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Stepped-Up Basis

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The U.S. tax code has preferential tax loopholes, such as the stepped-up basis, that add to wealth inequality and should be reformed to benefit medium- and low-income taxpayers. The stepped-up basis is a tax break on capital gains on an inherited capital asset. The heirs to a capital asset inherit it at its adjusted cost basis at the date of the decedent's death instead of the cost basis at purchase. This means that if an asset has a greater value at its adjusted basis, the inheritor can sell it at that basis and owe nothing in taxes. The households who benefit the most from this tax break are high-income taxpayers; they save millions on capital gains taxes. This only adds to the other several million they save by evading income taxes by living off their investment assets that get taxed at a lower rate. Billionaires get richer while the poor get poorer by design in this tax code. Reforming this loophole would prevent a huge wealth transfer between rich family dynasties and redirect those sums to fund social programs like Medicaid and food stamps or partially fund education.

The stepped-up basis is a tax break on capital gains realized through selling an inherited capital asset. This tax loophole works by listing a capital asset (houses, investment stock, or bonds, etc.) as an inheritance. The original cost of the capital asset when purchased by its previous owner is its cost basis; upon the previous owner's death, the cost basis is adjusted to the value on that day. If the inheritor sells the capital asset at an appreciated adjusted cost basis, a capital gain is realized. The IRS then only collects capital gains taxes if the inheritor sells it for more than their adjusted cost basis; if they do not, the inheritor doesn't owe anything in capital gains taxes on that asset.[1] In 2019, the Congressional Budget Office (CBO) estimated that the top 20% of wealthiest families in the nation make up 56% of the benefits that come from the stepped up basis; the credit equaled 6.5% of their income before transfers and taxes.[2] Wealth percentiles are a way that the Federal Reserve Board measures wealth distribution in the nation. In 2026, the top 1% held 31% of the country's wealth; the top 20% held 71.1% of total household wealth, or $4.3 million on average per household. In comparison, the bottom 50% collectively only hold 2.5% of total household wealth and have $60,000 on average.[3] Family dynasties are more likely to utilize the tax loophole to subsidize huge wealth transfers between their descendants, and

[1] U.S. Dept. Treasury, IRS ,Topic no. 409, Capital gains and losses | Internal Revenue Service (last visited on 7/16/26).
[2] U.S. Dep't of Treasury., Congressional Budget Office, The Distribution of Major Tax Expenditures in 2019 (last visited July 17, 2026).
[3] Ana Hernández Kent, The State of U.S. Household Wealth, Federal Reserve Bank Of St. Louis (Last Visited July 17, 2026), https://www.stlouisfed.org/open-vault/2025/june/the-state-of-us-household-wealth.

effectively protect wealth concentration at the top. According to the Joint Committee on Taxation, it will account for $72.5 billion in forgone revenues.[4] The Congressional Budget Office estimated amending the stepped-up basis would raise $110 billion in about 10 years from 2021.[5] The bulk of those unrealized income taxes that come from the stepped-up basis belong almost exclusively to incredibly wealthy white households.

The general explanations of the administrative fiscal year revenue proposals (Green Book) are an annual document produced by the Department of the Treasury. The document presents proposed tax reform and revenue policies for the upcoming fiscal year. The Green Book from the year 2023 detailed various strategies to strengthen taxation on unrealized capital gains from high-income taxpayers and to fix wealth inequality. President Biden's proposal, officially titled Reform on the Taxation of Capital Income, reformed the step-up in basis and effectively utilized a separate proposal that increases the marginal income tax rate. The document lists multiple reasons for changing the tax code loophole, such as “preferential tax rates on long-term capital gains and qualified dividends” toward high-income taxpayers.[6] Since wealthy people keep their income in investment assets, their income doesn't get taxed as often and at a lower rate than households that depend on labor income. Other than the tax rate disparity, wealthy individuals are incentivized to “lock in portfolios of assets and hold them primarily for the purpose of avoiding capital gains tax”.[7] In comparison, less wealthy individuals usually don't have the financial freedom to store their income in assets or keep their assets until their death to benefit from the stepped-up basis. Biden's proposal would primarily tax long-term capital gains and qualified dividends of people with more than $1 million in taxable income at ordinary rates. The green book also outlined a previous proposal that would increase the marginal income tax rate from 37% to 39.6%,[8] which would mean that, if passed with the reform on the stepped up basis, it would tax wealthy individuals at a higher, more efficient rate. Terms that came with the reform of the taxation of capital income proposal include treating transfers of appreciated property by gift or on death as realization events, which would mean collecting taxes even if an

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[4] U.S. Dep't of Treasury, JCX-59-23 | Joint Committee on Taxation https://www.jct.gov/publications/2023/jcx-59-23/ (December 07, 2023).
[5] U.S. Dep't of Treasury.,Congressional Budget Office, Tax Treatment of Capital Gains at Death (last visited July 17, 2026).
[6] U.S. Dept. Treasury.,General Explanations of the Administration's Fiscal Year 2023 Revenue Proposals (last visited on 7/16/26).
[7] *Id.*
[8] *Id.*

asset is given away or if the owner died while holding it.[9] The proposal also details taxing long-held assets that sit inside trusts every 90 years to avoid high-income taxpayers dodging taxes on those assets. Additionally, given away fractions of an asset would also be taxed proportionally; this rule would not apply to assets that are actively used in a trade or business. The reform proposal also would tax assets that transfer between certain trusts and partnerships, excluding the grantor trusts, as gifts. Exclusions to this tax code would include spouses, charities, personal items (household goods or personal items) excluding fine art and collectibles, selling primary homes, existing tax breaks for small businesses, and $5 million per person lifetime exclusions for gifts. Some people would try to combat this bill by saying that it would negatively impact farms and small businesses, but Biden's bill allows family businesses to delay tax until they are sold (or stop being family-operated), and the bill includes a 15-year payment plan on other illiquid inherited property.

The well-being of working-class Americans depends on the reform of tax loopholes that have blocked billions in funding from aiding our society. Unnecessary tax breaks on the ultra-wealthy allow them to pay virtually nothing in taxes while less wealthy individuals carry the tab. To pass a national tax reform on the taxation of capital income, the proposal must be reintroduced to the House of Representatives, then be referred to the House Ways and Means Committee, which then holds a hearing and markup. Then the proposal must reach a supermajority in the Senate to end debate; then it must pass in the Senate by a simple majority, to then the House and the Senate must compromise on a version of the proposal to finally be signed into law by the President. In this battle against wealthy overlords, it's important to remember that although success won't be easy, it is necessary to improve quality of life in the U.S. It's also vital that commonfolk recognize that there is enough power amongst the many to override the few.

We can see the power in the masses during the Tax Reform Act of 1986, when President Reagan rallied the population through grassroots movements that advertised fair taxes. With the support of cross-party senators and representatives, Reagan's administration was able to focus the nation on the rich paying their fair share. By building his campaign around the general public's romanticization of fairness, and the unified support between political parties, Reagan was able to pull one of the biggest "gotcha" moments in history. Instead of delivering on his promises for a fairer tax code, he cut corporate taxes from 50% to 34%, lowered individual income tax rates,

[9] *Id*.

and collapsed more than a dozen tax brackets, effectively burdening lower tax brackets.[10] Although the Tax Reform Act of 1986 was almost completely botched, it was an instance where public support drove change in the nation. Since the factors that have aided in passing tax reforms have been organized public support and unified party control, these should be the focus of the campaign. The lack of public education on the tax code is what allowed a bill with so many blunders to pass. So, in an effort to combat misinformation and foster trust around tax reforms, I propose that we start with organized community efforts that reach out to local high school students and their families to teach tax code basics. There should be community events centered around spreading awareness about taxation inequality, where community members have a chance to connect and empathize with each other. Once there is a strong community connection, those grassroots organizations should not only hold tax lectures but also conduct protests in high-visibility areas to gain national attention. At this point, I envision multiple grassroots organizations starting up around the country that spread awareness around the harsh reality of unequal taxation. From there, reaching out to politicians, especially during election time, is critical to try to recreate a unified Congress.

The stepped-up basis is one of the biggest loopholes in our tax code; wealthy elites repeatedly abuse it to avoid paying taxes and further burden the less wealthy. The nation needs funding for basic needs while the 1% hoard wealth that should be redistributed. That is why we, as the common folk, need to fight for justice and reform the tax code.

[10] U.S. Dept. Treasury.,H.R.3838 - Tax Reform Act of 1986, https://www.congress.gov/bill/99th-congress/house-bill/3838 (last visited on 7/16/26).

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This report was researched and written collaboratively by the members of the Future Justice Lawyers of Chicago.

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