PDR CPAs + Advisors

2021 Federal Tax Update

Presented by PDR CPAs + Advisors

Monday, April 18, 2022

Tax Day

Filing Season Starts Today, January 24, 2022

Infrastructure Investment and Jobs Act

- Signed by President Biden November 15, 2021

- Primary Tax Implications:
  - Terminated the Employee Retention Credit for wages paid after September 30, 2021 UNLESS the business is a Recovery Startup Business, then credit still available through December 31, 2021
    - Recovery Startup Business is one which began business after February 15, 2020 and meets the other ERC requirements

- Beginning in Year 2022, Brokers must report crypto transactions of >$10K on Form 8300

Build Back Better Act

- Passed by the House November 19, 2021
- Still not passed by the Senate, but also not dead
- Potential for mid-season passage
- AICPA recommending all taxpayers to extend

Provisions that were REMOVED from BBB

- Corporate Income Tax Rate Increase
- Individual Ordinary Income Tax Rate Increase
- Capital Gain & Dividend Rate Increase
- Qualified Business Income Changes
- Carried Interest Changes
- Reduction to the Unified Credit
- Grantor Trust Changes
- Valuation Rules for Certain Transfers of Nonbusiness Assets

What REMAINED in the BBB

- SALT Cap increase to $80K ($40K for MFS/Estates & Trusts)
- Child Tax Credit Provisions through 2022
- Earned Income Credit Provisions through 2022
- 30% Credit for Wildfire Mitigation Expenditures
- Extends Changes to Premium Tax Credit for years after 2021 through 2025
    - Reduction in Share of Premiums Individuals must Pay for Coverage
    - Expansion of Eligibility for PTC to Individuals with Incomes over 400% of FPL
    - For individuals receiving unemployment compensation during the year, the household income is deemed not to exceed 150% of FPL for 2022
- Energy-Related Provisions

Proposal for Surcharge on High-Income Individuals, Estates & Trusts

For Tax Years beginning after 2021
proposal would impose an additional tax of:

	Estate/Trust	Others Except MFS*
5% of MAGI	200,001 - 500,000	10,000,001 - 25,000,000
8% of MAGI	500,000	25,000,000

Modification of Net Investment Income Tax

- Taxable Years beginning after 2021
- If MAGI is in excess of the thresholds below, NII includes:
  - Income from Interest, Dividends, Annuities, Royalties, Rents (even if derived in the ordinary course of a nonpassive trade or business, unless subject to SE Tax)
  - Ordinary business income and net gain from the disposition of trade or business assets even with regard to a nonpassive trade or business, unless the income is subject to SE Tax.

Joint Returns & Surviving Spouse*	Married Filing Separately**	Others*
500,000	250,000	400,000

* Provision phased in over first $100k over MAGI Threshold
** Provision phased in over first $50k over MAGI Threshold

Excess Business Losses

- They're back for 2021!
- For 2021, the indexed limitation is $524K for joint returns and $262K for single/MFS
- Under BBB, the provisions would be made permanent (currently scheduled to expire after 2026)

Retirement Plan Limitations

- For tax years beginning after 2028

- If total value in ‘applicable retire plans’ (i.e. Defined Contribution Plans, 403(b) Plans, 457 Plans, Traditional/Roth IRAs) exceeds $10M at the end of the prior year:
  - Additional contributions not allowed to Roth or Traditional IRAs
  - New RMDs for current year without regard to age of taxpayer:
    - 50% of value in applicable retirement plan accounts in excess of $10M at end of prior year
    - Failure to distribute subject to 50% penalty
    - Distribution to comply with provisions exempt from 10% early distribution penalty under 72(t) if otherwise subject to penalty

Retirement Plan Limitations cont'd

- For Tax Years beginning after 2028
- Excess over $20M would be required to distribute from Roth IRAs and Roth Designated Accounts in Defined Contribution Plans up to the lesser of:
  - Amount needed to bring total balance in all accounts down to $20M or
  - Aggregate Balance in the Roth IRAs and Designated Roth Accounts in Defined Contribution Plans
  - Once distributions are made under this provision, the total balance in applicable retirement plan accounts in excess of $10M would be subject to the 50% distribution requirement
- No ROTH Conversions after 2031 for taxpayers with Adjusted Taxable Incomes in Excess of $450K (Joint/SS), $400K (S/MFS), $425K (HOH)

Other Proposed Provisions

- Back Door Roth Contributions could be completely disallowed after 2021, regardless of taxpayer income

- Exclusion for 1202 stock would be reduced for individuals with an AGI of $400K or more (effective for exchanges after September 13, 2021 with an exception for sales or exchanges pursuant to a binding written contract in effect on 9/13/21)
  - 75% and 100% exclusion rates would not apply to taxpayers with MAGI equal to or exceeding $499K or to trusts/estates regardless of AGI
  - 50% exclusion would remain available for all taxpayers

Other Proposed Provisions cont'd

- 15% AMT on corporations' adjusted financial statement income for taxable years beginning after 2022
  - Applies to corporations with average annual adjusted financial statement income exceeding $1B for the 3-taxable-year period ending prior to the current taxable year and after 2021

- 1% Excise Tax on repurchase of $1M or more of corporate stock by a covered corporation for repurchases of stock after 2021
  - Covered corporation – any domestic corporation if stock traded on established securities market

2021 Tax Rates

MFJ

If Taxable Income is:	Then Income Tax Equals:
Not over $19,900	10% if the taxable income
Over $19,900 but not over $81,050	$1,990 plus 12% of the excess of $19,900
Over $81,050 but not over $172,750	$9,328 plus 22% of the excess of $81,050
Over $172,750 but not over $418,850	$29,502 plus 24% of the excess over $172,750
Over $418,850 but not over $628,300	$67,206 plus 32% of the excess over $329,850
Over $628,300	$95,686 plus 35% of the excess over $418,850
	$168,993.50 plus 37& of the excess over $628,300

Trusts and Estates

If Taxable Income is:	Then Income Tax Equals:
Not over $2,650	10% of the taxable income
Over $2,640 but not over $9,550	$265 plus 24% of the excess over $2,650
Over $9,550 but not over $13,050	$1,921 plus 35% of the excess over $9,550
Over $13,050	$3,146 plus 37% of the excess over $13,050

2021 Standard Deduction Amounts

Filing Status	2021
Married Filing Joint/Surviving Spouse	$25,100
Head of Household	$18,800
Unmarried Individuals	$12,550
Married Filing Separate	$12,500
Additional Standard. if Age 65 or Blind	
• Single	$1,700
• Married	$1,350
Standard Deduction Limitation	$1,100 or sum of $350
• If claimed as a dependent	and earned income

Child Tax Credit

- Phaseout for the first $2K and the $500 partial tax credit begins at $400K/$200K
- Phaseout for the additional $1K/$1.6K is $150K (MFJ/SS), $112.5K (HOH), $75K (Others)

	2021
Maximum Child Credit	$3,000
Under Age 6	$3,600
Amount Fully Refundable	100%
Maximum Credit for Each "Qualifying Dependent"	$500

Child Tax Credit (cont'd)

- The child tax credit was paid out in advance in 2021
- If a taxpayer did not opt-out of the monthly payments, they may be responsible for repaying some or all of the tax credit with the filing of their 2021 tax return if they are ultimately not eligible for the credit
- The IRS will mail information letters early in 2022 reporting how much was received and tax preparers must reconcile the payments to the return

Gift/Estate Tax Rates

Estate and Gift Tax Amounts	2021	2022
Maximum Estate Tax Rate	40%	40%
Maximum Gift Tax Rate	40%	40%
Annual Exclusion for Gifts	15,000	16,000
Exclusion for gifts to non-US citizen spouse	159,000	164,000
Unified Credit Amount	11,700,000	12,060,000

Excess APTC

- In 2020 no repayments were required, however in 2021 repayments of the advance premium tax credit are back

	Maximum Repayment Amount			
	Single		Other	
	2021	2022	2021	2022
Less than 200% of FPL	325	325	650	650
At least 200% but less than 300% of FPL	800	825	1,600	1,650
At least 300% but less than 400% of FPL	1,350	1,400	2,700	2,800
400% or more of FPL	- no limit. -		- no limit. -	

Consolidated Appropriations Act (CAA) Provisions

- Medical Expense Deduction permanently applies 7.5% threshold
- Repealed the deduction for qualified higher education expenses (up to $4k) for tax years beginning after December 31, 2020
- Increases MAGI Phase Out for Lifetime Learning Credit to the same as the AOTC after 2020 ($160-$180K MFJ/$80-$90K for S)
- Mortgage Insurance Premiums deductible as qualified residence interest – extended through 2021
- Qualified Energy Efficient Home Improvement Credit up to 10% with a $500 limit extended to property placed in service before 2022
- Solar Credit will continue at 26% for qualifying property placed in service in 2020, 2021, or 2022 and will decrease to 22% in 2023

Provisions Extended through 2025

- Income exclusion for discharge of principal residence indebtedness decreased from a maximum of $2M to $750K and extended through 2025

- Educational expenses paid from qualified education assistance programs include payments on employee's qualified education loan
    - Amount paid by an employer during a tax year from a 127 plan is limited to $5,250

CAA & PPP

- Expenses qualifying for PPP loan forgiveness are retroactively deductible
- EIDL Advance retroactively non-taxable income
- Shuttered venue grants not included in income
- Payments of principal and interest under Section 1112 of the Cares Act on SBA 7(A), 504 and microloans retroactively non-taxable
- EIDL Advance retroactively does not reduce PPP Loan Forgiveness

CAA & PPP (cont'd)

- CAA included a simplified application process for loans of $150K or less (Form 3508S)
- Borrowers may select period for determining loan forgiveness from 8 to 24 weeks
- Clarifies group life, disability, vision or dental expenses included in payroll costs
- CAA provides additional ‘nonpayroll costs’ qualifying for forgiveness is forgiveness received on or after December 27, 2020 (Covered operations expenditures, covered property damage costs, covered supplier costs, and covered worker protection expenditures)

2021 Economic Impact Payment & Recovery Rebate Credit

- Families received credit for all of the dependents claimed on a tax return, not just qualifying children under age 17
- Similar to prior two payments, 2021 EIP is not taxable income
- Amount of credit:

	Single	Joint	HOH/Others	Qualifying Child/Qualifying Relative
Amount of EIP	1,400	2,800	1,400	1,400
Phase Out Begins	75,000	150,000	112,500/75,000	N/A
Completely Phased Out	80,000	160,000	120,000/80,000	N/A

Ineligible for EIP or Credit

- Individuals who can be claimed as a dependent
- Nonresident aliens
- Estates & Trusts
- Individuals who died before January 1, 2021

Affordable Care Act

- June, 2021 - the Supreme Court rejected the challenge to the Affordable Care Act's minimum essential coverage provision
- November, 2021 – IRS stated that it would not allow any of the protective claims filed seeking potential refunds for NIIT paid in prior years and will take no further action with respect to the claims.

Identity Protection PIN

- Beginning in 2021 individuals were able to voluntarily opt into the IRS identity protection PIN program to proactively defend against tax-related ID theft
- The identity verification process is rigorous
- Taxpayers will receive a PIN each year in January and will be unable to e-file tax returns without the PIN. The PIN is sent in the mail and the only way to obtain a duplicate is to have the PIN mailed again.

Online POAs

- July, 2021 – IRS launched new online feature giving taxpayers digital control over who can represent them or view tax records
- Taxpayers can now authorize their tax practitioner to represent the with a POA and view their tax accounts with a Tax Information Authorization (TIA)
- Professionals can use the Tax Pro Account to digitally initiate POAs and TIAs. The digital authorizations requests are simpler version of Form 2848 and 8821.
- Taxpayers can approve or reject the POA/TIA using their online accounts.
- Authorizations take up to 48 hours.

FBAR Penalties

- **U.S. v. Bittner** – the Fifth Circuit ruled that non-willful FBAR penalties apply per account, not per FBAR. Therefore, a taxpayer with more than 50 foreign bank accounts that were not reported for 5 years had a penalty of $2,720,000 ($10K per account per year)

- **U.S. v. Boyd** – the Ninth Circuit ruled that non-willful $10K penalty applies per FBAR, not per account. In other words, had the Bittner case occurred in the Ninth Circuit, the penalty would have been limited to $50K.

Kiddie Tax

- The CAA repealed the provision allowed unearned income of children to pay tax at the trust and estate tax rate. The law has returned to the Pre-TCJA requirement that children subject to kiddie tax are taxed at their parents' tax rate.

Required Minimum Distributions

- Though waived in 2020, RMDs are back again for 2021
- Failure to take the required distribution can result in a penalty of 50% unless reasonable error and steps to remedy the shortfall can be shown
- Inherited IRA – Where an individual dies after 2019, the entire remaining IRA must be distributed to the beneficiary by 12/31 of the 10th year following the year of death (if no named beneficiary, 5-year requirement applies)
- 10-year rule does not apply for 'Eligible Designated Beneficiaries'

Eligible Designated Beneficiary

- Surviving Spouse
- Minor Child of the Decedent (when child reaches majority, remaining balance must be distributed by 12/31 of 10th year following the year majority reached)
- Qualified Disabled Individual
- Qualified Chronically-Ill Individual
- Individual not more than 10 years younger than the decedent

Hobby Income/Loss

- As a reminder for clients who picked up new hobbies during Covid:
- No deduction for expenses of a hobby (presumably costs of goods sold still allowable) but the income is taxable
- Keep an eye on Schedule C businesses that have shown a loss for several years (usually the IRS starts to pick up on ‘business losses’ after 3 years)

Charitable Contributions

- Two provisions of the CARES Act were extended relating to charitable contributions:
    - Up to 100% of AGI can be deducted in qualified charitable donations for those taxpayers who will itemize
    - Nonitemizers can claim an above-the-line deduction of up to $300 (or $600 for MFJ) for charitable contributions made in cash.

Nursing Home Expenses

- Generally nursing homes send a letter at the end of the year that states what portion of the expense is incurred for medical expenses and which portion is nondeductible meals/lodging

- Costs of Meals, Lodging, Maintenance and Personal Care Services (in addition to medical expenses) are deductible if:
  - Required by a chronically ill individual and
  - Provided pursuant to a plan of care prescribed by a licensed health care provider
- Chronically ill if:
  - Within the previous 12 months, a licensed health care practitioner has certified that the individual is either:
    - Unable to perform at least two activities of daily living without substantial assistance for at least 90 days (eating, toileting, transferring, bathing, dressing, continence)
    - Requires substantial supervision to be protected from threats to health and safety due to severe cognitive impairment

Third Party Reporting

- Beginning in 2022, third party settlement organizations (TPSO) such as PayPal, Venmo and Zelle will be required to report transactions that on a Form 1099-K

- If a taxpayer receives more than $600 in total during the course of a year via a TPSO, the TPSO must report that amount to the IRS

Business Provisions

- Business food and beverages provided by a restaurant paid or incurred after 2020 and before 2023 are 100% deductible

- The CAA extended the repayment period for employees' deferred payroll taxes through December 31, 2021. Penalties and interest on deferred unpaid tax liabilities started to accrue on January 1, 2022. If any portion of the deferred taxes are not timely paid, a penalty will apply to the entire balance (including any paid portion!)

- The IRS is allowing taxpayers to bypass the $10K SALT limitation if taxes are imposed directly on the partnership or S Corp

New Additions to the IRS' Dirty Dozen Tax Scams for 2021

- Syndicated Conservation Easements – Taxpayers claim huge charitable deduction using inflated appraisals
- Abusive Micro-Captive Insurance Arrangements – Owners of closely held entities are persuaded into arrangements in which the deductible premiums are excessive though the arrangement lacks many attributes of insurance
- Abusive Use of the U.S.-Malta Tax Treaty – An interpretation of the treaty is that taxpayers can contribute appreciated property tax-free to certain Maltese pension plans and there are no tax consequences when the plan sells the assets and distributes proceeds to the U.S. taxpayer
- Improper Research & Experimentation Credit Claims
- Improper Monetized Installment Sales – Promoters find taxpayers seeking to defer recognition of gain on the sale of appreciated property and organize and abusive shelter by selling them a monetized installment sale
- Fake Charities – Lots of them were set up during Covid!

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THANK YOU!