

On March 31, President Biden announced “The Made In American Tax Plan” (the “Biden Tax Plan”) to fix the corporate tax regime and ensure large corporations pay their fair share.

In particular, the Biden Tax Plan would increase the federal corporate income tax rate from the current 21 percent to 28 percent, and will impose a 15 percent “book income” minimum tax on large corporations. It will also reform certain tax benefits available to US corporations under the current law in respect of foreign earnings, and will tighten the anti-inversion rules to make it even harder for US corporations to move offshore.

Also, the Biden Tax Plan intends to ensure that the Internal Revenue Service has the resources it needs to effectively enforce the laws against corporations. There will be a broader enforcement initiative in the coming weeks that will address tax evasion among corporations and high-income taxpayers.

Although there are few details available at this time, taxpayers should expect significant development soon and begin assessing their respective circumstances and planning strategies as early as possible.

Earlier today, the House of Representatives approved the Senate’s version of the \$1.9 trillion American Rescue Plan, which includes a \$28.6 billion grant program titled “Support for Restaurants.” The grants themselves are referred to as “Restaurant Revitalization Grants” and are available to certain restaurants and similar businesses that were adversely impacted by the COVID-19 pandemic. President Biden is expected to sign the American Rescue Plan into law. This Alert offers a summary of the legislation [and can be found here](#).

Section 1061 of the Internal Revenue Code generally recharacterizes long-term capital gains attributable to certain carried interests (“applicable partnership interests” or “APIs”) as short-term capital gains, unless an extended, three-year holding period is satisfied. The IRS released proposed regulations on July 31, 2020 regarding the application of Section 1061 (which we covered in a previous Alert). On January 7, 2021, the IRS released final regulations that included some significant changes from the proposed regulations.

These final regulations will have a far-reaching impact on many private equity and other investment funds and partnerships that issue carried (profits) interests to employees and other service providers. [The Alert can be found here](#).

The Small Business Administration has announced that it will open its Paycheck Protection Program (“PPP”) loan portal to eligible lenders with \$1 billion or less on Friday, January 15, and will open its PPP loan portal to all eligible lenders on Tuesday, January 19. This announcement applies to both First and Second Draw PPP loans.

Each individual lender will determine for itself when to begin accepting PPP applications from borrowers. We suggest you contact your lender immediately to obtain lender-specific details. While individual lenders may choose to utilize their own PPP loan applications, the SBA published a form application for First Draw loans [here](#), and a form application for Second Draw loans [here](#).

We are available to answer any questions you may have, and to consult about other PPP issues. Please reach out to your primary GEAB&P attorney to discuss.

On January 8, 2021, the Small Business Administration (SBA) released a series of documents relating to the Paycheck Protection Program (PPP), providing application forms, guidance and details relating to the SBA’s implementation of a second round of PPP loans made possible by the recently enacted Economic Relief Act. The SBA intends to begin accepting applications for First Draw Loans that it receives through certain small “community lenders” starting today, January 11, and will accept “community lender” Second Draw applications beginning January 13, 2021. The recent guidance released by the SBA may be of interest to prospective PPP Second Draw borrowers and is described in this Alert. The Alert can be found [here](#).

We have been seeing a growing trend of a criminal cyber-fraud scheme affecting large and small businesses, individuals and banks, by which payments are unknowingly sent to a criminal’s account as a result of an email hack allowing the criminal to pose as the payee. Upon receiving the funds, the criminal drains its account, often leaving a dispute between the payor and the payee over responsibility for the loss. This Alert describes how criminals

commonly carry out this scheme to help you be aware of what to watch out for; discusses the difficulty under the law in determining responsibility when this fraud occurs; and provides some preliminary methods to mitigate the risk. [The Alert can be found here.](#)

In 2020, amidst the pandemic, New York’s Department of Taxation and Finance issued three advisory opinions that addressed sales tax issues concerning digital marketing services, including the furnishing of analytics through dashboards and other online platforms. These opinions address when and to what extent the software component and non-software-related information service portion of the overall services are taxable. Several observations of, and approaches to mitigate risk suggested by, these three new 2020 opinions are worth noting and are discussed in this Alert. [The Alert can be found here.](#)

After initial widespread court closures in March, the courts and counsel adjusted to a “new normal” by allowing litigation to proceed in “virtually” the same way, while facing new issues that arose as a result of COVID. This Client Advisory discusses some of the ways our Litigation Group helped our clients face the unique challenges of 2020, while navigating the restrictions we all face day to day. [The Advisory can be found here.](#)

Late On the evening of December 21, 2020, in the culmination of several months of contentious negotiations, the U.S. Congress passed the Consolidated Act of 2021 (the “Act”). The Act, among other things, authorizes \$900 billion for a new round of economic relief measures to American business, individuals and institutions. While the President has raised concerns that he says could cause him not to sign the Act, his concerns do not seem related to the issues addressed in this Alert. This Alert summarizes the provisions in the Act with regard to Paycheck Protection Loans and other programs available to America’s small businesses. [The Alert can be found here.](#)

On November 18, 2020, the IRS issued guidance to confirm its position that no deductions can be taken for expenses that are funded with a Paycheck Protection Program loan, even if the loan has not yet been forgiven. Further details on the guidance can be found [here](#).