIONS	
3 Years of ACA Subsidies	$64.1
Part D Redesign/Out-of-pocket Cap	$25.1
Coverage of Vaccines	$7
Expand LIS Eligibility / Other	$2.2
Medicare Cap on Insulin Cost-sharing	$6
OFFSETS	**$769.5**
SPENDING	**$472.6**
DEFECIT REDUCTION (-)	**- $279.9**

Source: Not official or final. Estimates from CBO, Donald Schneider (link).