PRESIDENT BIDEN'S APPROACH TO AGRICULTURE POLICY AND TAXES

A REPORT

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BIDEN AND AGRICULTURE: LOOKING AHEAD

In 2017, significant progress was made for agricultural tax policy with the passage of the Tax Cuts and Jobs Act. Under the agenda of the new administration, much of this progress is at risk. The liberal policy prerogatives of the Biden Administration have already begun to take shape. Under President Biden, a potentially devastating increase of tax duties could cripple the industry. What can be expected from the Biden Administration and what will its agriculture policy look like in the next four years? This brief examines some of the federal tax policies that affect the agriculture industry and any potential changes that Congress and the new administration might implement.

> "FARMERS AND RANCHERS NEED A TAX CODE THAT PROVIDES CERTAINTY AND RECOGNIZES THEIR UNIQUE FINANCIAL CHALLENGES."[1]

ESTATE TAX

- In 2017, the federal state tax exclusion was doubled to $11.7 million for individuals and roughly $23 million for married couples, while also setting the maximum tax rate at 40%, both of which will expires in 2025.
    - It is suggested that Democrats will shrink this exemption to as low as $3.5 million and increase the maximum tax rate to as high as 45%.
        - Roger McEowen, professor of agricultural law and taxation at Washburn University School of Law: "At the current national acreage average farmland per acre price of $3,160, the current $11.7 million exemption caps out at 3,700 acres. If the exemption drops to $3.5 million, an Iowa farmer with 500 acres of land valued at $7,000 per acre would reach the limit…"
        - Over the last decade, the average value of farmland has increased by roughly 50%. With said increase, it would take 32% fewer acres to reach the 2020 exemption than it would have in 2010.

ESTATE TAX (CONT.)

        - As estimated by the Farmers Bureau, this change would impact more than 243,000 farms, 12% nationally.
            - This 12% operates over 667 million acres, thus impacting 74% of U.S. farmland.
- There is also speculation on the elimination of the step-up basis.
    - The elimination of the step-up basis could see small farms operating at $500,000 paying a federal and state capital gains tax of 25% - 30%.
    - In the past, the step-up basis allowed farmers to effectively plan appropriate transitioning.
        - It incentivized heirs to retain and/or maintain the farm, those of whom would have no interest otherwise.
        - It assisted also those farms who declared bankruptcy or attempted to sell off land to pay creditors.
    - The Biden plan holds two parts:
        - "The unfortunate one is that he wants to eliminate stepped-up basis. That means the $400,000 in land that's now worth $2 million can go to your kids, and so long as they don't sell, it doesn't hurt them. If they do sell, they'll pay taxes. Plus, equipment inheritance can't be re-depreciated."
        - The disastrous option, if we're all interpreting this correctly, is that he would tax built-in gain through appreciation. So that $2 million in land would be taxed on your death as if it were being sold, and so would the equipment, even if it were depreciated to zero. The capital gains tax proposal would raise it to 39.6%, which means the tax on $2 million of land and $1 million of equipment would be around $1 million."

CAPITAL GAINS TAX

- The Tax Cuts and Jobs Act did not alter the capital gains tax significantly. It was kept at 20%, as it has been historically for the past 10 years. However, this rate is subject to change.
    - President Biden is suggesting raising long-term capital gains taxes from 20% to 39.6% (matching that of the top income tax rate).
        - It would apply to those making more than $1 million on taxable income a year.
        - "That's a small number of people, but if you sell land, you could reach that tax bracket pretty easily. That would have substantial impact on estates."

CAPITAL GAINS TAX (CONT.)

- The administration also plans to make an adjustment to the like-kind exchanges.
  - The like-kind exchange would be eliminated for those who make over $400,000.

INCOME TAX

- In 2017, all tax rates were lowered as part of the Tax Cuts and Jobs Act. The highest rate went from 39.6% to 37%.
  - President Biden is proposing increasing the highest tax rate back to 39.6% for those making $400,000 a year.
- As part of the new administration's proposed change in income tax is the elimination of the qualified business income deduction.
  - Initially it gave sole proprietors, partnerships, and S corporations a 20% deduction on taxable income.
  - The administration is planning to remove that deduction if one makes over $400,000.

CORPORATE TAX RATE

- 2017 saw the reduction of the corporate tax rate for C corporations move from 35% to 21%.
  - The Biden administration plans to increase this from 21% to 28%.
  - This would, in theory, disincentivize farmers from operating as C corporations and instead transition to S corporation, forcing them to jump through potential legal hurdles when filing the articles of incorporation.

PAYROLL TAX

- For those earning over $400,000, Biden would add a 12.4% payroll tax, even if you're self-employed.
  - Self-employed individuals, such as farmers, would pay the 12.4% payroll tax, but would be given the opportunity to deduct 6.2% on tax returns.
  - Overall, the Tax Foundation suggests that a family farm making over $400,000 will pay 2.6% higher income tax, 12.4% payroll taxes, and will see a reduction in deduction opportunities.

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CARBON TAX

President Biden, alongside other senior officials in his administration, already endorsed a carbon tax. While a specific rate has not been set, there has been speculation on how much it would be based off current state-based tax.

- According to Forbes, most oil companies anticipate a carbon price of $40 per metric ton, yet in California it is currently trading at $195 per metric ton. In the middle, a carbon tax of $100 per metric ton would levy consumers an additional $0.89 per gallon of gas as well as $100 per 1,000 kWh for electricity that was generated from coal.

GAS TAX

With the push for electric-based automobiles, there has been a decrease in funds generated by the gas tax. Set at $0.18 per gallon since 1993, one can expect either an additional increase in the gas tax and/or a tax/fee targeting electric-based automobile owners (similar to state-based BEV taxes in South Carolina, Tennessee, Utah, Kansas, and Oregon). Furthermore, there is speculation that the recent nomination of Pete Buttigieg as Transportation Secretary would result in a gas tax increase or a new vehicle mile tax. A vehicle-miles-traveled tax would disproportionately hurt farmers and other residents of rural areas where more distance must be covered to simply get to work or the grocery store.

FINAL TAKEAWAY

President Biden may pretend to be a moderate who only wants to raise taxes on the wealthy. However, it's clear that his policies will damage farmers' livelihoods and the agriculture industry overall.