

**JOSHUA JENSON, CPA**

*Practicing CPA*  
**CPA Firm Founder**  
*National Speaker*  
**Tax & CPE Instructor**  
*2x Author*  
**YouTuber**



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**“JJ THE CPA”**  
**OVER 77,000 SUBSCRIBERS,**  
**OVER 6.3 MILLION VIEWS**

**JJ THE CPA CPE**

*Presents*

**FEDERAL**  
***BUSINESS & INDIVIDUAL***  
**TAX UPDATE**

**THIS IS THE LAST MINUTE UPDATED VERSION**



**TAX Seminars by JJ the CPA**

**[www.JJtheCPA.com](http://www.JJtheCPA.com)**  
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**3 Federal Tax Updates**  
**& ERTC**



# Joshua Jenson, CPA aka "JJ THE CPA"

JJ has over 28 years of public accounting experience in the area of tax, specializing in LLC, partnership, S corporation, and related individual tax matters. He still practices in the trenches in the CPA firm he founded over 24 years ago.

JJ THE CPA has traveled to over 50 cities, presenting tax courses to thousands of fellow CPAs covering the latest tax laws and strategies.

JJ the CPA has over 77,000 SUBSCRIBERS and over 6.3 million views on his YouTube channel "JJ THE CPA," and is heavily represented on social media, with daily postings, including daily videos released on everything dealing with money. Search #JJTHECPA to find him ON ANY SOCIAL MEDIA PLATFORM.

JJ has authored 2 books available on Amazon, "JJ THE CPA HERE!" AND "CRACKING THE CPA CODE." THE FIRST BOOK reveals the top 60 questions from his clients, and his solutions, over his 28 years in practice covering issues related to banking, business structure, insurance, and taxes. THE SECOND BOOK PROVIDES THE SECRET OF HOW TO GET REFERRALS FROM CPA's.

Joshua Jenson is a licensed CPA in Oklahoma and Texas, and a member of the American Institute of CPAs and Oklahoma Society of CPAs.

JJ served as the past Chairperson of the OSCPA Educational Foundation and was named CPA of the year by his CPA peers. Joshua is a 1993 graduate of Abilene Christian University where he earned is accounting degree.

Joshua is also a licensed insurance professional specializing in life insurance, both permanent and term, as well as disability income insurance. He has own insurance practice, Jenson Insurance.

JJ THE CPA®

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# JJ THE CPA'S TAX BUZZ

*The Latest Tax News, Delivered Monthly*

## Monthly Federal Business & Individual Tax Update

**12 CPE\* Credits Over 12 Months for ONE Flat Fee**

- **Live**, one hour seminar every month in 2022
- CPE credit can only be earned by live attendance
- Receive the **PowerPoint** pdf each month
- Access to **private webpage** for links & all materials



Get updated by  
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each month

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- 3rd Wednesday of each month @ 12:00 pm cst
- Ability to *re-watch* the latest seminar for 30 days (re-watch is not for CPE)



AS PROVIDED ON THE WEBPAGE

*Thank you for signing up for this CPE*

Program Title: **Federal Tax Update (Business & Individual)**

3 CPE credits, Field of Study: Taxes,

Delivery Method: Group Internet Based - Delivered by Zoom

**YOU MUST ATTEND DURING THE LIVE PRESENTATION  
AND SUBMIT THE REQUIRED "ATTENDANCE FORM"  
BY EMAIL TO [help@jjthecpacpe.com](mailto:help@jjthecpacpe.com)  
WITHIN 48 HOURS TO RECEIVE CPE CREDIT**

Dates of Program: You received a Zoom link to your signed up time

Thursday, January 13, 2022 @ 12:00 pm cst





## AS PROVIDED ON THE WEBPAGE

**CLICK HERE** for the required **Attendance Form** to submit *within 48 hours after seminar ends*

The **Zoom link** to live seminar at the date and time you signed up for was provided in the email you immediately received after paying for this seminar. That email contains your Zoom link.

**CLICK HERE** for the **course materials** for this seminar, available 30 minutes before the seminar starts

**CLICK HERE** for the course **Evaluation Form**

**CLICK HERE** to **email the Attendance Form** & Evaluation Form *within 48 hours after seminar ends* to [help@jjthecpacpe.com](mailto:help@jjthecpacpe.com)

**CLICK HERE** to again see the **course description**, objectives and other details presented before you signed up

**CLICK HERE** for "**Attendance Form**" *details and how to prepare it*



## AS PROVIDED ON THE WEBPAGE

### STEPS TO ENSURE YOU EARN YOUR CPE FOR THIS COURSE

1. Print out the Attendance Form and Evaluation Form before the seminar begins
2. Log into the Zoom meeting up to 30 minutes before the seminar begins with the link provided, and ensure you are in attendance in the Zoom meeting
3. Attend the entire seminar live, following along with the course materials provided
4. During the seminar be listening for the instructor to state four (4) words for every fifty minutes of CPE credit hour and write them on the Attendance Form
5. When the seminar is over, fully complete the Attendance Form and Evaluation Form
6. Within 48 hours, scan and email the completed Attendance Form and Evaluation Form to [help@jjthecpacpe.com](mailto:help@jjthecpacpe.com)
7. Obtain and retain your CPE certificate of completion which will be emailed to you at the same address you sent the Attend Form from; within approximately 3 business days of you submitting the Attendance Form

### How to Prove Your Attendance During the LIVE presentation to obtain CPE credit:

- You must complete and submit the "Attendance Form" with the required words stated by the instructor during the presentation within 48 hours after the completion of the seminar to prove your attendance during the live presentation of the seminar.
- There will be 4 words stated for each fifty minutes of CPE credit provided.
- You must submit by email the Attendance Form with at least 70% of the words written on that form to prove your attendance, earn your CPE credit, receive CPE credit and obtain the CPE certificate of completion.

Where to email the required "Attendance Form" to prove your attendance to obtain CPE credit:  
[help@jjthecpacpe.com](mailto:help@jjthecpacpe.com)



# 4 WORDS WILL BE VERBALLY SPOKEN EACH CPE CREDIT HOUR

PLEASE NOTE

TO OBTAIN YOUR CPE TODAY, YOU MUST  
EMAIL THE “ATTENDANCE FORM” PROPERLY  
COMPLETED & SIGNED WITHIN 48 HOURS FROM  
WHEN THE SEMINAR ENDS WITH AT LEAST  
70% OF THE WORDS PROVIDED TODAY  
TO OBTAIN CPE CREDIT

HELP@[JTHECPACPE.COM](mailto:HELP@JTHECPACPE.COM)

THE WORDS ARE DIFFERENT WITH EACH PRESENTATION. IF YOU ARE RE-WATCHING THIS ON VIDEO, THE WORDS HAVE CHANGED AS PRESENTED IN FUTURE LIVE PRESENTATIONS. CPE CAN ONLY BE OBTAINED BY LIVE ATTENDANCE.

HEARING THE WORDS ON A VIDEO RE-PLAY WILL NOT PROVIDE YOU ANY CPE CREDIT. YOU WILL NOT GET THE VIDEO REPLAY UNTIL AFTER 48 HOURS FROM WHEN THE SEMINAR ENDS. YOU MUST SUBMIT YOUR ATTENDANCE FORM WITHIN 48 HOURS. THEREFORE, IT WILL NOT BE POSSIBLE TO GET WORDS OR USE WORDS FROM A VIDEO RE-PLAY (RE-WATCH) TO GET ANY CPE CREDIT.



1/13/2022

**IF YOU ARE RE-WATCHING THIS SEMINAR ON VIDEO,  
YOU CAN IGNORE ANYTHING ABOUT EARNING CPE**

THE WORDS ARE DIFFERENT WITH EACH PRESENTATION. IF YOU ARE RE-WATCHING THIS ON VIDEO, THE WORDS HAVE CHANGED AS PRESENTED IN FUTURE LIVE PRESENTATIONS. CPE CAN ONLY BE OBTAINED BY LIVE ATTENDANCE.

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## ATTENDANCE FORM

**SUBMISSION WITHIN 48 HOURS IS REQUIRED TO OBTAIN CPE**

Email to [help@jjthecpacpe.com](mailto:help@jjthecpacpe.com)

## ATTENDANCE FORM

**SUBMISSION WITHIN 48 HOURS IS REQUIRED TO OBTAIN CPE**

Email to [help@jjthecpacpe.com](mailto:help@jjthecpacpe.com)

*This form proves you attended the course during the live presentation*

**YOU MUST ATTEND DURING THE LIVE PRESENTATION  
AND SUBMIT BY EMAIL THIS REQUIRED "ATTENDANCE FORM"  
WITHIN 48 HOURS TO RECEIVE CPE CREDIT.  
YOU WILL NOT RECEIVE CPE CREDIT WITHOUT SUBMITTING THIS FORM**

Participants Name: JOSHUA JENSON

Program Title: FEDERAL BUSINESS & INDIVIDUAL TAX UPDATE

Program instructor: Joshua Jenson, CPA

Program Date: 1/13/2022

Write the number of whole CPE credit hours you earned for each fifty minutes your attended 3

Words presented by the instructor during the live seminar: NOTE: There are 4 words stated by the instructor for each fifty minutes of CPE credit hour presented. You must submit at least 70% of the words to receive full credit for each hour of CPE presented. Only full credit hours issued.

- |                |                |                 |
|----------------|----------------|-----------------|
| 1. <u>WORD</u> | 5. <u>WORD</u> | 9. <u>WORD</u>  |
| 2. <u>WORD</u> | 6. <u>WORD</u> | 10. <u>WORD</u> |
| 3. <u>WORD</u> | 7. <u>WORD</u> | 11. <u>WORD</u> |
| 4. <u>WORD</u> | 8. <u>WORD</u> | 12. <u>WORD</u> |

My signature below indicates I attended the seminar during the live presentation and the number of CPE credit hours listed above is true and correct.

*Signature*

Signature of participant



**AS SEEN ON THE WEBPAGE**

**CLICK HERE** for "Attendance Form" details and how to prepare it

**CLICK HERE** for the required **Attendance Form** to submit *within 48 hours after seminar ends*



## AS PROVIDED ON THE WEBPAGE

### When can I re-watch the seminar?

Approximately 48 hours has passed (after the seminar has ended) you will be emailed a link to re-watch the seminar for 30 days. You will NOT receive CPE credit for re-watching the seminar.

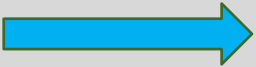
### Live Attendance is Required to Earn CPE Credits for this Course

This is a live format, and requires your attendance during the time designated. **CLICK HERE** for more information.

### When will I get my CPE certificate of completion?

Within 3 business days of you submitting the Attendance Form with the required words to [help@jjthecpacpe.com](mailto:help@jjthecpacpe.com).

### Can I get CPE credit for watching the video replay of the seminar?



**No.** You will NOT receive CPE credit for re-watching the seminar, without exception.

**CLICK HERE** for additional

# FAQ's

FREQUENTLY ASKED QUESTIONS

### How long do I have to re-watch the seminar?

You will be able to re-watch the seminar for 30 days, however, you will **ONLY** be able to receive CPE credits for your **LIVE** attendance to this seminar during the designated time.



1/13/2022

IF YOU ARE NOT WANTING TO EARN CPE  
CREDIT, YOU DO NOT HAVE TO WRITE  
DOWN THE WORDS, OR EMAIL THE  
ATTENDANCE FORM.

THANK YOU!

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READY. SET. GO!!!!

JJ THE CPA  
HERE





# Overview

**This covers both business and individual tax issues.** Covering the latest developments, net investment tax, self-employed tax credits, capital gains, real estate for the investor, SALT, properly accounting for tax credits, flow-thru losses basis, excess business losses, expansion of the net investment tax, which stimulus grants are taxable, net operating losses (NOLs), and recent IRS announcement on FAQ reliance. Also, covered is the extension and expansion of the CARES Act Employee Retention Tax Credit (ERTC) and the FFCRA Sick and Family Leave Tax Credit, latest developments on Qualified Business Income Deduction, tax basis, passive activities and stimulus grants, EIDL, PPP and other extended individual business tax provisions.



## Major Topics

- Federal tax issues related to Individuals (Form 1040)
- Federal tax issues related to S-Corporations (Form 1120-S)
- Federal tax issues related to Partnerships (Form 1065)
- Tax affects to individuals who own flow-thru entities; S-Corporations and Partnerships
- Latest on EIDL loans and grants
- Overview of PPP tax related issues
- Extension and expansion of the CARES Act related to the Employee Retention Tax Credit
- Self-Employed and Employer FFCRA Sick and Family Leave Tax Credits
- Latest developments on reporting Qualified Business Income Deduction, tax basis and passive activities
- Latest on NOLs and excess business losses
- Properly reporting stimulus grants and PPP
- Overview of other extended individual and business tax provisions



# Learning Objectives

- Learn what tax laws have changed with these topics
- Learn to better understand recent tax law changes of these topics and how they may apply to you or your clients circumstances
- Learn more about these topics to better serve your clients with expanded and up-to-date information
- Learn of the effective dates of law changes
- Learn what is projected as future hot areas of potential IRS audits



# Major Areas of Topic Today, In Order of Presentation

- Status of Build Back Better Bill (Passed the U.S. House)
- 2021 Estimated Taxes for Year End Planning, and Items Not to Miss
- Recent IRS Inflation Adjusted Amounts for 2022, Compared to 2021
- Latest IRS Developments
- Audit Risks for S-corporation and partnerships, New Reporting on Related Schedule K-1
- Prior-New Tax Laws Back in Play, and Timeless Tax Strategies
- Qualified Business Income Deduction Mixed with Covid Stimulus
- Major Depreciation Reminders for Prior Years, Carrying into Current Years
- Work Opportunity Tax Credit Overview
- Reporting Covid Tax Credits
- PPP Loan Forgiveness Affect on Basis
- Sick Leave Tax Credits for Employers and the Self-Employed
- Family Leave Tax Credits for Employers and the Self-Employed
- Biggest Stimulus Questions Answered: PPP Loans, EIDL Related & ERTC
- Maximizing PPP Loan Forgiveness and ERTC, and the Interaction of Both
- The Latest on the Employee Retention Tax Credit





# AHEAD OF THE CURVE



at their preparer or the IRS website

	Daytime phone number
	If the IRS sent you an Identity Protection PIN, enter it here (see inst.)
	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
	Check <input type="checkbox"/> if self-employed
	PTIN <input type="text"/>
Employer's EIN ►	<input type="text"/>
Employer's no.	<input type="text"/>

Form **1040**

OBTAIN OR RENEW AT [www.IRS.gov](http://www.IRS.gov)

**ATTENTION  
TAX PROs  
& THEIR STAFF**

**DON'T FORGET**

**DO NOW!**

ALL THOSE HANDLING TAX  
DOCUMENTATION IS  
REQUIRED TO OBTAIN A  
"PTIN." IT IS NOT JUST FOR  
THE TAX RETURN  
PREPARERS



**MAKE NOTE TO GATHER THESE IRS LETTERS.**

***TELL YOUR CLIENTS TO BE ON THE LOOK OUT!***

## **REQUIRED INFORMATION COMING VERY SOON!**

**IRS Letter 6419** (If you have minor dependent)

Amount received for Advance Child Tax Credit

**IRS Letter 6475**

Amount received for 3<sup>rd</sup> Stimulus Check)

**IRS Letter 2940C**

Individual "Pin" Number





# JANUARY DUE DATES

DUE 1/31/2022 TO RECIPIENT & IRS

- FORMS W-2 & W-3
- FORMS 941 & 940
- FORM 1099-NEC

DUE 1/31/2022

- FORM 1099-MISC TO RECIPIENT
- RETIREMENT CONTRIBUTIONS WITHHELD FROM WAGES TO BE DEPOSITED TO RETIREMENT ACCOUNT

**P.S.** YOU SHOULD HAVE ALREADY PAID YOUR 4<sup>th</sup> QUARTER INDIVIDUAL ESTIMATED TAX PAYMENT YESTERDAY DUE 1/18/2022





# FUTURE DUE DATES

## IRS ANNOUNCED

- APRIL 18<sup>th</sup> DUE DATE FOR 2021 FORM 1040
- APRIL 18<sup>th</sup> DUE DATE FOR 1<sup>st</sup> QUARTER 2022 ESTIMATED TAX PAYMENTS
- APRIL 18<sup>th</sup> DUE DATE FOR IRA/ROTH IRA/HSA/529 PLAN CONTRIBUTIONS
- APRIL 19<sup>th</sup> FOR MASS. & MAINE
- OCTOBER 17<sup>th</sup> EXTENDED DUE DATE FOR 2021 FORM 1040





# **BREAKING NEWS**

**HR 5376 - THE "BUILD BACK BETTER"  
aka THE SPENDING BILL**

**PASSED THE U.S. HOUSE**

**AT THE SENATE FOR VOTE, POSSIBLE MODIFICATIONS**





# TAX LAW

ANY DAY  
CHANGES ARE  
IMMINENT.

THE U.S HOUSE  
HAS PASSED HR  
5376

“BUILD BACK  
BETTER” BILL



# TAX CHANGES TO NET INVESTMENT TAX HR 5376 (NOT LAW YET) (NOW PASSED THE U.S. HOUSE)

THE 3.8% TAX IMPOSED ON THE FOLLOWING  
SCHEDULE K-1 TAX ABLE INCOME  
*REGARDLESS IF PASSIVE OR NOT*  
*REGARDLESS IF MATERIALLY PARTICIPATED*

THIS IS A HIGHLY FLUID ASPECT  
OF THE BILL. AS OF THE DATE OF  
THE SEMINAR, THE SENATE'S  
DRAFT OF THEIR RE-WRITE OF THE  
HR 5376 INCLUDES THIS.





THIS IS A HIGHLY FLUID ASPECT OF THE BILL.  
AS OF THE DATE OF THE SEMINAR, THE SENATE'S DRAFT OF THEIR  
RE-WRITE OF THE HR 5376 EXCLUDES A SALT ADJUSTMENT.



# S.A.L.T.

LIMITATION  
PROPOSED  
INCREASED  
TO  
\$80,000.  
CURRENTLY  
\$10,000.

PER HR 5376  
PASSED THE HOUSE  
AS EFFECTIVE  
1/1/2021



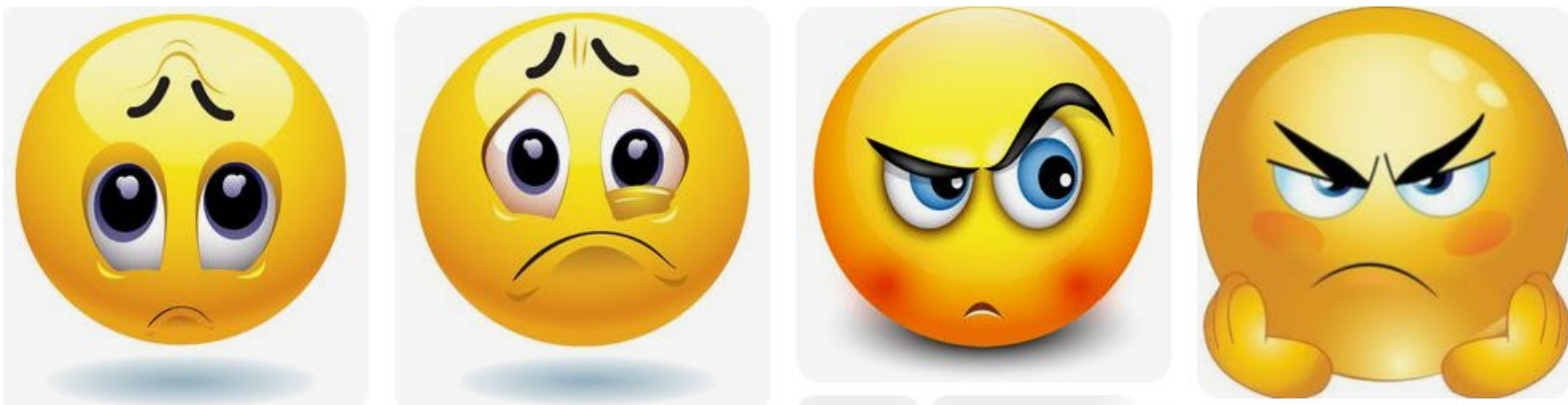
THIS IS A HIGHLY FLUID ASPECT OF THE BILL.  
AS OF THE DATE OF THE SEMINAR, THE SENATE'S DRAFT OF THEIR  
RE-WRITE OF THE HR 5376 EXCLUDES THIS.



# CHILD TAX CREDITS EXTENDED INTO 2022.

PER HR 5376  
PASSED THE HOUSE





THIS IS A HIGHLY FLUID ASPECT  
OF THE BILL. AS OF THE DATE OF  
THE SEMINAR, THE SENATE'S  
DRAFT OF THEIR RE-WRITE OF THE  
HR 5376 INCLUDES THIS.

MADE  
PERMANENT

EXCESS  
BUSINESS  
LOSSES  
LIMITATION.

PER HR 5376  
PASSED THE HOUSE



# “BUILD BACK BETTER BILL” LATEST TAX CHANGES HR 5376 (NOW PASSED THE U.S. HOUSE)

## **SALT deduction cap (THE SENATE LATEST DRAFT DOES NOT INCLUDE THIS)**

The bill would increase the Sec. 164(b) limitation on the deduction for state and local taxes from \$10,000 to \$80,000 (\$40,000 for married taxpayers filing separately and for trusts and estates) but would extend the limitation through 2031.

## **One year extension of expanded child tax credit; permanent extension of refundability (THE SENATE LATEST DRAFT DOES NOT INCLUDE THIS)**

The changes to the child tax credit enacted by the American Rescue Plan Act (ARPA), P.L. 117-2, for 2021 would be extended through 2022. This would include the requirement that the IRS make advance payments of the credit throughout 2022. Taxpayers whose adjusted gross income (AGI) exceeds \$150,000 for joint filers, \$112,500 for heads of household, or \$75,000 for other taxpayers, would not be eligible for advance payments. The bill would extend the refundability of the child tax credit beyond 2022.

## **Extending expanded earned income tax credit**

The bill would extend the changes to the earned income tax credit that were enacted by ARPA through 2022. The increase in the earned income and phaseout amounts would be indexed for inflation in 2022.

SOURCE: AICPA



# “BUILD BACK BETTER BILL” LATEST TAX CHANGES HR 5376 (NOW PASSED THE U.S. HOUSE)

## **Expanded premium tax credit**

The bill would increase the amounts for premium assistance in Sec. 36B through 2025. The bill would also extend through 2025 the rule that allows the premium tax credit to certain taxpayers whose household income exceeds 400% of the poverty line. The bill would also modify the employer-sponsored coverage affordability test in the premium tax credit through 2025. The bill would exclude a portion of lump-sum Social Security benefit payments when determining household income for purposes of the credit. The bill would also exclude the first \$3,500 of income of dependents who have not reached the age of 24. Through 2025, the bill would also allow certain low-income employees who are offered employer-provided health coverage to claim the credit. The bill would also make permanent the Sec. 35 health coverage credit, which is currently scheduled to expire at the end of 2022.

## **1% surcharge on corporate stock buybacks**

The bill would impose a tax equal to 1% of the fair market value of any stock of a corporation that the corporation repurchases during the year, effective for repurchases of stock after Dec. 31, 2021. The provision would apply to any domestic corporation the stock of which is traded on an established securities market.

SOURCE: AICPA



# “BUILD BACK BETTER BILL” LATEST TAX CHANGES HR 5376 (NOW PASSED THE U.S. HOUSE)

## **15% minimum tax on profits of large corporations**

The bill would impose a 15% minimum tax on the profits of corporations that report over \$1 billion in profits to shareholders. Any corporation (other than an S corporation, regulated investment company, or real estate investment trust) that for any three-year period has average annual adjusted financial statement income (as defined in new Sec. 56A) over \$1 billion and, in the case of corporations with foreign parents, has annual adjusted financial statement income in excess of \$100 million, would pay a tax of 15% of its adjusted financial statement income for the year over the amount of its corporate AMT foreign tax credit.

## **Limitation on interest expense deduction**

The bill would add a new Sec. 163(n) that limits the amount of net interest expense of certain domestic corporations (or foreign corporations engaged in a U.S. trade or business) that are members in an international financial reporting group. The provision limits the interest expense deduction to an "allowable percentage" of 110% of the domestic corporation's net interest expense.

SOURCE: AICPA



# “BUILD BACK BETTER BILL” LATEST TAX CHANGES HR 5376 (NOW PASSED THE U.S. HOUSE)

## **Small business stock and high-income taxpayers**

The bill would amend Sec. 1202 to disallow the 75% and 100% exclusion of gain from the sale of stock if the taxpayer's AGI is over \$400,000 or if the taxpayer is a trust or estate.

## **Wash-sale rules**

The bill would amend Sec. 1091 to make commodities, foreign currencies, and crypto-assets subject to the wash-sale rules.

## **Net investment income tax (THE SENATE LATEST DRAFT DOES INCLUDE THIS)**

The bill would amend Sec. 1411 to apply the tax to net investment income derived in the ordinary course of a trade or business for taxpayers with taxable income over \$400,000 (single filers), \$500,000 (married taxpayers filing jointly or surviving spouses) or \$250,000 (married taxpayers filing separately).

## **Excess business losses (THE SENATE LATEST DRAFT DOES INCLUDE THIS)**

The bill would make permanent the Sec. 461 limitation on excess losses of noncorporate taxpayers.

SOURCE: AICPA



# “BUILD BACK BETTER BILL” LATEST TAX CHANGES HR 5376 (NOW PASSED THE U.S. HOUSE)

## **High-income surcharge**

The bill would create a new Sec. 1A, imposing a surcharge (in addition to any other income tax imposed) on high-income individuals, estates, and trusts. The surcharge tax would equal the sum of 5% of the amount of the taxpayer's AGI that exceeds \$10 million (\$5 million for married taxpayers filing separately; \$200,000 for an estate or trust), plus 3% of the amount of the taxpayer's AGI that exceeds \$25 million (\$12.5 million for married taxpayers filing separately; \$500,000 for an estate or trust).

## **Housing credits**

The bill would increase the 9% housing credit and small state minimums under the low-income housing credit for the years 2022–2025 and makes other changes to the credit. It also creates a new neighborhood homes credit to encourage rehabilitation of deteriorated homes in distressed neighborhoods. The new credit would be administered by the states, and rehabilitated homes would have to be owner occupied in order for investors to receive the credit.

## **IRS**

The bill would repeal the Sec. 6751(b) requirement for written supervisory approval of IRS penalties. The bill would also provide more funding for IRS enforcement, technology, and customer service.

SOURCE: AICPA



# “BUILD BACK BETTER BILL” LATEST TAX CHANGES HR 5376 (NOW PASSED THE U.S. HOUSE)

## Retirement plans

The bill prohibits further contributions to a Roth or traditional IRA for a tax year if the contributions would cause the total value of an individual's IRA and defined contribution retirement accounts as of the end of the prior tax year to exceed (or further exceed) \$10 million. The limitation would apply to individuals with income over \$400,000 (single filers and married filing separately), \$425,000 (heads of household), or \$450,000 (married taxpayers filing jointly).

If an individual's combined traditional IRA, Roth IRA, and defined contribution retirement account balances generally exceed \$10 million at the end of a tax year and the individual meets these same income thresholds, a minimum distribution would be required for the following year. These provisions would be effective for tax years beginning after Dec. 31, 2028.

The bill prohibits all employee after-tax contributions in qualified plans and **after-tax** IRA contributions from being converted to a Roth IRA regardless of income level, effective for distributions, transfers, and contributions made after Dec. 31, 2021.

The bill also eliminates Roth conversions for both IRAs and employer-sponsored plans for single taxpayers (or taxpayers married filing separately) with taxable income over \$400,000, married taxpayers filing jointly with taxable income over \$450,000, and heads of household with taxable income over \$425,000 (all indexed for inflation). This provision applies to distributions, transfers, and contributions made in tax years beginning after Dec. 31, 2031.

SOURCE: AICPA



# “BUILD BACK BETTER BILL” LATEST TAX CHANGES HR 5376 (NOW PASSED THE U.S. HOUSE)

## **Green energy incentives**

The bill covers a wide variety of new and existing green energy incentives, which it generally arranges as two-tiered incentives, providing either a base rate or a bonus rate. The bonus rate is five times the base rate, and it would apply to projects that meet certain prevailing wage and apprenticeship requirements.

The bill extends the production tax credit for production of energy from renewable sources and the Sec. 48 investment tax credit for certain energy property. The incentive for solar and wind energy under Sec. 48 is increased. Taxpayers are given the option to elect to be treated as having made a payment of tax equal to the value of the credit they would otherwise be eligible for under various energy credits, rather than opting to carry the credit forward. The bill also provides various other green energy production tax incentives, including a nuclear power production credit and a credit for production of clean hydrogen.

Individual taxpayers would be eligible for various green energy and energy-efficiency incentives under the bill. The bill extends the Sec. 25C nonbusiness energy property credit to property placed in service before the end of 2031. It also modifies and extends the credit.

The bill would extend the Sec. 25D credit for residential energy-efficient property through 2033 (it is currently scheduled to expire after 2023). It would be a refundable credit for years after 2023. Qualified battery storage technology expenditures would be made eligible for the credit. The Sec. 45L credit for new energy-efficient homes would be extended through 2031 and would be increased and modified.

The bill extends the Sec. 48C qualified advanced energy property credit through 2031 and provides a new investment tax credit worth up to 25% for advanced manufacturing facilities. The bill also creates a credit for the production of solar polysilicon wafers, cells, and modules and wind blades, nacelles, towers, and offshore wind foundations.

The bill also creates an emissions-based incentive for electricity generating facilities. Taxpayers are able to choose between a production tax credit under new Sec. 45BB or an investment tax credit under new Sec. 48F.

The bill also creates a technology-neutral tax credit for the domestic production of clean fuels.

SOURCE: AICPA



# “BUILD BACK BETTER BILL” LATEST TAX CHANGES HR 5376 (NOW PASSED THE U.S. HOUSE)

## **Electric vehicle tax credits**

The bill provides for a refundable income tax credit of up to \$8,500 for new qualified plug-in electric drive motor vehicles. The credit would be available for qualified electric vehicles that cost up to \$80,000 (for vans, SUVs, and trucks) or \$55,000 (for other vehicles). The bill would also provide a credit of up to \$7,500 for two- or three-wheeled plug-in electric vehicles. The credit would phase out for taxpayers with AGI over \$500,000 (married taxpayers filing jointly) or \$250,000 (single taxpayers). A smaller credit would be available for the purchase of qualifying used electric vehicles. The bill also provides a credit for the purchase of certain new electric bicycles.

The bill would provide a credit for any qualified commercial electric vehicle placed in service by a taxpayer. The credit would equal up to 30% of the basis of a fully electric vehicle or 15% of the basis of a hybrid vehicle.

The bill also extends the credit for the purchase of a qualified fuel cell motor vehicle and the alternative fuel vehicle refueling property credit through 2031.

The bill eliminates the temporary suspension of the exclusion for qualified bicycle commuting benefits and increases the maximum benefit from \$20 per month to \$81 per month.

SOURCE: AICPA





STOP!

BACK TO  
WHAT WE  
KNOW!



# A WORD ON “LLC’S”

- LLC’S ARE A LEGAL DESIGNATION, NOT A TAX CLASSIFICATION
  - A LLC CAN BE TAXED AS ANYTHING & CAN BE
    - S-CORP
    - C-CORP
    - PARTNERSHIP
    - SOLE-PROPRIETOR FILING SCHEDULE C OR F
    - OWN REAL ESTATE AND FILE SCHEDULE E
    - DISREGARDED ENTITY
    - SINGLE MEMBER
- A SINGLE MEMBER LLC IS SIMPLY AN LLC OWNER BY ONE MEMBER, NOT A TAX CLASSIFICATION
  - A SINGLE MEMBER LLC CAN BE A C-CORP, S-CORP, SCHEDULE C, F OR E OR DISREGARDED



TAX RATE  
0%

S-CORP\*  
FORM 1120-S

TAX RATE  
0%

PARTNERSHIP\*  
FORM 1065

\* ANY CAN BE LLC

TAX PLANNING HERE  
SAVES TAXES  
DOWN THERE

TAX RATE  
21%

C-CORP\*  
FORM 1120

TAX RATES  
10%  
12%  
22%  
24%  
32%  
35%  
37%

INDIVIDUAL  
FORM 1040



Income Tax Brackets for Single Taxpayers, 2021-2022				
2021 (filing due April 15, 2022)		2022 (filing due April 17, 2023)		Income Difference for Top of Bracket, 2022 vs. 2021
Income	Tax	Income	Tax	Difference
\$0-\$9,950	10% of income	\$0-\$10,275	10% of income	+\$325 (+3.3%)
\$9,951-\$40,525	\$995 + 12% of income over \$9,950	\$10,276-\$41,775	\$1,027.50 + 12% of income over \$10,275	+\$1,250 (+3.1%)
\$40,526-\$86,375	\$4,664 + 22% of income over \$40,525	\$41,776-\$89,075	\$4,807.50 + 22% of income over \$41,775	+\$2,700 (+3.1%)
\$86,376-\$164,925	\$14,751 + 24% of income over \$86,375	\$89,076-\$170,050	\$15,213.50 + 24% of income over \$89,075	+\$5,125 (+3.1%)
\$164,926-\$209,425	\$33,603 + 32% of income over \$164,925	\$170,051-\$215,950	\$34,647.50 + 32% of income over \$170,050	+\$6,525 (+3.1%)
\$209,426-\$523,600	\$47,843 + 35% of income over \$209,425	\$215,951-\$539,900	\$49,335.50 + 35% of income over \$215,950	+\$16,300 (+3.1%)
\$523,601+	\$157,804.25 + 37% of income over \$523,600	\$539,901+	\$161,218.50 + 37% of income over \$539,900	N/A

Income Tax Brackets for Married Taxpayers Filing Jointly, 2021-2022				
2021 (filing due April 15, 2022)		2022 (filing due April 17, 2023)		Income Difference for Top of Bracket, 2022 vs. 2021
Income	Tax	Income	Tax	Difference
\$0-\$19,900	10% of income	\$0-\$20,550	10% of income	+\$650 (+3.3%)
\$19,901-\$81,050	\$1,990 + 12% of income over \$19,900	\$20,551-\$83,550	\$2,055 + 12% of income over \$20,550	+\$2,500 (+3.1%)
\$81,051-\$172,750	\$9,328 + 22% of income over \$81,050	\$83,551-\$178,150	\$9,615 + 22% of income over \$83,550	+\$5,400 (+3.1%)
\$172,751-\$329,850	\$29,502 + 24% of income over \$172,750	\$178,151-\$340,100	\$30,427 + 24% of income over \$178,150	+\$10,250 (+3.1%)
\$329,851-\$418,850	\$67,206 + 32% of income over \$329,850"	\$340,101-\$431,900	\$69,295 + 32% of income over \$340,100	+\$13,050 (+3.1%)
\$418,851-\$628,300	\$95,686 + 35% of income over \$418,850	\$431,901-\$647,850	\$98,671 + 35% of income over \$431,900	+\$19,550 (+3.1%)
\$628,301+	\$168,993.50 + 37% of income over \$628,300	\$647,851+	\$174,253.50 + 37% of income over \$647,850	N/A





# TOP PRIORITY RIGHT NOW

DO NOT TO MISS  
DIFFERENCES  
FROM  
2020 TO 2021!



# 4<sup>th</sup> QUARTER 2021 ESTIMATED TAX PAYMENTS ARE DUE JANUARY 18, 2022 FEDERAL, KNOW THE STATE DUE DATE, IF ANY.

## Few days away

Form <b>1040-ES</b> Department of the Treasury Internal Revenue Service		<b>2021 Estimated Tax</b>		Payment Voucher <b>4</b> OMB No. 1545-0074	
File only if you are making a payment of estimated tax by check or money order. Mail this voucher with your check or money order payable to "United States Treasury." Write your social security number and "2021 Form 1040-ES" on your check or money order. Do not send cash. Enclose, but do not staple or attach, your payment with this voucher.				<b>Calendar year — Due Jan. 18, 2022</b>	
				Amount of estimated tax you are paying by check or money order.	
		Dollars	Cents		
Pay online at <a href="http://www.irs.gov/etpay">www.irs.gov/etpay</a>  Simple. Fast. Secure.	Print or type	Your first name and middle initial		Your last name	
		Your social security number			
		If joint payment, complete for spouse			
		Spouse's first name and middle initial		Spouse's last name	
		Spouse's social security number			
		Address (number, street, and apt. no.)			
City, town, or post office. If you have a foreign address, also complete spaces below.		State		ZIP code	
Foreign country name		Foreign province/county		Foreign postal code	
For Privacy Act and Paperwork Reduction Act Notice, see instructions.					
Form 1040-ES (2021)					



# TOP MAJOR NUMBERS NOT TO MISS WHEN DOING FINAL 2021 ESTIMATED TAX PAYMENT CALCULATIONS

- WHAT TO VERIFY WHEN DOING THE TAX ESTIMATE
  - CURRENT YEAR WITHHOLDINGS
    - REQUEST YEAR-TO-DATE PAYSTUB
  - ACTUALLY PAY IN THE PREVIOUSLY RECOMMENDED ESTIMATED TAX PAYMENTS?
    - 1<sup>ST</sup>, 2<sup>ND</sup> and/or 3<sup>RD</sup> QUARTERS
  - RECEIVE THE 3<sup>RD</sup> EIP (STIMULUS)?
  - GET THE “ADVANCED CHILD TAX CREDIT(S)”
  - ANY (MAJOR) STOCK SALES
  - ANY NEW SOURCE OF INCOME
    - RMDs FROM RETIREMENT (REQUIRED MINIMUM DISTRIBUTIONS). NOT REQUIRED IN 2020. ANY IN 2021?
    - 2021 UNEMPLOYMENT RECEIVED?
      - IF RECEIVED IN 2020, LIKELY IN 2021? NO EXEMPTION IN 2021 ON UNEMPLOYMENT BENEFITS.
      - AT PRESENT, IN 2021, ALL UNEMPLOYMENT BENEFITS RECEIVED ARE TAXABLE INCOME.
  - AND OF COURSE, MANY OTHER ITEMS, BUT DON'T MAKE TOO MANY ASSUMPTIONS



# TOP MAJOR NUMBERS NOT TO MISS WHEN DOING FINAL 2021 ESTIMATED TAX PAYMENT CALCULATIONS

## ◦ WHAT CAN WE LEARN FROM THE 2020 TAX RETURN

- TAXABLE INCOME = TAX BRACKET
  - NEW TAX RATES EFFECTIVE DATE (CAPITAL GAINS)
- NUMBER OF DEPENDENTS
  - ADDITIONAL TAX CREDITS FOR 2021
  - ADVANCED CHILD TAX CREDIT RECEIVED, THUS REDUCING THE NET 2021 TAX CREDIT
- QUALIFIED BUSINESS INCOME DEDUCTION
  - WILL THEY QUALIFY IN 2021 & UPDATE THE AMOUNT
- LARGE DEPRECIATION AMOUNTS
  - SECTION 179 DEPRECIATION vs. BONUS DEPRECIATION
- ANY TAX CREDITS IN 2020 vs. 2021
  - SELF-EMPLOYED FAMILY & SICK LEAVE TAX CREDITS
- CARRYOVER OF TAX REFUNDS TO 2021



# TOP MAJOR NUMBERS NOT TO MISS WHEN DOING FINAL 2021 ESTIMATED TAX PAYMENT CALCULATIONS

- EXCESS BUSINESS LOSSES BACK IN EFFECT FOR 2021
  - OVERALL EXCESS BUSINESS LOSSES LIMITED
    - EVEN IF THE CLIENT HAS TAX BASIS OR AT-RISK BASIS
    - \$500,000 MFJ (\$250,000 SINGLE)
- LIMITATION ON NOLs (Net Operating Losses) BACK IN EFFECT FOR 2021
  - NOLs IN 2021 CANNOT BE CARRIED BACK
    - LIMITED TO 80% OF TAXABLE INCOME (WOULD AFFECT 2022)
    - SUCH NOLs ARE CARRIED FORWARD INDEFINITELY
    - CARES ACT ALLOWED NOLs IN 2018, 2019 & 2020 TO BE CARRIED BACK 5 YEARS
    - FARMING LOSSES ARISING IN TAX YEARS BEGINNING 2021 OR LATER CAN BE CARRIED BACK 2 YEARS
    - NOLs CARRIED FORWARD FROM 2018, 2019 AND/OR 2020 ARE STILL ALLOWED TO EXTENT OF 100% OF TAXABLE INCOME (EVEN IF USED IN 2021 AND BEYOND)



# LATEST IRS DEVELOPMENTS





# IRS provides tax inflation adjustments for tax year 2022 (Revenue Procedure 2021-45)

The standard deduction for married couples filing jointly for tax year 2022 rises to \$25,900 up \$800 from the prior year. For single taxpayers and married individuals filing separately, the standard deduction rises to \$12,950 for 2022, up \$400, and for heads of households, the standard deduction will be \$19,400 for tax year 2022, up \$600.

The personal exemption for tax year 2022 remains at 0, as it was for 2021, this elimination of the personal exemption was a provision in the Tax Cuts and Jobs Act.

**Marginal Rates:** For tax year 2022, the top tax rate remains 37% for individual single taxpayers with incomes greater than \$539,900 (\$647,850 for married couples filing jointly). The other rates are:

35%, for incomes over \$215,950 (\$431,900 for married couples filing jointly);

32% for incomes over \$170,050 (\$340,100 for married couples filing jointly);

24% for incomes over \$89,075 (\$178,150 for married couples filing jointly);

22% for incomes over \$41,775 (\$83,550 for married couples filing jointly);

12% for incomes over \$10,275 (\$20,550 for married couples filing jointly).

The lowest rate is 10% for incomes of single individuals with incomes of \$10,275 or less (\$20,550 for married couples filing jointly).



# IRS provides tax inflation adjustments for tax year 2022 (Revenue Procedure 2021-45)

For 2022, as in 2021, 2020, 2019 and 2018, there is no limitation on itemized deductions, as that limitation was eliminated by the Tax Cuts and Jobs Act.

The Alternative Minimum Tax exemption amount for tax year 2022 is \$75,900 and begins to phase out at \$539,900 (\$118,100 for married couples filing jointly for whom the exemption begins to phase out at \$1,079,800). The 2021 exemption amount was \$73,600 and began to phase out at \$523,600 (\$114,600 for married couples filing jointly for whom the exemption began to phase out at \$1,047,200).

The tax year 2022 maximum Earned Income Tax Credit amount is \$6,935 for qualifying taxpayers who have three or more qualifying children, up from \$6,728 for tax year 2021. The revenue procedure contains a table providing maximum EITC amount for other categories, income thresholds and phase-outs.

For tax year 2022, the monthly limitation for the qualified transportation fringe benefit and the monthly limitation for qualified parking increases to \$280.



# IRS provides tax inflation adjustments for tax year 2022 (Revenue Procedure 2021-45)

For the taxable years beginning in 2022, the dollar limitation for employee salary reductions for contributions to health flexible spending arrangements increases to \$2,850. For cafeteria plans that permit the carryover of unused amounts, the maximum carryover amount is \$570, an increase of \$20 from taxable years beginning in 2021.

For tax year 2022, participants who have self-only coverage in a Medical Savings Account, the plan must have an annual deductible that is not less than \$2,450, up \$50 from tax year 2021; but not more than \$3,700, an increase of \$100 from tax year 2021. For self-only coverage, the maximum out-of-pocket expense amount is \$4,950, up \$150 from 2021. For tax year 2022, for family coverage, the annual deductible is not less than \$4,950, up from \$4,800 in 2021; however, the deductible cannot be more than \$7,400, up \$250 from the limit for tax year 2021. For family coverage, the out-of-pocket expense limit is \$9,050 for tax year 2022, an increase of \$300 from tax year 2021.

The modified adjusted gross income amount used by joint filers to determine the reduction in the Lifetime Learning Credit provided in § 25A(d)(2) is not adjusted for inflation for taxable years beginning after December 31, 2020. The Lifetime Learning Credit is phased out for taxpayers with modified adjusted gross income in excess of \$80,000 (\$160,000 for joint returns).



# IRS provides tax inflation adjustments for tax year 2022 (Revenue Procedure 2021-45)

For tax year 2022, the foreign earned income exclusion is \$112,000 up from \$108,700 for tax year 2021.

Estates of decedents who die during 2022 have a basic exclusion amount of \$12,060,000, up from a total of \$11,700,000 for estates of decedents who died in 2021.

The annual exclusion for gifts increases to \$16,000 for calendar year 2022, up from \$15,000 for calendar year 2021.

The maximum credit allowed for adoptions for tax year 2022 is the amount of qualified adoption expenses up to \$14,890, up from \$14,440 for 2021.



# IRS provides tax inflation adjustments for tax year 2022 (Revenue Procedure 2021-45)

For tax year 2022, the monthly limitation for the qualified transportation fringe benefit and the monthly limitation for qualified parking increases to \$280.

For the taxable years beginning in 2022, the dollar limitation for employee salary reductions for contributions to health flexible spending arrangements increases to \$2,850. For cafeteria plans that permit the carryover of unused amounts, the maximum carryover amount is \$570, an increase of \$20 from taxable years beginning in 2021.

For tax year 2022, participants who have self-only coverage in a Medical Savings Account, the plan must have an annual deductible that is not less than \$2,450, up \$50 from tax year 2021; but not more than \$3,700, an increase of \$100 from tax year 2021.

For self-only coverage, the maximum out-of-pocket expense amount is \$4,950, up \$150 from 2021. For tax year 2022, for family coverage, the annual deductible is not less than \$4,950, up from \$4,800 in 2021; however, the deductible cannot be more than \$7,400, up \$250 from the limit for tax year 2021.

For family coverage, the out-of-pocket expense limit is \$9,050 for tax year 2022, an increase of \$300 from tax year 2021.



## 2022 Contribution Limit Increases

Contribution	2021 Limit	2022 Limit	Change
401(k)/403(b) Employee Contribution	\$19,500	\$20,500	\$1,000
401(k)/403(b) Catch-up Contribution	\$6,500	\$6,500	\$0
401(k)/403(b) Total Contribution <50	\$58,000	\$61,000	\$3,000
401(k)/403(b) Total Contribution 50+	\$64,500	\$67,500	\$3,000
457(b) Contribution	\$19,500	\$20,500	\$1,000
Traditional IRA Contribution	\$6,000	\$6,000	\$0
Traditional IRA Catch-up Contribution	\$1,000	\$1,000	\$0
Roth IRA Contribution	\$6,000	\$6,000	\$0
Roth IRA Catch-up Contribution	\$1,000	\$1,000	\$0
SEP-IRA Contribution	\$58,000	\$61,000	\$3,000
SIMPLE IRA/SIMPLE 401(k) Contribution	\$13,500	\$14,000	\$500
H.S.A. Contribution (single)	\$3,600	\$3,650	\$50
H.S.A. Contribution (family)	\$7,200	\$7,300	\$100
Healthcare F.S.A. Contribution	\$2,750	\$2,850	\$100



# Max out Retirement Withholdings for 401K or Simple Plan

This can only be done by W-2 / payroll reporting and must be done in payroll on or before year end. The amounts withheld need to be paid (contributed to the retirement plan) within 30 days. For amounts in December, these would be due on or before January 30, 2022.

## Year 2021:

401K: \$19,500 or \$26,000 if age 50+

Simple Plan: \$13,500 or \$16,500 if age 50+

***Tell the payroll company now to increase withholdings for 2022.***

## Year 2022:

401K: \$20,500 or \$27,000 if age 50+

Simple Plan: \$14,000 or \$17,000 if age 50+

**DISTRIBUTIONS DO NOT COUNT TOWARDS THE WAGE AMOUNT.**



# Max SEP Retirement: Based on Wages

This is up to 25% of your W-2 gross wages. You DO NOT need to fund this before year end. It can be paid into the SEP retirement account up to the due date of the tax return, including extensions. For S-Corporations and Partnerships, that is September 15, 2022.

*Whatever percentage you contribute for yourself, you must do the same percentage for your employees. Example: You contribute 25% of your wages, you must also contribute 25% of your employee's wages to their retirement accounts.*

HOWEVER, since this is purely based on your gross wages. So, if you want to contribute (deduct) the maximum, you need to have enough wages by 12/31. NOTE: The more wages, the more payroll taxes. Overall, you should save more *income* taxes than the cost of *payroll* taxes.

W-2 wages are subject to 15.3% payroll taxes up to \$142,800 in 2021 (\$147,000 in 2022). W-2 wages above those amounts are subject to 2.9% payroll taxes up to \$250,000, and then subject to 3.8% payroll taxes.

## Year 2021:

\$58,000 Max (Requires \$232,000 in W-2 wages)

## Year 2022:

\$61,000 Max (Requires \$244,000 in W-2 wages)

DISTRIBUTIONS DO NOT COUNT TOWARDS THE WAGE AMOUNT.



# Max SEP Retirement: Self-Employed

This is up to 25% net self-employment earnings. You DO NOT need to fund this before year end. It can be paid into the SEP retirement account up to the due date of the tax return, including extensions. For the self-employed that is October 15, 2022 (with extension) to tax deduct it for 2021.

*Whatever percentage you contribute for yourself, you must do the same percentage for your employees. Example: You contribute 25% of your self-employment earnings, you must also contribute 25% of your employee's wages to their retirement accounts.*

Year 2021:

\$58,000 Max (Requires \$232,000 in self-employment earnings)

Year 2022:

\$61,000 Max (Requires \$244,000 in self-employment earnings)



# Health Savings Account (HSA)

If your company pays into your health savings account (HSA), max it out before year end.

You have until April 15, 2022 to max it out for 2021, if you pay it at the personal level; meaning if you pay it from your personal account, and the company does NOT pay this directly, you have until April 15, 2022.

If your business pays for it, it must be reported on your 2021 Form W-2 and thus, get this done by year end.

## Year 2021:

\$7,200 Family or \$3,600 Single.

If age 55+ \$8,200 Family or \$4,600 Single.

## Year 2022:

\$7,300 Family or \$3,650 Single.

If age 55+ \$8,300 Family or \$4,650 Single.



# Health Insurance Paid by S-Corporation for more than 2% Shareholder

IRC Section 1372 – More than 2% shareholder of S-corporation treated as a “partner” under partnership law.

Health insurance paid by an S-corporation for a more than 2% shareholder, is not tax deductible to the S-corporation.

This is a taxable fringe benefit, and must be picked up as wages in Box 1 (only) of the more than 2% shareholders Form W-2. This is NOT subject to Social Security or Medicare payroll taxes.

The wages that include this fringe benefit are tax deductible to the S-corporation.

The health insurance amount picked up as income is considered “self-employment health insurance” and is tax deducted on the individual tax return as an “Adjustment to Income” on Schedule 1.

Example of the result is:

(\$10,000) S-corporation deducts the wages, including the fringe benefit

\$10,000 More than 2% shareholder picks the wages up as income, including the fringe benefit

(\$10,000) The more than 2% shareholder tax deducts the taxable fringe benefit of health insurance

(\$10,000) Net result is still a tax deduction

During IRS audit, they are checking this.



# Health Insurance Paid by Partnership for Partner

This applies to any percentage partner ownership.

Considered “Guaranteed Payment” to the partner.

Partnership tax deducts as “Guaranteed Payment to Partners” on page 1 of Form 1065.

The amount is reported as “Guaranteed Payments” income to partner on the Schedule K-1.

Partner reports it as self-employment income on the individual tax return, subject to self-employment taxes.

Partner tax deducts the amount of “Guaranteed Payments” that is from health insurance as “self employment health insurance premiums” as a “Adjustment to Income” on Schedule 1 of the individual tax return.

Math works the same as with the S-corporation example in previous slide.



2021

mile 56 cents / mile

2021 tax year

Business mileage rate

56 cents / mile

Medical and moving mileage rate

16 cents / mile

Charitable mileage rate

14 cents / mile



# 2022 Mileage Rates Announced

## IRS Notice 2022-03

- The standard mileage rate for transportation or travel expenses is 58.5 cents per mile for all miles of business use (business standard mileage rate).
- The standard mileage rate is 14 cents per mile for use of an automobile in rendering gratuitous services to a charitable organization.
- The standard mileage rate is 18 cents per mile for use of an automobile for medical care.

### PLANNING POINT:

If you use your PERSONAL vehicle for business driving: **Reimburse yourself business mileage used on your PERSONAL auto.** If your company owns your vehicle, you CANNOT do this.

**Multiply your business mileage times 58.5 cents (per mile).**

Write yourself a separate check from your business to reimburse yourself.

This is a tax deduction to your business, and **TAX-FREE to you.** DO NOT combine this check with anything else. DO NOT add it to your payroll check. **In the memo of your check write “Mileage reimbursement.”**



# MASSIVE UPDATE TO RELIANCE ON IRS FAQs (1/3)

IR 2021-202

- The Internal Revenue Service is updating its process for certain frequently asked questions (FAQs) on newly enacted tax legislation.
- The IRS is updating this process to address concerns regarding transparency and the potential impact on taxpayers when these FAQs are updated or revised.
- At the same time, the IRS is also addressing concerns regarding the potential application of penalties to taxpayers who rely on FAQs by providing clarity to taxpayers as to their ability to rely on FAQs for penalty protection.
- Significant FAQs on newly enacted tax legislation, as well as any later updates or revisions to these FAQs, will now be announced in a news release and posted on IRS.gov in a separate Fact Sheet.
- These Fact Sheet FAQs will be dated to enable taxpayers to confirm the date on which any changes to the FAQs were made.
- Additionally, prior versions of Fact Sheet FAQs will be maintained on IRS.gov to ensure that, if a Fact Sheet FAQ is later changed, taxpayers can locate the version they relied on if they later need to do so.
- In addition to significant FAQs on new legislation, the IRS may apply this updated process in other contexts, such as when FAQs address emerging issues.



# MASSIVE UPDATE TO RELIANCE ON IRS FAQs (2/3)

IR 2021-202

- To address concerns about the potential application of penalties to taxpayers who rely on an FAQ, the IRS is today releasing a statement clarifying that if a taxpayer relies on any FAQ (including FAQs released before today) in good faith and that reliance is reasonable, the taxpayer will have a "reasonable cause" defense against any negligence penalty or other accuracy-related penalty if it turns out the FAQ is not a correct statement of the law as applied to the taxpayer's particular facts.
- For more information on taxpayer reliance, see the [“General Overview of Taxpayer Reliance on Guidance Published in the Internal Revenue Bulletin and FAQs”](#) on the IRS website



# MASSIVE UPDATE TO RELIANCE ON IRS FAQs (3/3)

IR 2021-202

As part of the revision of the FAQ process, the following legend will be added to Fact Sheet FAQs:

*These FAQs are being issued to provide general information to taxpayers and tax professionals as expeditiously as possible. Accordingly, these FAQs may not address any particular taxpayer's specific facts and circumstances, and they may be updated or modified upon further review. Because these FAQs have not been published in the Internal Revenue Bulletin, they will not be relied on or used by the IRS to resolve a case. Similarly, if an FAQ turns out to be an inaccurate statement of the law as applied to a particular taxpayer's case, the law will control the taxpayer's tax liability. Nonetheless, a taxpayer who reasonably and in good faith relies on these FAQs will not be subject to a penalty that provides a reasonable cause standard for relief, including a negligence penalty or other accuracy-related penalty, to the extent that reliance results in an underpayment of tax. Any later updates or modifications to these FAQs will be dated to enable taxpayers to confirm the date on which any changes to the FAQs were made. Additionally, prior versions of these FAQs will be maintained on IRS.gov to ensure that taxpayers, who may have relied on a prior version, can locate that version if they later need to do so.*





## How to Submit Authorizations Using Tax Pro Account and Online Account



### 1. Steps for the Tax Professional

- Log in to Tax Pro Account at [www.irs.gov/taxproaccount](https://www.irs.gov/taxproaccount) after validating identity.
- Initiate request for either a power of attorney (POA) or tax information authorization (TIA).
- Enter tax professional's information – name, address, and Centralized Authorization File (CAF) number.
- Enter taxpayer's information – name, address, and tax identification number (TIN).
- Select tax matter(s) and tax period(s).
- Check box as electronic signature (for POA only) and submit authorization for IRS validation and routing to taxpayer's Online Account.
- Inform taxpayer that an authorization request should be pending in their Online Account for their review and approval.

### 2. Steps for the Taxpayer

- Log in to Online Account at [www.irs.gov/account](https://www.irs.gov/account) after validating identity.
- Select the "Authorizations" tab.
- Review request from tax professional for accuracy.
- Check box as digital signature and approve the request; taxpayer also has the option to reject the request.

### 3. Most requests record immediately to the CAF database; will show as approved in Online Account and Tax Pro Account.

#### Tips

- Tax professional and taxpayer names and addresses must match IRS records exactly.
- Tax professional must already have a CAF number and be in good standing with the IRS.
- Tax Pro Account is available to tax professionals and taxpayers with addresses in the United States.
- Prior authorization revoked when new request is recorded for same request type, tax matter and period.
- Taxpayers maintain control over who can represent them before IRS or see their IRS tax records.



# IRS opens tax pro accounts (1/2)

The Internal Revenue Service has begun offering online Tax Pro Accounts that practitioners can use for submitting an authorization request to an individual client's own taxes online with the IRS.

The accounts can be used for submitting a power of attorney request and a tax authorization request. The IRS plans to expand the features available to tax professionals through the Tax Pro Accounts in the future.

The IRS updated its Internal Revenue Manual to include information about the new system but noted that the new system does not yet offer all the capabilities available through filing Form 2848, "Power of Attorney," and Form 8821, "Tax Information Authorization." Both tax pros and their clients will need to electronically sign such requests.

The IRS also said that its adding more features to the online taxpayer accounts that it has been providing to taxpayers. Taxpayers can now view the amount they owe, updated for the current calendar day; their balance details by year; their payment history and any scheduled or pending payments; key information from their most recent tax return; payment plan details; digital copies of select notices from the IRS; their Economic Impact Payments, if any; and their address on file with the IRS.



# IRS opens tax pro accounts (2/2)

The Tax Pro Accounts will be available for access on Monday through Saturday from 6 a.m. ET to 9 p.m. ET, and on Sunday from 10 a.m. to midnight ET, but will occasionally be down for additional hours for maintenance. Tax pros will be able to access the service through e-Services using their Secure Access account to log in. Taxpayers will be able to electronically sign documents as well. The IRS estimates that the portal will allow tax pros to submit their requests in 15 minutes or less, and the system will provide real-time processing.

Tax pros can request authorizations for tax years and periods from 2000 through the current year, plus three future calendar years for tax matters, according to the IRS, including Form 1040 income taxes, split spousal assessment or Form 8857 Innocent Spouse Relief, shared responsibility payment (2014 or later), shared responsibility payment for split spousal assessment (2014 or later), civil penalty (periods ending March 31, 2000 through the current year, plus three future years ending Dec. 31.)

Tax pros should use their IRS usernames and passwords to access the Tax Pro Account or create an account after verifying their identities.





## Why You Should Create an IRS Online Account



### New Feature

- Use the "authorization" option in Online Account to control who can represent you before the IRS or view your tax records.
- Approve and electronically sign Power of Attorney and Tax Information Authorization requests made by your tax professional.

### Access Tax Records

- View key data from your most recent tax return.
- Access additional records via Get Transcript.
- View your Economic Impact Payment amounts.

### View Balance and Notices

- View amount owed.
- Access digital versions of select correspondence from the IRS.

### Payment Plans

- Learn about payment plan options.
- View payment plan details.

### Make and View Payments

- Make a payment from your bank account or by debit/credit card.
- View five years of payment history and any pending or scheduled payments.

### Upcoming Feature

#### Update Profile

- View and update address on file.
- Manage preferences such as email notifications.

### Upcoming Feature

#### Opt-Out of Paper Notices

- Go paperless for certain correspondence from the IRS.



# Automatic accounting method change procedures updated (Rev. Proc. 2021-34)

- The IRS updated the list of accounting method changes to which automatic change procedures apply (Rev. Proc. 2021-34).
- Generally, unless otherwise provided, a taxpayer must secure the IRS's consent before changing its accounting method. To obtain the IRS's consent, taxpayers file Form 3115, *Application for Change in Accounting Method*. Even when the IRS's consent is not required, taxpayers must file Form 3115.
- In Rev. Proc. 2021-34, the IRS modifies Rev. Proc. 2019-43 to provide procedures under Sec. 446 and Regs. Sec. 1.446-1(e) to obtain automatic consent from the IRS to change methods of accounting to comply with final regulations under recently issued Regs. Secs. 1.451-3, 1.451-8, and 1.1275-2(l) and to change methods of accounting for certain inventory costs to comply with Secs. 263A, 461, and 471 if such changes are made in connection with a change to comply with Regs. Sec. 1.451-3 and/or Regs. Sec. 1.451-8, as applicable.



# Pandemic relief for donated vacation

## IRS Notice 2021-42

Federal tax relief has been extended for calendar year 2021 for employers that let employees donate sick, vacation, or personal leave to charity.

Notice 2021-42 provides that cash payments made to charitable organizations that provide relief to victims of the COVID-19 pandemic by employers in exchange for sick, vacation, or personal leave that their employees forego will not be treated as compensation.

Similarly, the employees will not be treated as receiving the value of the leave as income and cannot claim a deduction for the leave that they donated to their employer.

Employers, however, may deduct these cash payments as a business expense or as a charitable contribution deduction if the employer otherwise meets the respective requirements.

**This is allowed for all of 2021.**

Notice 2020-46 also provides more details for employers with leave-based donation programs.



# IRS offers penalty relief on employment tax payments (1/2)

## IRS NOTICE 2021-24

- In Notice 2021-24, the IRS amplified prior guidance from 2020. The new notice provides relief for employers who are required to pay qualified sick leave wages and qualified family leave wages, along with qualified health plan expenses that can be allocated to those wages, as mandated by the Families First Coronavirus Response Act, which was amended by the COVID-related Tax Relief Act of 2020, along with the American Rescue Plan Act of 2021.
- The notice also offers relief for some employers for whom COBRA continuation coverage premiums weren't paid by former employees who were eligible for assistance with coverage under the American Rescue Plan Act
- The guidance also provides some relief for employers who suffered a full or partial closure order due to COVID-19 or who experienced a decline in business.



# IRS offers penalty relief on employment tax payments (2/2)

## IRS NOTICE 2021-24

- The penalty relief applies to deposits of employment taxes that an employer reduces in anticipation of any of these credits:
  - Paid sick and family leave credits under the FFCRA, as amended by the CAA, with respect to qualified leave wages paid with respect to the period beginning Jan. 1, 2021, and ending March 31, 2021
  - Paid sick and family leave credits under Secs. 3131, 3132, and 3133 with respect to qualified leave wages paid with respect to the period beginning April 1, 2021, and ending Sept. 30, 2021;
  - The employee retention credit under Section 2301 of the CARES Act, as amended by the CAA, with respect to qualified wages paid with respect to the period beginning Jan. 1, 2021, and ending June 30, 2021;
  - The employee retention credit under Sec. 3134 with respect to qualified wages paid with respect to the period beginning July 1, 2021, and ending Dec. 31, 2021; and
  - The credit for continuation coverage premium assistance under Sec. 6432, for COBRA continuation coverage premiums not paid by assistance-eligible individuals for such coverage by reason of Section 9501(a)(1) of the American Rescue Plan Act during the period beginning April 1, 2021, and ending Sept. 30, 2021.

**PRESENTED LATER IS IRS NOTICE 2021-65 RELATED TO 4<sup>th</sup> 2021 QUARTER ERTC ISSUES.**



# Caution if the monthly child tax credit was received (1/3)

- The American Rescue Plan enacted in March increased the benefit for 2021 and directed the IRS to deliver half of the amount that families are eligible for in checks beginning in July.
- The payments are worth up to
  - \$300 per month for each child under age 6
  - \$250 for each child ages 6 to 17
- Normally, parents would claim the credit as a lump sum on their annual tax returns — in this case, the ones filed next year — lowering their overall tax bill or resulting in a refund.
- Congress directed the IRS to use 2019 or 2020 tax return information to deliver the payments.
- The enhanced credit, for the entire year, is worth up to \$3,000 per child aged 6 to 17 and \$3,600 for children under age 6. That's an increase from \$2,000 per child under age 17.



# Caution if the monthly child tax credit was received (2/3)

- The maximum amount is available to individuals making \$75,000 or less and married couples making \$150,000 or less, with a phaseout for incomes above those thresholds.
- The credit owed is ultimately determined by 2021 income and will have to be reconciled on next year's tax return. That means individuals who got a new job or received a raise in 2021 may find themselves owing money to the government if their monthly payment was too high.
- Probably will trip people up because they're expecting they get to keep whatever they got; like the prior stimulus amounts for the 1<sup>st</sup> & 2<sup>nd</sup> EIPs.
- A big concern is that the IRS hasn't adjusted the Form W-4, which workers fill out to let their employers know how much money to withhold from their paychecks, to account for the changes.
- Absent those adjustments, individuals could end up getting an improper amount of tax withheld, which may result in higher taxes due (or less refunds) next filing season.



# Caution if the monthly child tax credit was received (3/3)

- The current Form W-4 for 2021 assumes each child under age 17 translates to a \$2,000 credit at tax time — the amount available prior to the American Rescue Plan. But the actual amount paid out next filing season could be smaller for people who received half of their new, increased credit through advanced payments.
- For instance, if a taxpayer has a 10-year-old child and receives the advanced payments, that person will get a “net” \$1,500 credit on their tax return next year, not a \$2,000 credit — meaning they’ve potentially been under-withheld by \$500.
- MATH: The 2021 child tax credit for a 10-year-old is \$3,000. If the parent(s) receive the full amount advanced starting in July 2021 (\$250 per month multiplied by 6 months) of \$1,500, then on the 2021 tax return the tax credit will still be \$3,000 however, it will be reduced by the amount advanced (\$1,500) and thus a “net” \$1,500 tax credit will be applied against the 2021 tax. Absent an advance of the child tax credit, the parent(s) in 2019 and 2020 had a \$2,000 child tax credit reducing tax.



# Future IRS Enforcement

- Although dropped out of the bipartisan infrastructure bill, IRS funding has reemerged in the Build Back Better Act and is likely to survive if anything is enacted.
- Relying on increased IRS funding to provide additional enforcement revenue to help pay for some of the proposals in the legislation.
- We should anticipate a significant reversal of a long-term decline in audit rates.





# IRS to scrutinize EIN holders' information

## Form 8822-B

- The Internal Revenue Service, citing security issues, intends to increase awareness efforts toward businesses, partnerships, trusts and estates, charities and other entities that hold Employer Identification Numbers.
- In particular, the IRS wants those entities to update their applications if there has been a change in the responsible party or contact information. IRS regulations require EIN holders to update this information within 60 days of any change, using a Form 8822-B, "Change of Address or Responsible Party - Business."
- Starting in August, the IRS will send letters to some 100,000 EIN holders with information the agency thinks is outdated.
- All EIN applications must have the name and Taxpayer Identification Number of the true principal officer, general partner, grantor, owner or trustor.



# THE FUTURE OF AUDITS

EASIEST AUDIT ADJUSTMENT: DISALLOW LOSSES

EASY TO SPOT

LOSS IS TAKEN ON SCHEDULE E, PAGE 2

EASY TO CHALLENGE TAX BASIS & AT-RISK BASIS

“JUST SHOW US YOUR CALCULATION, AND WE WILL BE ON OUR WAY.”



# PARTNERSHIP SCHEDULE K-1

- PARTNERS BASIS MUST BE REPORTED ON “TAX BASIS”
  - THIS WAS REQUIRED IN 2020, HOWEVER, WAS IT INADVERTENTLY MISSED
  - ENSURE THE “TAX BASIS” IS BEING REFLECTED

# S-CORPORATION SCHEDULE K-1

- FORM 7203 COMING SOON
  - FORMERLY REPORTING S CORPORATION SHAREHOLDER STOCK AND DEBT BASIS LIMITATIONS





# BASICS OF TAX BASIS & AT-RISK BASIS

## TAX BASIS: WE ALL KNOW THE BASICS

SAME: S-CORPORATIONS & PARTNERSHIPS

CAPITAL CONTRIBUTED

LESS: CAPITAL DISTRIBUTIONS

PLUS: INCOME

LESS: LOSSES

EQUALS: TAX BASIS

## AT-RISK BASIS: WE ALL KNOW THE BASICS

DIFFERENT: S-CORPORATIONS & PARTNERSHIPS

PARTNERS GET BASIS FOR APPLICABLE SHARE OF LIABILITIES

S-CORPORATION OWNERS DO NOT

BOTH GET AT-RISK BASIS FOR LOANS TO THE ENTITY



# STILL BASIC, BUT IS IT BEING MISSED?

## TOP AUDIT ADJUSTMENT COULD BE FROM A LACK OF DOCUMENTATION & DISCLOSURE

### TAX BASIS:

- ARE YOU ANNUALLY CALCULATING AND REPORTING TAX BASIS?
  - ARE YOU RELYING ON THE SCHEDULE K-1 AND ITS DISCLOSURES
  - INSIDE BASIS vs. OUTSIDE BASIS
- BASIS IS TRACKED AT THE INDIVIDUAL LEVEL TO ALLOW LOSSES
  - BUT ONLY REQUIRED BY THE IRS TO BE DISCLOSED WHEN A LOSS IS BEING DEDUCTED
- HAS NON-DEDUCTIBLE EXPENSES DECREASED BASIS
  - ELECTION TO ALLOW ORDINARY LOSSES BEFORE NON-DEDUCTIBLE LOSSES



# STILL BASIC, BUT IS IT BEING MISSED?

## TOP AUDIT ADJUSTMENT COULD BE FROM A LACK OF DOCUMENTATION & DISCLOSURE

### AT-RISK BASIS:

- PARTNERSHIPS
  - ARE YOU ANNUALLY CALCULATING AND REPORTING AT-RISK BASIS?
    - ARE YOU CONSISTENTLY REPORTING “END OF YEAR” SHARE OF LIABILITIES?
    - ARE YOU CONSISTENTLY REPORTING REPAYMENT OF PARTNER LOANS?
- S-CORPORATIONS
  - ARE YOU ANNUALLY CALCULATING AND REPORTING AT-RISK BASIS?
    - ARE YOU CONSISTENTLY REPORTING REPAYMENT OF SHAREHOLDER LOANS?



# Schedule K-1 (Form 1120-S)

Department of the Treasury  
Internal Revenue Service

# 2020

For calendar year 2020, or tax year

## G Shareholder's number of shares

Beginning of tax year . . . . .

End of tax year . . . . .

## H Loans from shareholder

Beginning of tax year . . . . . \$

End of tax year . . . . . \$

# Schedule K-1 (Form 1120-S)

Department of the Treasury  
Internal Revenue Service

# 2019

For calendar year 2019, or tax year

## F Shareholder's percentage of stock

ownership for tax year . . . . . %



Form 7203 (December 2021) S Corporation Shareholder Stock and Debt Basis Limitations. OMB No. 1545-XXXX. Attach to your tax return. Go to www.irs.gov/Form7203 for instructions and the latest information. Attachment Sequence No. 203. Name(s) shown on return. Identifying number. Name of S corporation. Employer identification number. Stock block (see instructions). Part I Shareholder Stock Basis. 1 Stock basis at the beginning of the corporation's tax year. 2 Basis from any capital contributions made or additional stock acquired during the tax year. 3a Ordinary business income (enter losses in Part III). 3b Net rental real estate income (enter losses in Part III). 3c Other net rental income (enter losses in Part III). 3d Interest income. 3e Ordinary dividends. 3f Royalties. 3g Net capital gains (enter losses in Part III). 3h Net section 1231 gain (enter losses in Part III). 3i Other income (enter losses in Part III). 3j Excess depletion adjustment. 3k Tax-exempt income. 3l Recapture of business credits. 3m Other items that increase stock basis. 4 Add lines 3a through 3m. 5 Stock basis before distributions. Add lines 1, 2, and 4. 6 Distributions (excluding dividend distributions). Note: If line 6 is larger than line 5, subtract line 5 from line 6 and report the result as a capital gain on Form 8949 and Schedule D. See instructions. 7 Stock basis after distributions. Subtract line 6 from line 5. If the result is zero or less, enter -0-, skip lines 8 through 14, and enter -0- on line 15. 8a Nondeductible expenses. 8b Depletion for oil and gas. 8c Business credits (sections 50(c)(1) and (5)). 9 Add lines 8a through 8c. 10 Stock basis before loss and deduction items. Subtract line 9 from line 7. If the result is zero or less, enter -0-, skip lines 11 through 14, and enter -0- on line 15. 11 Allowable loss and deduction items. Enter the amount from line 47, column (c). 12 Debt basis restoration (see net increase in instructions for line 23). 13 Other items that decrease stock basis. 14 Add lines 11, 12, and 13. 15 Stock basis at the end of the corporation's tax year. Subtract line 14 from line 10. If the result is zero or less, enter -0-. Part II Shareholder Debt Basis. Section A—Amount of Debt (If more than three debts, see instructions.) Description Debt 1 Debt 2 Debt 3 Total. 16 Loan balance at the beginning of the corporation's tax year. 17 Additional loans (see instructions). 18 Loan balance before repayment. Combine lines 16 and 17. 19 Principal portion of debt repayment (this line doesn't include interest). 20 Loan balance at the end of the corporation's tax year. Combine lines 18 and 19. For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 56396V Form 7203 (12-2021)

Form 7203 (12-2021) Page 2. Part II Shareholder Debt Basis (continued). Section B—Adjustments to Debt Basis. Description Debt 1 Debt 2 Debt 3 Total. 21 Debt basis at the beginning of the corporation's tax year. 22 Enter the amount, if any, from line 17. 23 Debt basis restoration (see instructions). 24 Debt basis before repayment. Combine lines 21, 22, and 23. 25 Divide line 24 by line 18. 26 Nontaxable debt repayment. Multiply line 25 by line 19. 27 Debt basis before nondeductible expenses and losses. Subtract line 26 from line 24. 28 Nondeductible expenses and oil and gas depletion deductions in excess of stock basis. 29 Debt basis before losses and deductions. Subtract line 28 from line 27. If the result is zero or less, enter -0-. 30 Allowable losses in excess of stock basis. Enter the amount from line 47, column (d). 31 Debt basis at the end of the corporation's tax year. Subtract line 30 from line 29. If the result is zero or less, enter -0-. Section C—Gain on Loan Repayment. 32 Repayment. Enter the amount from line 19. 33 Nontaxable repayments. Enter the amount from line 26. 34 Reportable gain. Subtract line 33 from line 32. Part III Shareholder Allowable Loss and Deduction Items. Description (a) Current year losses and deductions (b) Carryover amounts (column (a)) from the previous year (c) Allowable loss from stock basis (d) Allowable loss from debt basis (e) Carryover amounts. 35 Ordinary business loss. 36 Net rental real estate loss. 37 Other net rental loss. 38 Net capital loss. 39 Net section 1231 loss. 40 Other loss. 41 Section 179 deductions. 42 Charitable contributions. 43 Investment interest expense. 44 Section 59(e)(2) expenditures. 45 Other deductions. 46 Foreign taxes paid or accrued. 47 Total loss. Combine lines 35 through 46 for each column. Enter the total loss in column (c) on line 11 and enter the total loss in column (d) on line 30. Form 7203 (12-2021)

BRAND NEW FORM



# BRAND NEW FORM 7203 S-CORPORATION SHAREHOLDERS TO FILE WITH INDIVIDUAL TAX RETURN



<b>7203</b> Form (December 2021) Department of the Treasury	<b>S Corporation Shareholder Stock and Debt Basis Limitations</b> ▶ Attach to your tax return.	OMB No. 1545-X00X Attachment
----------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------	---------------------------------



<b>Instructions for Form 7203</b> (December 2021) <b>S Corporation Shareholder Stock and Debt Basis Limitations</b>	 Department of the Treasury Internal Revenue Service
---------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------



**Note:** *The draft you are looking for begins on the next page.*

**Caution: DRAFT—NOT FOR FILING**



This is an early release draft of an IRS tax form, instructions, or publication, which the IRS is providing for your information. **Do not file draft forms** and do **not** rely on draft forms, instructions, and publications for filing. We do **not** release draft forms until we believe we have incorporated all changes (except when explicitly stated on this coversheet). However, unexpected issues occasionally arise, or legislation is passed—in this case, we will post a new draft of the form to alert users that changes were made to the previously posted draft. Thus, there are never any changes to the last posted draft of a form and the final revision of the form. Forms and instructions generally are subject to OMB approval before they can be officially released, so we post only drafts of them until they are approved. Drafts of instructions and publications usually have some changes before their final release.



# FORM 7203 – BRAND NEW FOR S-CORP SHAREHOLDERS

**Purpose of Form:** Use Form 7203 to figure potential limitations of your share of the S corporation's deductions, credits, and other items that can be deducted on your return.

**Who Must File:** Form 7203 is filed by S corporation shareholders who:

- Are claiming a deduction for their share of an aggregate loss from an S corporation (including an aggregate loss not allowed last year because of basis limitations),
- Received a non-dividend distribution from an S corporation,
- Disposed of stock in an S corporation (whether or not gain is recognized), or
- Received a loan repayment from an S corporation.

**PLANNING POINT:** It may be beneficial for shareholders to complete and retain Form 7203 even for years it is not required to be filed, as this will ensure their bases are consistently maintained year after year.



**Schedule K-1  
(Form 1065)**

Department of the Treasury  
Internal Revenue Service

**2020**

For calendar year 2020, or tax year

beginning  /  / 2020 ending  /  /

**Partner's Share of Income, Deductions, Credits, etc.**  
▶ See separate instructions.

**Part I Information About the Partnership**

**A** Partnership's employer identification number

**B** Partnership's name, address, city, state, and ZIP code

**C** IRS Center where partnership filed return ▶

**D** ☐ Check if this is a publicly traded partnership (PTP)

**Part II Information About the Partner**

**E** Partner's SSN or TIN (Do not use TIN of a disregarded entity. See instructions.)

**F** Name, address, city, state, and ZIP code for partner entered in E. See instructions.

**G** ☐ General partner or LLC member-manager ☐ Limited partner or other LLC member

**H1** ☐ Domestic partner ☐ Foreign partner

**H2** ☐ If the partner is a disregarded entity (DE), enter the partner's:  
TIN  Name

**I1** What type of entity is this partner?

**I2** If this partner is a retirement plan (IRA/SEP/Keogh/etc.), check here ☐

**J** Partner's share of profit, loss, and capital (see instructions):

Beginning		Ending	
Profit	<input type="text"/> %	<input type="text"/> %	<input type="text"/> %
Loss	<input type="text"/> %	<input type="text"/> %	<input type="text"/> %
Capital	<input type="text"/> %	<input type="text"/> %	<input type="text"/> %

Check if decrease is due to sale or exchange of partnership interest ☐

**K** Partner's share of liabilities:

	Beginning	Ending
Nonrecourse	<input type="text"/> \$	<input type="text"/> \$
Qualified nonrecourse financing	<input type="text"/> \$	<input type="text"/> \$
Recourse	<input type="text"/> \$	<input type="text"/> \$

☐ Check this box if item K includes liability amounts from lower tier partnerships.

**L** Partner's Capital Account Analysis

Beginning capital account	<input type="text"/> \$
Capital contributed during the year	<input type="text"/> \$
Current year net income (loss)	<input type="text"/> \$
Other increase (decrease) (attach explanation)	<input type="text"/> \$
Withdrawals & distributions	<input type="text"/> \$
Ending capital account	<input type="text"/> \$

**M** Did the partner contribute property with a built-in gain or loss?  
☐ Yes ☐ No If "Yes," attach statement. See instructions.

**N** Partner's Share of Net Unrecognized Section 704(c) Gain or (Loss)

Beginning	<input type="text"/> \$
Ending	<input type="text"/> \$

**Part III Partner's Share of Current Year Income, Deductions, Credits, and Other Items**

<b>1</b> Ordinary business income (loss)	<b>15</b> Credits
<b>2</b> Net rental real estate income (loss)	
<b>3</b> Other net rental income (loss)	<b>16</b> Foreign transactions
<b>4a</b> Guaranteed payments for services	
<b>4b</b> Guaranteed payments for capital	
<b>4c</b> Total guaranteed payments	
<b>5</b> Interest income	
<b>6a</b> Ordinary dividends	
<b>6b</b> Qualified dividends	
<b>6c</b> Dividend equivalents	<b>17</b> Alternative minimum tax (AMT) items
<b>7</b> Royalties	
<b>8</b> Net short-term capital gain (loss)	
<b>9a</b> Net long-term capital gain (loss)	<b>18</b> Tax-exempt income and nondeductible expenses
<b>9b</b> Collectibles (28%) gain (loss)	
<b>9c</b> Unrecaptured section 1250 gain	
<b>10</b> Net section 1231 gain (loss)	
<b>11</b> Other income (loss)	<b>19</b> Distributions
	<b>20</b> Other information
<b>12</b> Section 179 deduction	
<b>13</b> Other deductions	
<b>14</b> Self-employment earnings (loss)	
<b>21</b> <input type="checkbox"/> More than one activity for at-risk purposes*	
<b>22</b> <input type="checkbox"/> More than one activity for passive activity purposes*	

\*See attached statement for additional information.

For IRS Use Only

www.JJtheCPA.com DO NOT ACT  
WITHOUT YOUR ADVISER'S ADVICE &  
RECOMMENDATION [ALL  
INFORMATIONAL PURPOSES ONLY] SEE  
DISCLAIMER ON PAGE 3. THANKS!



# PRIOR-NEW TAX LAWS - IN PLAY





# Required Minimum Distributions (RMDs) From Retirement Accounts in 2021 Possible there was NONE in 2020

- The CARES Act waived required minimum distributions (RMDs) **during 2020** for IRAs and retirement plans, including for beneficiaries with inherited IRAs and accounts inherited in a retirement plan.
- That waiver also includes RMDs if you turned age 70 ½ in 2019 and took your first RMD in 2020.
- Distributions of an amount that would have been an RMD in 2020 can generally be rolled over to another workplace retirement plan or IRA within 60 days of the distribution.
- Distributions from inherited IRAs were not required in 2020. If you were required to take a distribution within 5 years following the year of the account holder's death, 2020 did not count toward the 5 years.
  - So, you would essentially have six years, instead of five, to distribute the inherited IRA; which extends to 2022
- Also, if the account holder died in 2019, you would normally be required to begin taking distributions by the end of 2020 to be able to take distributions over your lifetime. Since 2020 does not count, you have until the end of 2021 to begin taking distributions over your lifetime.



# Required Minimum Distributions (RMDs) From Retirement Accounts

- You cannot keep retirement funds in your account indefinitely. You generally have to start taking withdrawals from your IRA, SIMPLE IRA, SEP IRA, or retirement plan account when you reach age 70½.
- However, changes were made by the SECURE Act: If your 70th birthday is July 1, 2019 or later, you do not have to take withdrawals until you reach age 72.
- Roth IRAs do not require withdrawals until after the death of the owner.
- Your **required minimum distribution** is the minimum amount you must withdraw from your account each year.
- You can withdraw more than the minimum required amount.
- Your withdrawals will be included in your taxable income except for any part that was taxed before (your basis) or that can be received tax-free (such as qualified distributions from designated Roth accounts).
- **Do these rules apply to my retirement plan?**
  - The minimum distribution rules discussed below apply to:
    - Traditional IRAs, SEP IRAs, SIMPLE IRAs, 401(k) plans, 403(b) plans, 457(b) plans, profit sharing plans and other defined contribution plans
- **Calculating the required minimum distribution**
  - The required minimum distribution for any year is the account balance as of the end of the immediately preceding calendar year divided by a distribution period from the IRS's "Uniform Lifetime Table." A separate table is used if the sole beneficiary is the owner's spouse who is ten or more years younger than the owner.



# **Required Minimum Distributions (RMDs) Converted to a Qualified Charitable Distribution**

- Taxpayers taking RMDs who are charitably inclined should consider making a Qualified Charitable Distribution.
- Up to \$100,000 can be distributed directly to a qualified charity, per person.
- This distribution amount is excluded from taxable income while also satisfying the RMD requirement.
- This does not result in a charitable contribution for the donor, because the distribution was not taken into income.
- The donor can request a check to deliver to the charitable organization, however, the distribution must be made payable directly to the charitable organization.



# IRS guidance on 100% deduction for business meals

## IRS NOTICE 2021-25

### Applies to 2021 & 2022

- In Notice 2021-25, the Internal Revenue Service and the Treasury Department provide details on a provision of the COVID-19 relief package that Congress passed last December, which temporarily allows a **100 percent deduction for food or beverages from restaurants** through the end of 2022. Normally, there's a 50 percent limit on the amount that businesses can deduct for food and beverages.
- The provision was included in the Taxpayer Certainty and Disaster Relief Act of 2020, which was part of the year-end Consolidated Appropriations Act of 2020. The goal was to help restaurants that had been hit hard by the pandemic while also giving businesses an expanded tax break for business meals.
- Under the rules enacted last December, starting Jan. 1, 2021, through Dec. 31, 2022, businesses can claim 100 percent of their food or beverage expenses paid to restaurants, as long as the business owner (or an employee of the business) is present when food or beverages are provided, and the expense isn't considered to be lavish or extravagant under the circumstances.



# Part-Time Worker Retirement Savings

- THE SECURE ACT (SECTION 112) EXPANDS 401(K) ACCESS TO PART-TIME EMPLOYEES FOR PLAN YEARS BEGINNING **AFTER DECEMBER 31, 2020**
  - EMPLOYERS COULD EXCLUDE PART-TIME EMPLOYEES FROM THEIR DEFINED CONTRIBUTION PLANS PRIOR TO THE SECURE ACT
- THE SECURE ACT REQUIRES QUALIFIED PLANS TO INCLUDE
  - LONG-TERM, PART-TIME EMPLOYEES WHO HAVE WORKED AT LEAST 500 HOURS PER YEAR IN THE PAST THREE CONSECUTIVE YEARS
    - PROVIDED THAT THE EMPLOYEE WAS AT LEAST 21 YEARS OLD AT THE END OF THE 3-YEAR PERIOD
    - THE 12-MONTH PERIODS BEGINNING BEFORE JAN. 1, 2021 WILL NOT BE TAKEN INTO ACCOUNT FOR DETERMINING CONSECUTIVE-YEAR PERIODS
  - EMPLOYEES WHO HAVE COMPLETED ONE YEAR OF SERVICE WITH OVER 1,000 HOURS OF SERVICE



# CONSOLIDATED FORM 5500

- THE SECURE ACT (SECTION 202) ALLOWS FOR SIMILAR PLANS TO FILE A CONSOLIDATED FORM 5500
- PLANS ELIGIBLE FOR CONSOLIDATED FILING MUST BE DEFINED CONTRIBUTION PLANS, WITH THE SAME TRUSTEE, THE SAME NAMED FIDUCIARY (OR NAMED FIDUCIARIES) UNDER ERISA, AND THE SAME ADMINISTRATOR, USING THE SAME PLAN YEAR, AND PROVIDING THE SAME INVESTMENTS OR INVESTMENT OPTIONS TO PARTICIPANTS AND BENEFICIARIES
- THESE CHANGES ARE TO BE IMPLEMENTED NO LATER THAN JANUARY 1, 2022 AND WILL APPLY TO RETURNS AND REPORTS FOR PLAN YEARS BEGINNING AFTER DECEMBER 31, 2021



# 50% OF DEFERRED PAYROLL TAXES DUE BY DECEMBER 31, 2021

- ONE OF THE PAYROLL TAX PROVISIONS IN THE CARES ACT ALLOWED EMPLOYERS TO DEFER THE EMPLOYER SOCIAL SECURITY TAX FOR 2020.
- THE EMPLOYER SOCIAL SECURITY TAX IS DUE ON EMPLOYEE WAGES UP TO THE TAXABLE WAGE BASE OF \$137,700 FOR 2020.
  - THIS 6.2 PERCENT TAX IS OTHERWISE DEPOSITED WITH THE IRS ALONG WITH THE EMPLOYER 1.45 PERCENT MEDICARE TAX AND THE EMPLOYEE PAYROLL TAX AMOUNTS.
- UNDER THE CARES ACT, THE EMPLOYER COULD REFRAIN FROM DEPOSITING THE EMPLOYER'S 6.2 PERCENT TAX ACCRUING ON OR AFTER APRIL 1, 2020 THROUGH DEC. 31, 2020.
- THE COMPANY COULD INSTEAD DEPOSIT 50 PERCENT OF THE DEFERRED AMOUNT BY DECEMBER 31, 2021, AND DEPOSIT THE REMAINING 50 PERCENT DEFERRAL BY DECEMBER 31, 2022.



# COVID RELATED RETIREMENT DISTRIBUTION IN 2020 CARRYOVER INTO 2021 & 2022

- A coronavirus-related distribution is a distribution made from an eligible retirement plan (including an IRA) to a qualified individual from Jan. 1, 2020, to Dec. 30, 2020, up to a combined limit of \$100,000 from all plans and IRAs. A workplace retirement plan is not required to offer coronavirus-related distributions.
- However, even if your employer does not identify your distribution as coronavirus-related, you may still treat it as such on your federal income tax return if you're a qualified individual and the distribution meets the requirements to be a coronavirus-related distribution.
- A qualified individual's designation of a coronavirus-related distribution may be different than how the individual's employer retirement plan treats that same distribution.



# COVID RELATED RETIREMENT DISTRIBUTION IN 2020 CARRYOVER INTO 2021 & 2022

- OPTIONS IN 2020
  - REPAY IN FULL IN 2020
  - REPAY 1/3<sup>RD</sup> OVER 3 YEARS
    - 1/3<sup>RD</sup> WITHIN 12 MONTHS OF DISTRIBUTION
    - 1/3<sup>RD</sup> WITHIN 24 MONTHS OF DISTRIBUTION
    - 1/3<sup>RD</sup> WITHIN 36 MONTHS OF DISTRIBUTION
  - RECOGNIZE ALL AS INCOME IN 2020
  - RECOGNIZE 1/3<sup>RD</sup> AS INCOME OVER 3 YEARS
    - 1/3<sup>RD</sup> IN 2020
    - 1/3<sup>RD</sup> IN 2021
    - 1/3<sup>RD</sup> IN 2022



# COVID RELATED RETIREMENT DISTRIBUTION IN 2020 CARRYOVER INTO 2021 & 2022

## **Taxes Covid-related distributions:**

- Are not subject to the 10% additional tax on early distributions that may otherwise apply to most withdrawals before age 59 ½
  - Including the 25% additional tax on certain SIMPLE IRA distributions
  - Applies to all 3 years; 2020, 2021 & 2022
- Are not subject to mandatory tax withholding



# COVID RELATED RETIREMENT DISTRIBUTION IN 2020 CARRYOVER INTO 2021 & 2022

- **Recontribution of a Covid-related distribution:**
- You may recontribute all or part of certain coronavirus-related distributions to an eligible retirement plan (including an IRA) within three years beginning on the day after the date you received the distribution.
- Repayments will be treated as though they were eligible direct rollovers.
- Amounts repaid are not subject to any contribution or rollover limits.
- The distribution is treated as though you repaid it in a direct trustee-to-trustee transfer so you don't owe federal income tax on the distribution.
- You can claim a refund for any income taxes paid on amounts previously included in income that were subsequently repaid timely.

Failure to repay, causes the distribution to be taxable in 2020, and amended tax return must be filed



# EXPANDED CHARITABLE TAX DEDUCTION FOR 2021

Charitable contributions can be deducted even if you do not “itemize your deductions” (Schedule A).

\$600 for those filing married filing jointly.

\$300 for single filer, married filing separately or head of household.

It is a deduction directly on Form 1040.



# FOR THE S-CORP & PARTNERSHIP OWNERS

## CHARITABLE VS. SPONSORSHIP OF CHARITY (1/2)

Charitable contributions paid by either an S-corporation or a partnership are separately stated tax deductions, to keep the characteristic of a “charitable contribution” tax deducted at the individual level on Schedule A as an itemized deduction.

When a charity offers a “sponsorship” and a business pays for that, it can opt to tax deduct it as an ordinary expense, reducing down ordinary income reported by the owner (typically box 1 of the Schedule K-1).

A reduction of ordinary income (box 1) as reported on Schedule E page 2 will lower adjusted gross income (AGI). Many other items on the individual tax return are dependent on AGI. Typically, as AGI increases it decreases other tax deductions and/or additional tax rates apply. Example: High AGI reduces the amount of allowable tuition deduction or educational credit, and allows the net investment income tax rate to apply to certain types of other taxable income.

Charitable contributions reported on Schedule A reduce taxable income, but does NOT reduce AGI.



# FOR THE S-CORP & PARTNERSHIP OWNERS CHARITABLE VS. SPONSORSHIP OF CHARITY (2/2)

Also, an individual may not have enough other itemized deductions to make it worth it for them to use the itemized deductions, and would then instead use the standard deduction. If the charitable amount was tax deducted as an ordinary expense, the owner would benefit from that deduction as well as the standard deduction. Otherwise, the charitable deduction (other than the first \$600/\$300) would not yield any additional tax benefit, if the individual takes the standard deduction.

Standard Deduction for Single Taxpayers, 2021-2022		
2021 (filing due April 15, 2022)	2022 (filing due April 17, 2023)	Difference, 2021 vs. 2021
\$12,550	\$12,950	+\$400 (+3.2%)

Standard Deduction for Married Taxpayers Filing Jointly, 2021-2022		
2021 (filing due April 15, 2022)	2022 (filing due April 17, 2023)	Difference, 2021 vs. 2021
\$25,100	\$25,900	+\$800 (+3.2%)



# THE OLDIES BUT GOODIES



TIMELESS

TAX  
STRATEGIES



## Take advantage of tax loss harvesting on capital assets:

To reduce your 2021 income, take advantage of tax loss harvesting. Pay attention to the types of gains and losses in your taxable investment accounts when selling at the end of the year. Short-term capital losses offset short-term capital gains, for example. You can deduct \$3,000 of losses against your personal income, and carry over additional losses to future years. Watch out: The wash-sale rule says you have to wait at least 31 days to buy back the same investment.

## Section 1031 Exchanges

Beginning in 2018, the TCJA generally eliminated the tax deferral break for most Section 1031 exchanges of like-kind properties. However, it preserved this tax-saving techniques for swaps involving investment or business real estate. Therefore, you can still exchange qualified real estate properties in 2021 without paying current tax, except to the extent you receive “boot” (e.g., cash or a reduction in mortgage liability).

**ACTION:** Make sure you meet the following two timing requirements to qualify for a tax-deferred Section 1031 exchange:

1. Identify or actually receive the replacement property within 45 days of transferring legal ownership of the relinquished property.
2. Have the title to the replacement property transferred to you within the earlier of 180 days or your 2021 tax return due date, plus extensions.



The long-term capital gains rates for 2021 and 2022 are shown below. The tax brackets refer to the taxpayer's taxable income. Capital gains also may be subject to the 3.8% Net Investment Income Tax.

### 2021 Long-Term Capital Gains Rate Brackets

Long-Term Capital Gains Tax Rate	Joint/Surviving Spouse	Single	Head of Household	Married Filing Separately	Estates & Trusts
0%	\$0 - \$80,800	\$0 - \$40,400	\$0 - \$54,100	\$0 - \$40,400	\$0 - \$2,700
15%	\$80,801 - \$501,600	\$40,401 - \$445,850	\$54,101 - \$473,750	\$40,401 - \$250,800	\$2,701 - \$13,250
20%	Over \$501,600	Over \$445,850	Over \$473,750	Over \$250,800	Over \$13,250

### 2022 Long-Term Capital Gains Rate Brackets

Long-Term Capital Gains Tax Rate	Joint/Surviving Spouse	Single	Head of Household	Married Filing Separately	Estates & Trusts
0%	\$0 - \$83,350	\$0 - \$41,675	\$0 - \$55,800	\$0 - \$41,675	\$0 - \$2,800
15%	\$83,351 - \$517,200	\$41,676 - \$459,750	\$55,801 - \$488,500	\$41,676 - \$258,600	\$2,801 - \$13,700
20%	Over \$517,200	Over \$459,750	Over \$488,500	Over \$258,600	Over \$13,700



## QUALIFIED LONG-TERM CARE INSURANCE

Premiums an individual pays on a qualified long-term care insurance policy are deductible as a medical expense. The maximum deduction amount is determined by an individual's age. The following table sets forth the deductible limits for 2021 and 2022 (the limitations are per person, not per return). **The self-employed include this with their self-employed health insurance deduction.** If a business pays for this for the owner, it is handled in the same manner as health insurance for the business owner.

Age	Deduction Limitation 2021	Deduction Limitation 2022
40 or under	\$450	\$450
Over 40 but not over 50	\$850	\$850
Over 50 but not over 60	\$1,690	\$1,690
Over 60 but not over 70	\$4,520	\$4,510
Over 70	\$5,640	\$5,640



## Adoption Credit

In 2021 a nonrefundable (i.e., only those with tax liability will benefit) credit of up to \$14,440 is available for qualified adoption expenses for each eligible child.

## Child and Dependent Care Credit

The Child and Dependent Care Tax Credit was permanently extended for taxable years starting in 2013 and remained under tax reform. As such, if you pay someone to take care of your dependent (defined as being under the age of 13 at the end of the tax year or incapable of self-care) to work or look for work, you may qualify for a credit.

For 2021, the credit substantially more generous (up to \$4,000 for one qualifying person and \$8,000 for two or more qualifying persons) and **potentially refundable**, so you might not have to owe taxes to claim the credit (so long as you meet the other requirements).

The tax credit is up to 50% of the child care “expenses,” with a maximum allowed for one qualifying person of \$8,000 in dependent care expenses, and \$16,000 for two or more qualifying persons.

More taxpayers will be eligible for the credit for the first time and that, for many taxpayers, the amount of the credit will be larger than in prior years. Taxpayers with an adjusted gross income over \$438,000, however, are not eligible for this credit even though they may have previously been able to claim the credit.



## American Opportunity Tax Credit (AOTC):

The maximum \$2,500 American Opportunity Tax Credit (AOTC) is available for qualified expenses such as tuition, room and board, books, computers and supplies for up to four years of study for every student in the family. **Per eligible student:** Tax credit can be received for 100% of the first \$2,000, plus 25% of the next \$2,000 that has been paid during the taxable year. **Refundability:** 40% of the credit (up to \$1,000) is refundable. This means you can get a refund even if you owe no tax.

## Lifetime Learning Credit (LLC):

You may claim a maximum credit of \$2,000 (20% of up to \$10,000 in qualifying education expenses), but this applies on a per-taxpayer basis. Previously, the LLC was phased out at lower levels than the AOTC, but the CAA increases the ranges to the same as those for the AOTC, beginning in 2021.

## Lifetime Learning Credit vs. American Opportunity Credit:

- You do not need to be pursuing a degree to be eligible to claim the Lifetime Learning Credit.
- You can claim the American Opportunity Credit for the same student for no more than 4 tax years. There is no limit on the number of years for which you can claim a Lifetime Learning credit based on the same student's expenses.
- The Lifetime Learning credit is also non-refundable, whereas the American Opportunity Credit is partially refundable.
- LLC has a \$2,000 annual maximum vs. \$2,500 for the AOC.
- Full phase out of the credit is the same for each; \$90,000 single and \$180,000 married filing jointly



## Student Loan Interest Deduction

You may be able to deduct interest you pay on a qualified student loan. Generally, the amount you may deduct is the lesser of \$2,500 or the amount of interest you actually paid. The deduction is claimed as an above-line adjustment to income so you do not need to itemize your deductions.

## Tuition and Fees Education Tax Deduction

The tuition and fee education tax deduction was renewed for 2020, as result of a previous Congressional budget deal. However, it was **repealed for 2021** with the Taxpayer Certainty and Disaster Tax Relief Act of 2020.

## Fund a 529 Education Savings Account:

529 college savings plans work best if college is a long way off but they can make sense even if the beneficiaries are already in college. Parents or grandparents can easily set them up for one beneficiary and then add or change beneficiaries as your family needs evolve. The money you contribute grows tax free and comes out tax free if used for educational expenses, including a computer. And more than 30 states offer state tax breaks for contributing too. You can supercharge a 529 account by contributing up to five years of annual gift exclusions up front.

Recent tax law changes make these plans even more powerful: The money in a 529 can be used for K-12 tuition (up to \$10,000 a year per student), college, graduate school, and trade schools.



## Coverdell Education Savings Account

You can contribute up to \$2,000 a year to Coverdell savings accounts in 2021. These accounts can be used to offset the cost of elementary and secondary education, as well as post-secondary education.

## Employer-Provided Educational Assistance

As an employee in 2021, you can exclude up to \$5,250 of qualifying postsecondary and graduate education expenses that are reimbursed by your employer, including student loan payments by the employer. The employer receives a full tax deduction, and it is not subject to payroll taxes. The amount is not adjusted for inflation and is extended through 2025.



## **Retirement Savings Contributions Credit (Saver's Credit)**

In 2021, the adjusted gross income limit for the saver's credit for low and moderate-income workers is \$66,000 for married couples filing jointly, \$49,500 for heads of household, and \$33,000 for married individuals filing separately and for singles. The maximum credit amount is \$2,000 (\$4,000 if married filing jointly). As a reminder, starting in 2018, the Saver's Credit can be taken for your contributions to an ABL (Achieving a Better Life Experience) account if you're the designated beneficiary. However, keep in mind that your eligible contributions may be reduced by any recent distributions you received from your ABL account.

## **Health Care Tax Credit for Small Businesses**

Small business employers who pay at least half the premiums for single health insurance coverage for their employees may be eligible for the Small Business Health Care Tax Credit as long as they employ fewer than the equivalent of 25 full-time workers and average annual wages do not exceed \$50,000 (adjusted annually for inflation). This amount is \$56,000 for 2021 returns.

In 2021, the tax credit is worth up to 50 percent of your contribution toward employees' premium costs (up to 35 percent for tax-exempt employers).



# Home Office Deduction

You have two choices for calculating your home office deduction (you don't have to use the same method every year):

1. The standard method or
2. The simplified option

The standard method requires you to calculate your actual home office expenses and keep detailed records in the event of an audit.

The simplified option lets you multiply an IRS-determined rate by your home office square footage. To use the simplified option, your home office must not be larger than 300 square feet. The simplified option is a clear choice if you're pressed for time or can't pull together good records of your deductible home office expenses. However, because the simplified option is calculated as \$5 per square foot, with a maximum of 300 square feet, the most that you'll be able to deduct is \$1,500.

If you want to maximize your home office deduction, you'll want to calculate the deduction using both the regular and simplified methods to find out which one will give you the greater benefit. If you choose the regular method, calculate the deduction using IRS Form 8829, Expenses for Business Use of Your Home



CRYPTO CURRENCY





# CRYPTOCURRENCY Tax Ramifications

**IRS Notice 2014-21**

**Revenue Ruling 2019-24**

**IRS FAQs (IRS Website)**

CRYPTOCURRENCY –

IRS considered a capital asset at time of sale. Follow capital gains/losses tax laws.

IRS considers receipt without purchase ordinary income.

SELLING CRYPTOCURRENCY – Capital Transaction. Gain or loss compared to basis.

TAX BASIS IN CRYPTOCURRENCY – FMV at time of purchase or receipt.

RECEIVING CRYPTOCURRENCY NOT FROM A PURCHASE – FMV at time of receipt is ordinary income.

Sale of goods and services (cryptocurrency was paid for such goods and services)

Rewards paid for holding the cryptocurrency for a period of time.

Rewards paid for promoting the cryptocurrency.



# CRYPTOCURRENCY Example of Tax Ramifications

John buys 100 cryptocurrency “tokens” for \$100 US dollars (each token worth \$1 US dollars)

John’s cost basis is \$100 in 100 tokens

John receives 1 token worth \$1 for holding the cryptocurrency for 1 year

John recognizes ordinary income of \$1 FMV in US dollars

The recognition of income at FMV in US dollars is now the “tax basis” for that token

John now has 101 tokens with cost basis of \$1 per token or \$101 US dollars

John purchases good and/or services from Sally

John owes Sally 10 tokens

At the time of this transaction the FMV of each token has doubled

John paid \$20 FMV US dollars

John recognizes a capital transaction

John received \$20 FMV US dollars and has “sold” 10 tokens, “capital transaction”

John has cost basis of \$10. Sold \$20. \$10 capital gain. Long-term (over 1 year)

John now has 91 tokens (101 – 10) with a cost basis of \$1 per token (still)

Sally recognizes ordinary income of \$20, and has cost basis of \$20 in 10 tokens



# CRYPTO-CURRENCY

<b>Form 1040</b>	Department of the Treasury—Internal Revenue Service (99)	<b>2021</b>	OMB No. 1545-0074	IRS Use Only—Do not write or staple in this space.
<b>Filing Status</b>	<input type="checkbox"/> Single <input type="checkbox"/> Married filing jointly <input type="checkbox"/> Married filing separately (MFS) <input type="checkbox"/> Head of household (HOH) <input type="checkbox"/> Qualifying widow(er) (QW)			
Check only one box.	If you checked the MFS box, enter the name of your spouse. If you checked the HOH or QW box, enter the child's name if the qualifying person is a child but not your dependent ▶			
Your first name and middle initial		Last name		Your social security number
If joint return, spouse's first name and middle initial		Last name		Spouse's social security number
Home address (number and street). If you have a P.O. box, see instructions.			Apt. no.	<b>Presidential Election Campaign</b> Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not change your tax or refund. <input type="checkbox"/> You <input type="checkbox"/> Spouse
City, town, or post office. If you have a foreign address, also complete spaces below.		State	ZIP code	
Foreign country name		Foreign province/state/county	Foreign postal code	
At any time during 2021, did you receive, sell, exchange, or otherwise dispose of any financial interest in any virtual currency? <input type="checkbox"/> Yes <input type="checkbox"/> No				



**NEW FOR 2021 ON FORM 1040  
NO LONGER REQUIRES DISCLOSURE IF YOU "PURCHASED"  
VIRTUAL CURRENCY**





A graphic with a blue background. The letters 'QBI' are in large, bold, yellow-orange font. A magnifying glass with a black handle and frame is positioned over the 'BI' part of 'QBI'. Below 'QBI', the word 'Deduction' is written in a smaller, bold, yellow-orange font. There are white concentric arc lines on the left and right sides of the text, suggesting a search or focus.

# QBI Deduction





Form **1040** Department of the Treasury—Internal Revenue Service (99) **2021** U.S. Individual Income Tax Return OMB No. 1545-0074 IRS Use Only—Do not write or staple in this space.

**Filing Status** ☐ Single ☐ Married filing jointly ☐ Married filing separately (MFS) ☐ Head of household (HOH) ☐ Qualifying widow(er) (QW)  
Check only one box.  
If you checked the MFS box, enter the name of your spouse. If you checked the HOH or QW box, enter the child's name if the qualifying person is a child but not your dependent ▶

Your first name and middle initial		Last name		Your social security number	
If joint return, spouse's first name and middle initial		Last name		Spouse's social security number	
Home address (number and street). If you have a P.O. box, see instructions.				Apt. no.	
City, town, or post office. If you have a foreign address, also complete spaces below.				State ZIP code	
Foreign country name		Foreign province/state/county		Foreign postal code	

At any time during 2021, did you receive, sell, exchange, or otherwise dispose of any financial interest in any virtual currency? ☐ Yes ☐ No

**Standard Deduction** **Someone can claim:** ☐ You as a dependent ☐ Your spouse as a dependent  
☐ Spouse itemizes on a separate return or you were a dual-status alien

**Age/Blindness** **You:** ☐ Were born before January 2, 1957 ☐ Are blind **Spouse:** ☐ Was born before January 2, 1957 ☐ Is blind

**Dependents** (see instructions):  
If more than four dependents, see instructions and check here ▶ ☐

(1) First name	Last name	(2) Social security number	(3) Relationship to you	(4) <input checked="" type="checkbox"/> if qualifies for (see instructions): Child tax credit	Credit for other dependents
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>

<b>1</b> Wages, salaries, tips, etc. Attach Form(s) W-2 . . . . .	<b>1</b>
<b>2a</b> Tax-exempt interest . . . . .	<b>2a</b>
<b>3a</b> Qualified dividends . . . . .	<b>3a</b>
<b>4a</b> IRA distributions . . . . .	<b>4a</b>
<b>5a</b> Pensions and annuities . . . . .	<b>5a</b>
<b>6a</b> Social security benefits . . . . .	<b>6a</b>
<b>7</b> Capital gain or (loss). Attach Schedule D if required. If not required, check here . . . . . <input type="checkbox"/>	<b>7</b>
<b>8</b> Other income from Schedule 1, line 10 . . . . .	<b>8</b>
<b>9</b> Add lines 1, 2b, 3b, 4b, 5b, 6b, 7, and 8. This is your <b>total income</b> . . . . . ▶	<b>9</b>
<b>10</b> Adjustments to income from Schedule 1, line 26 . . . . .	<b>10</b>
<b>11</b> Subtract line 10 from line 9. This is your <b>adjusted gross income</b> . . . . . ▶	<b>11</b>
<b>12a</b> <b>Standard deduction or itemized deductions</b> (from Schedule A) . . . . .	<b>12a</b>
<b>b</b> Charitable contributions if you take the standard deduction (see instructions) . . . . .	<b>12b</b>
<b>c</b> Add lines 12a and 12b . . . . .	<b>12c</b>
<b>13</b> Qualified business income deduction from Form 8995 or Form 8995-A . . . . .	<b>13</b>
<b>14</b> Add lines 12c and 13 . . . . .	<b>14</b>
<b>15</b> <b>Taxable income.</b> Subtract line 14 from line 11. If zero or less, enter -0- . . . . .	<b>15</b>

**Standard Deduction for—**  
• Single or Married filing separately, \$12,550  
• Married filing jointly or Qualifying widow(er), \$25,100  
• Head of household, \$18,800

any box under Standard Deduction, see instructions.

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 11320B Form **1040** (2021)

# Qualified Business Income Deduction

## Form 1040, Line 13

### What is this?

A tax deduction out of thin air which is 20% of your net business income as an additional tax deduction on your individual tax return.

Includes “QBI” from:

Schedule C & F

Schedule K-1’s for S-  
Corporations & Partnerships



# QUALIFIED BUSINESS INCOME DEDUCTION + COVID STIMULUS

- WHILE THE QBI DEDUCTION IS CALCULATED & DETERMINED AT THE INDIVIDUAL LEVEL, THE FLOW-THRU ENTITY NONETHELESS REPORT “QUALIFIED BUSINESS INCOME”
  - QUALIFIED BUSINESS INCOME IS “TRADE OR BUSINESS INCOME”
    - EXCLUDES PPP LOAN FORGIVENESS
      - FORGIVEN OR NOT
    - EXCLUDES EIDL GRANTS
      - INCLUDES TARGETED EIDL GRANT & SUPPLEMENTAL EIDL GRANT
    - EXCLUDES EIDL (IT’S A LOAN)
  - INCLUDES TAXABLE OTHER COVID RELATED GRANTS
  - INCLUDES FAMILY & SICK LEAVE TAX CREDITS (OTHER INCOME)
    - IN TAX YEAR THE RELATED PAYROLL WAS DEDUCTED
  - INCLUDES EMPLOYEE RETENTION TAX CREDITS (AS REDUCTION OF WAGES)
    - IN TAX YEAR THE RELATED PAYROLL WAS DEDUCTED



# QUALIFIED BUSINESS INCOME DEDUCTION + “QBI WAGES”

- IF A BUSINESS RECEIVES THE EMPLOYEE RETENTION TAX CREDIT
  - IT REDUCES DOWN WAGES DEDUCTED TO ARRIVE AT TAXABLE INCOME
- TYPICALLY THE TAX SOFTWARE PULLS “QBI WAGES” FROM THE AMOUNT OF WAGES DEDUCTED ON THE TAX RETURN
  - THE ERTC WOULD REDUCE THAT AMOUNT SHOWN ON PAGE 1 (WHAT IS ENTERED)
- HOWEVER, “QBI WAGES” ARE BASED ON WHAT IS REPORTED ON FORM W-2
  - THEREFORE, BE SURE TO “QBI WAGES” REPORTED ARE NOT NET OF ERTC





# LOOK BACK TAX STRATEGIES

## THE CARES ACT



# SECTION 179 EXPENSING

UNDER THE TAX CUTS AND JOBS ACT OF 2017, THE SECTION 179 EXPENSE DEDUCTION INCREASES TO A MAXIMUM DEDUCTION OF \$1.05 MILLION OF THE FIRST \$2.62 MILLION OF QUALIFYING EQUIPMENT PLACED IN SERVICE DURING THE CURRENT TAX YEAR.

THE DEDUCTION WAS INDEXED TO INFLATION FOR TAX YEARS AFTER 2018 AND ENHANCED TO INCLUDE IMPROVEMENTS TO NONRESIDENTIAL QUALIFIED REAL PROPERTY SUCH AS ROOFS, FIRE PROTECTION, ALARM SYSTEMS AND SECURITY SYSTEMS, AND HEATING, VENTILATION, AND AIR-CONDITIONING SYSTEMS.



# DEPRECIATION REMINDERS TO STRATEGIZE

- TCJA PROVIDES FOR A GRADUAL DECREASE IN THE BONUS DEPRECIATION PERCENTAGE, ALLOWING THIS ON BOTH NEW AND USED QUALIFYING PROPERTY.
  - 100% DEDUCTION FOR PROPERTY PLACED IN SERVICE BEFORE 2023
  - 80% DEDUCTION FOR PROPERTY PLACED IN SERVICE IN 2023
  - A 60% DEDUCTION FOR PROPERTY PLACED IN SERVICE IN 2024
  - A 40% DEDUCTION FOR PROPERTY PLACED IN SERVICE IN 2025
  - AND A 20% DEDUCTION FOR PROPERTY PLACED IN SERVICE IN 2026



# IRS ISSUES FINAL REGULATIONS ON QUALIFIED IMPROVEMENT PROPERTY (T.D. 9956)

**ALSO SEE: IRS BULLETIN NO 2021-41 (October 12, 2021)**

THE IRS ISSUED FINAL REGULATIONS (T.D. 9956) ADDRESSING THE CALCULATION OF QUALIFIED BUSINESS ASSET INVESTMENT ("QBAI") WHEN QUALIFIED IMPROVEMENT PROPERTY ("QIP") IS DEPRECIATED UNDER THE ALTERNATIVE DEPRECIATION SYSTEM ("ADS").

T.D. 9956 ALSO MAKES FINAL THE PROPOSED REGULATIONS FROM NOVEMBER 2020 REGARDING NET OPERATING LOSS ("NOL") CARRYBACKS TO PRE-2018 TAX YEARS.



# DEPRECIATION:

## A WINDOW TO LOOK BACK, THEN FORWARD

- THE CARES ACT CHANGED SEVERAL LAWS PUT IN PLACE BY TCJA FOR 2018, 2019 & 2020, BUT NOW BACK IN AFFECT FOR 2021, AND FORWARD.
  - EXCESS BUSINESS LOSS LIMITATIONS
  - NET OPERATING LOSSES (NOLs)
    - NOT JUST THE CARRYBACK, BUT WHAT ABOUT THE CARRYFOWARD?
- TCJA PERMENANTLY CHANGED THE DEFINITION OF “QUALIFIED IMPROVEMENT PROPERTY” (QIP)
- THE CARES ACT PERMENANTLY CHANGED THE DEPRECIABLE LIFE OF “QUALIFIED IMPROVEMENT PROPERTY” (QIP)
  - 15 YEAR PROPERTY



# DEPRECIATION REMINDERS TO STRATEGIZE

- BONUS DEPRECIATION CAN CREATE A LOSS
  - AVOIDING EXCESS BUSINESS LOSSES MAY HAVE ALTERED YOUR PRIOR DEPRECIATION DECISION MAKING PROCESS (BEFORE THE CARES ACT)
    - IF THE BONUS DEPRECIATION CREATED A LOSS IN EXCESS OF THE LIMITATIONS
- SECTION 179 DEPRECIATION IS LIMITED TO NET TAXABLE INCOME
  - AVOIDING EXCESS BUSINESS LOSSES MAY HAVE ALTERED YOUR PRIOR DEPRECIATION DECISION MAKING PROCESS (BEFORE THE CARES ACT) BY NOT TAKING BONUS DEPRECIATION, BUT INSTEAD TAKING SECTION 179 DEPRECIATION
- BEFORE THE CARES ACT, QUALIFIED IMPROVEMENT PROPERTY WAS DEPRECIATED OVER 39 YEARS
- QIP IS DEFINED IN SECTION 168(E)(6) AS “ANY IMPROVEMENT MADE BY THE TAXPAYER TO AN INTERIOR PORTION OF A BUILDING WHICH IS NONRESIDENTIAL REAL PROPERTY IF SUCH IMPROVEMENT IS PLACED IN SERVICE AFTER THE DATE SUCH BUILDING WAS FIRST PLACED IN SERVICE.”



# DEPRECIATION TAX STRATEGY: AMENDING A PRIOR YEAR TO BETTER BENEFIT A FUTURE HIGHER TAX YEAR

- IDENTIFY CLIENTS THAT HAD QUALIFIED IMPROVEMENT PROPERTY PLACED IN SERVICE IN 2018, 2019 AND/OR 2020
  - AMEND TO ADJUST THE DEPRECIABLE LIVES TO WHAT THEY SHOULD BE?
- OF THOSE CLIENTS, IDENTIFY THE ONES THAT DID NOT TAKE BONUS DEPRECIATION
  - SHOULD YOU AMEND TO NOW TAKE THE BONUS DEPRECIATION?
  - WITHOUT THE EXCESS BUSINESS LOSS LIMITATION, WHAT IS THE BENEFIT?
  - DOES THE LOSS CREATE A NOL?
    - WHAT BENEFIT WOULD IT BE TO FORGO THE NOL CARRYBACK?
    - ALLOW THE NOL TO CARRY FORWARD TO HIGHER TAX YEAR?
- ALSO, OF THOSE CLIENTS, IDENTIFY THE ONES THAT A 39 YEAR LIFE WAS USED AS THE DEPRECIATION METHOD
  - AMENDED TO CHANGE TO 15 YEARS



# Work Opportunity Tax Credit





# Work Opportunity Tax Credit – Missing Out?

Generally, the WOTC equals 40% of the first-year wages of up to \$6,000 per employee, for a maximum of \$2,400.

For certain qualified veterans, the credit may be claimed for up to \$24,000 of wages, for a \$9,600 maximum.

There is no limit on the number of credits per business.

The credit is available if a worker falls into a “target” group.

**Tip:** The WOTC is extended for five years through 2025 by the Consolidated Appropriations Act.



# Work Opportunity Tax Credit - Targeted Groups

## **WOTC targeted groups include:**

- 1) Qualified IV-A recipient
- 2) Qualified Veteran
- 3) Qualified Ex-Felon
- 4) Designated Community Resident
- 5) Vocational Rehabilitation Referral
- 6) Summer Youth Employee
- 7) Supplemental Nutrition Assistance Program (SNAP "food stamps") recipient
- 8) Supplemental Security Income (SSI) recipient
- 9) Long-term Family Assistance recipient
- 10) **Qualified Long-term Unemployment recipient**

## **Qualified Long-term Unemployment recipient:**

A member of this target group is an individual who has been unemployed for at least 27 consecutive weeks and received unemployment compensation under state or federal law at some point during this period.



# Work Opportunity Tax Credit – 3 Steps

1. Connect with a qualified job candidate. American Job Centers can help! State Workforce Agencies (SWAs) are authorized to administer the WOTC certification process. SWAs coordinate with American Job Centers and partnering agencies – such as vocational rehabilitation agencies, city and county social service offices, the Veterans Administration and others – to help employers connect with skilled job seekers who may be members of WOTC targeted groups.
2. File a WOTC certification request with your state workforce agency. Employers must apply for and receive a certification verifying that the new hire is a member of a targeted group before they can claim the tax credit. To verify whether a job applicant is a first-time, qualifying member of a targeted group, employers must submit IRS Form 8850, together with ETA Form 9061 or ETA Form 9062, to the state workforce agency in which your business is located within 28 calendar days after the new hire's start date.
3. Receive a WOTC certification for eligible new hires, and claim the credit after their first year of employment. If the new hire meets the eligibility requirements for a WOTC targeted group, you will receive a certification (ETA Form 9063) from your state workforce agency. Taxable employers can claim the WOTC as a general business credit against their income taxes. Tax-exempt employers who hire qualified veterans can claim the WOTC against their payroll taxes. Generally, the credit is 40% of qualified wages for individuals who work 400+ hours in their first year of employment. For more information about claiming the credit, see the instructions on the IRS.gov.



# REPORTING COVID TAX CREDITS

The image shows a collage of various US tax forms, including Form 1040, Form 1041, and Form 990. The forms are overlapping and tilted at different angles, creating a sense of complexity and depth. The forms contain various sections for reporting income, deductions, and credits, with some sections highlighted in red and others in blue. The text on the forms is partially legible, showing fields for names, addresses, and various tax-related information. The overall image conveys the intricate nature of tax reporting, particularly in the context of COVID-related tax credits.



# WHEN TO REPORT COVID TAX CREDITS

AS CITED IN IRS NOITCE 2021-49: SECTION 2301(E) GENERALLY PROVIDES, IN RELEVANT PART, THAT RULES SIMILAR TO THE RULES OF SECTION 280C(A) OF THE CODE SHALL APPLY. SECTION 280C(A) REQUIRES TRACING TO THE SPECIFIC WAGES GENERATING THE APPLICABLE CREDIT. SEE, GENERALLY, TREAS. REG. § 1.280C-1. TO SATISFY THIS TRACING REQUIREMENT, THE TAXPAYER MUST FILE AN AMENDED RETURN OR AAR, AS APPLICABLE

PER IRS NOTICE 2021-49 SPECIFICALLY STATES THE CREDIT IS TO BE RELFECTED ON THE TAX RETURN IN WHICH THE WAGES WERE DEDUCTED THAT RECEIVED THE TAX CREDIT.

## **FAMILY & SICK LEAVE TAX CREDITS**

IN YEAR WAGES WERE DEDUCTED, REGARDLESS OF WHEN THE CREDIT WAS RECEIVED OR FILED FOR

## **EMPLOYEE RETENTION TAX CREDITS**

IN YEAR WAGES WERE DEDUCTED, REGARDLESS OF WHEN THE CREDIT WAS RECEIVED OR FILED FOR



# WHERE TO REPORT COVID TAX CREDITS

## **FOR BOTH TAX CREDITS**

PER IRS INSTRUCTIONS FOR  
SCHEDULE C or F

FORMS 1120-S, 1065 & 1120

SPECIFICALLY SEE THE INSTRUCTIONS REGARDING THE DEDUCTION OF "TAXES"  
APPLIES TO BOTH REFUNDABLE AND NONREFUNDABLE PORTIONS OF THE CREDIT

## **FAMILY & SICK LEAVE TAX CREDITS**

REPORTED AS "OTHER INCOME"

## **EMPLOYEE RETENTION TAX CREDITS**

REPORTED AS A REDUCTION OF WAGES

REMEMBER WHAT WE PREVIOUSLY DISCUSSED ON REPORTING "QBI WAGES"





PPP LOAN  
FORGIVENESS

AFFECT ON  
“BASIS”



# PPP LOAN FORGIVENESS INCREASES BASIS

THIS DOES NOT EQUAL AN OVERALL INCREASE TO BASIS.

- THE DEDUCTIBLE EXPENSES REDUCE BASIS
- THE TAX-EXEMPT INCOME INCREASES BASIS
- NET ZERO, OVERALL AFFECT TO BASIS

CONSOLIDATED APPROPRIATIONS ACT PROVIDES

- FORGIVENESS OF LOANS IS EXEMPT FROM TAX
- FORGIVEN LOAN AMOUNTS ARE TAX-EXEMPT INCOME
  - WITHIN THE MEANING OF SECS. 705 (PARTNERSHIPS) AND 1366 (S CORPORATIONS)
- FORGIVEN AMOUNTS ARE TREATED AS INCREASES IN BASIS TO THE OWNERS
- ANY AMOUNTS PAID FROM THE FUNDS OF THE FORGIVEN PPP LOANS ARE NOT SUBJECT TO DISALLOWANCE AS DEDUCTIONS MERELY DUE TO THE TAX-EXEMPT SOURCE OF FUNDS
- APPLIES TO ANY SUBSEQUENT PPP LOANS
- TREASURY DOES NOT HAVE THE AUTHORITY TO DISALLOW BASIS TO PARTNERS OR SHAREHOLDERS, OR DISALLOW DEDUCTIONS FOR PAYMENTS RESULTING FROM FORGIVEN LOAN PROCEEDS



S I C K

L E A V E

**PAYROLL & SELF-EMPLOYED  
TAX CREDITS**



# SICK LEAVE TAX CREDITS

## EMPLOYEE & SELF-EMPLOYED WITH COVID AND/OR UNDER QUARANTINE

- 100% OF NET DAILY EARNINGS
  - NOT TO EXCEED \$511 PER DAY (\$5,110)
  - MAX 10 DAYS
- SELF-EMPLOYED CAN TAKE THE CREDIT ALSO
  - TAKEN AS TAX CREDIT ON FORM 1040
- ENDS SEPTEMBER 30, 2021
  - (WITH RESET ON APRIL 1, 2021)
- REFUNDABLE

## EMPLOYEE & SELF-EMPLOYED CARING FOR HOUSEHOLD FAMILY MEMBER WITH COVID AND/OR UNDER QUARANTINE

- 100% OF NET SELF-EMPLOYED DAILY EARNINGS
  - NOT TO EXCEED \$200 PER DAY
  - MAX 10 DAYS (\$2,000)
- THE ALLOWABLE AMOUNT REDUCE TO 67%
- SELF-EMPLOYED CAN TAKE THE CREDIT ALSO
  - TAKEN AS TAX CREDIT ON FORM 1040
- ENDS SEPTEMBER 30, 2021
  - (WITH RESET ON APRIL 1, 2021)
- REFUNDABLE



**SICK LEAVE PAYROLL TAX CREDIT****COVID, SYMPTOMS OF COVID, UNDER QUARANTINE, ETC.****Max \$511/Day Pay, Max 10 Days (No Partial Days)****SELF-EMPLOYED TAX CREDITS**

2020, Schedule C, Line 31 (Net Income)

\$ 38,000 (a)

\* or 2021, the higher one

Divided by 260 Days (52 weeks, 5 Days per Week)

\$ 146 (b)

(a) Divided by (b)

Max Daily Rate Allowed

\$ 511 (c)

Set Limit by Law

Enter the Lesser of (b) or (c)

\$ 146 (d)

Lower of Daily Based on Net Earnings or Max \$511 Day

Number of Days Out (Max 10)

10 (e)

Days

Tax Credit Multiply (d) by (e)

\$ 1,462

Line 10 of Form 7202

\* Form 7202 for 2021 allows the use of line 31 of Schedule C to be based on the higher of 2020 or 2021.



**SICK LEAVE PAYROLL TAX CREDIT****CARING FOR AN INDIVIDUAL WITH COVID, SYMPTOMS OF COVID, UNDER QUARANTINE, ETC.****Max \$200/Day Pay, Max 10 Days (No Partial Days)****SELF-EMPLOYED TAX CREDITS**

2020, Schedule C, Line 31 (Net Income)	\$ 38,000	(a)	
* or 2021, the higher one			
Divided by 260 Days (52 weeks, 5 Days per Week)	\$ 146	(b)	(a) Divided by (b)
Max Daily Rate Allowed	\$ 200	(c)	Set Limit by Law
Enter the Lesser of (b) or (c)	\$ 146	(d)	Lower of Daily Based on Net Earnings or Max \$200 Day
Multiply (d) by .67 (67%)	\$ 98	(e)	Reduced Down Allowed Daily Amount
Number of Days Out (Max 10)	9	(f)	Days
Tax Credit Multiply (d) by (e)	\$ 881		Line 13 of Form 7202

\* Form 7202 for 2021 allows the use of line 31 of Schedule C to be based on the higher of 2020 or 2021.





# PAID FAMILY LEAVE

REQUEST FORM

**PAYROLL & SELF-EMPLOYED  
TAX CREDITS**



# FAMILY LEAVE TAX CREDITS

EMPLOYEE & SELF-EMPLOYED UNABLE TO WORK BECAUSE OF A NEED TO CARE FOR A CHILD WHOSE SCHOOL OR PLACE OF CARE IS CLOSED OR WHOSE CHILD CARE PROVIDER IS UNAVAILABLE DUE TO CORONAVIRUS PANDEMIC

- 100% OF NET SELF-EMPLOYED DAILY EARNINGS
  - NOT TO EXCEED \$200 PER DAY
  - 2020: MAX 50 DAYS (\$10,000)
  - 2021: MAX 60 DAYS (\$12,000)
- THE ALLOWABLE AMOUNT REDUCE TO 67%
- SELF-EMPLOYED CAN TAKE THE CREDIT ALSO
  - TAKEN AS TAX CREDIT ON FORM 1040
- ENDS NOW SEPTEMBER 30, 2021 (WITH RESET ON APRIL 1, 2021)
- REFUNDABLE

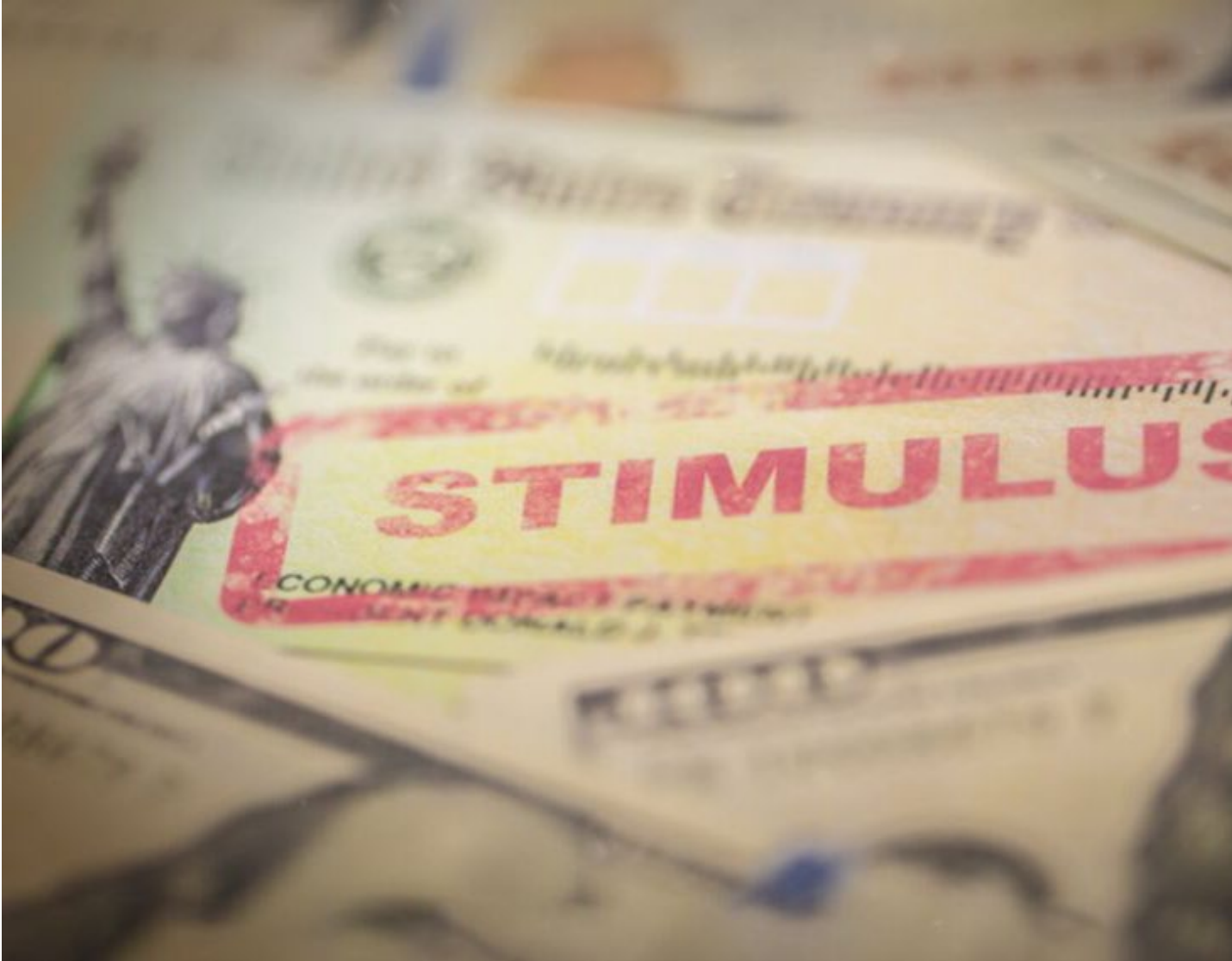


**FAMILY LEAVE PAYROLL TAX CREDIT****EMPLOYEE UNABLE TO WORK BECAUSE OF A NEED TO CARE FOR A CHILD... SEE GUIDELINES PRESENTED****Max \$200/Day Pay, Max 50 Days, Max \$10,000 (Partial Days Allowed)****SELF-EMPLOYED TAX CREDITS**

2020, Schedule C, Line 31 (Net Income)	\$ 38,000	(a)	
* or 2021, the higher one			
Divided by 260 Days (52 weeks, 5 Days per	\$ 146	(b)	(a) Divided by (b)
Max Daily Rate Allowed	\$ 200	(c)	Set Limit by Law
Enter the Lesser of (b) or (c)	\$ 146	(d)	Lower of Daily Based on Net Earnings or Max \$200 Day
Multiply (d) by .67 (67%)	\$ 98	(e)	Reduced Down Allowed Daily Amount
Number of Days Out (Max 50)	36	(f)	Days
Tax Credit Multiply (d) by (e)	\$ 3,525		Line 30 of Form 7202

\* Form 7202 for 2021 allows the use of line 31 of Schedule C to be based on the higher of 2020 or 2021.





# EIDL & RELATED GRANTS



# THE BIG EIDL & EIDL Grant QUESTIONS!

Is the EIDL taxable? **NO**

Is the EIDL grant, EIDL supplemental grant or EIDL targeted supplemental grant taxable? **NO**

Do you report EIDL or any of the EIDL grants as income? **NO**

Does the EIDL or any of the EIDL grants reduce your tax deductions? **NO**

Is this the same for self-employed individuals? **YES**

When do payments begin on the EIDL? **24 months after disbursement.**

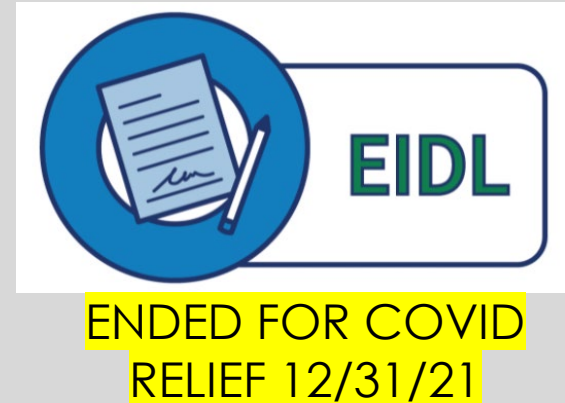
Does interest accrue while payments are deferred with the EIDL? **YES, starting from the date you got the loan.**

Will I have to report any additional information to the SBA after I got the loan? **Receipts upon SBA request.**

**NOTE: According to EIDL loan documents, an annual financial statement within 3 months after the close of the year.**

What can I use the EIDL and EIDL grant for? **Operational expenses, business debt, new assets (some exceptions).**

Can I pay myself (the owner) with EIDL or EIDL grant? **YES, with exceptions shared verbally during seminar.**









# **NEW SBA PORTAL PPP LOAN FORGIVENESS FILED DIRECTLY WITH THE SBA**

- PPP LOANS ONLY \$150,000 OR BELOW
- FOLLOWS FORM 3508-S
- NO PPP RULES CHANGED
- BANK MUST ELECT TO PARTICIPATE
- IF THE BANK IS PARTICIPATING, THE BORROWER MUST USE THE PORTAL



# NEW SBA PROVISION FOR PPP LOAN FORGIVENESS ON A SECOND DRAW

- FOR PPP SECOND DRAW FORGIVENESS, SBA INTRODUCED A SCORING SYSTEM FOR CERTAIN INDUSTRIES TO DETERMINE IF THEY QUALIFIED UNDER THE REQUIREMENT OF AT LEAST A 25% DROP IN GROSS RECEIPTS COMPARING QUARTERS IN 2020 TO 2019
- THIS CAN BE USED WHETHER FORGIVENESS IS APPLIED DIRECT WITH THE SBA OR WITH THE BANK
- THIS IS ONLY TO BE USED IF THE BORROWER DOES NOT HAVE DOCUMENTATION AVAILABLE TO PROVE THE 25% REDUCTION IN GROSS RECEIPTS



# WHEN ARE PPP LOAN FORGIVENESS APPLICATIONS DUE?

## PER SBA: BEFORE THE MATURITY OF THE PPP LOAN

- PPP LOANS ISSUED BEFORE JUNE 5, 2020 HAVE A 2 YEAR MATURITY DATE
- PPP LOANS ISSUED JUNE 5, 2020 OR AFTER HAVE A 5 YEAR MATURITY DATE

## PER SBA: DEFERMENT OF PAYMENTS ON PPP LOANS DOES NOT AFFECT FORGIVENESS

- PAYMENTS ARE ONLY DEFERRED 10 MONTHS FOLLOWING THE COVERED PERIOD
- NOT APPLYING ON OR BEFORE THE END OF THE PAYMENT DEFERMENT PERIOD DOES NOT AFFECT THE FORGIVENESS OF THE PPP LOAN



# THE BIG PPP Loan & PPP Forgiveness QUESTIONS!

Is PPP taxable? **NO**

Do you report PPP as income? **NO**

Does PPP reduce your tax deductions? **NO**

Is this the same for self-employed individuals? **YES**

When is the PPP loan forgiveness application due? **By the maturity of the loan.**

How long are PPP loan payments deferred? **From the disbursement date plus 24 weeks plus 10 months.\***

When should you file for PPP loan forgiveness? **Anytime, up until payments are done being deferred.\***

The bank says *if I don't apply for PPP loan forgiveness in time, the SBA won't forgive it*. Is this true? **NOT REALLY**  
**Only if you didn't file for PPP loan forgiveness 5 years after you got the PPP loan (maturity date)**  
**or 2 years if you got the PPP loan on or before June 5, 2020.**

What if I don't apply for PPP loan forgiveness, and payments begin on my PPP loan?

**1) Make payments! 2) Apply for PPP loan forgiveness. 3) When you get PPP loan forgiveness, the SBA will pay the bank.**









# ERTC INTERACTION WITH PPP EITHER ROUND, EITHER DRAW

PER THE





# PER THE SBA: EXCLUDE WAGES USED FOR ERTC FROM PPP FORGIVENESS PAYROLL COSTS

FORM 3508-S (PAGE 4) CASH COMPENSATION: "Do not include qualified wages taken into account in determining the Employer Retention Credit"

Cash Compensation: The sum of gross salary, gross wages, gross tips, gross commissions, paid leave (vacation, family, medical or sick leave, not including leave covered by the Families First Coronavirus Response Act), and allowances for dismissal or separation paid or incurred during the Covered Period. Do not include qualified wages taken into account in determining the Employer Retention Credit. For each individual employee, the total amount of cash compensation eligible for forgiveness may not exceed an annual salary of \$100,000, as prorated for the Covered Period. For example, for an 8-week Covered Period, the maximum is \$15,385; for a 24-week Covered Period, the maximum is \$46,154. You can only include compensation of employees who were employed by the Borrower at any point during the Covered Period and whose principal place of residence is in the United States.

FORM 3508-EZ (PAGE 6) CASH COMPENSATION: Same language as above

FORM 3508 (PAGE 10) CASH COMPENSATION: Same language as above

SBA IFR: Paycheck Protection Program (PPP) as Amended by the Economic Aid Act **Effective 1/6/21**  
(PAGES 58-59): Payroll costs that are qualified wages taken into account in determining the Employer Retention Credit are not eligible for loan forgiveness.



# ERTC INTERACTION WITH PPP EITHER ROUND, EITHER DRAW

PER THE





# PER THE IRS: AFTER THE APPROPRIATIONS ACT

## IRS RELEASE OF CHANGES (1/22/2021):

“Under section 206(c) of the Taxpayer Certainty and Disaster Tax Relief Act of 2020, an employer that is eligible for the employee retention credit (ERC) can claim the ERC even if the employer has received a Small Business Interruption Loan under the Paycheck Protection Program (PPP).

**The eligible employer can claim the ERC on any qualified wages that are not counted as payroll costs in obtaining PPP loan forgiveness.**

Any wages that could count toward eligibility for the ERC **or** PPP loan forgiveness can be **applied to either** of these two programs, but **not** both.”





**BIGGEST  
MISCONCEPTION**

WHEN  
CALCULATING  
PPP LOAN  
FORGIVENESS

**TOGETHER WITH**

EMPLOYEE  
RETENTION TAX  
CREDIT



# YOU HAVE TO USE UP PPP BEFORE YOU GET ERTC?

WRONG!

NOT CORRECT!

YOU CAN GET BOTH!

KEY: CAN'T GET BOTH ON THE SAME WAGES



# COMMON QUESTIONS WHEN CALCULATING PPP LOAN FORGIVENESS AND ERTC

- CAN WAGES IN THE SAME PAY-PERIOD BE USED FOR BOTH ERTC & PPP?
  - YES. THE SAME EXACT WAGES CANNOT.
- CAN WAGES TO A SINGLE EMPLOYEE BE USED FOR BOTH ERTC & PPP IN THE SAME PAY-PERIOD?
  - YES. BUT NOT THE SAME EXACT WAGES.
- WHAT DOES "EXACT WAGES" MEAN WHEN TRYING TO MAXIMIZE PPP LOAN FORGIVENESS & ERTC?
  - IF WE WERE TO BREAK AN EMPLOYEE'S WAGES DOWN TO TIME IN THE DAY, THE SAME "TIME" CANNOT BE USED FOR BOTH.
    - EXAMPLE WOULD BE TO BREAK AN EMPLOYEE'S PAY INTO 15 MINUTE INCREMENTS (EVEN IF SALARIED):
    - FOR AN 8 HOUR WORK-DAY, 6 HOURS & 45 MINUTES COULD BE USED FOR ERTC... AND 1 HOUR & 15 MINUTES COULD BE USED FOR PPP
- HEALTH INSURANCE NEED TO FOLLOW HOW WAGES ARE APPLIED TO EITHER?
  - NO.
  - ERTC COULD BE NOTHING BUT WAGES FOR A PARTICULAR EMPLOYEE
  - AND ALL THE EMPLOYER PAID HEALTH INSURANCE COULD BE USED FOR PPP LOAN FORGIVENESS PURPOSES
  - THE KEY IS THAT THE HEALTH INSURANCE "AMOUNT" CAN ONLY BE USED FOR ERTC OR PPP.
  - YES, SOME OF THE HEALTH INSURANCE CAN BE USED FOR ERTC, AND THE OTHER FOR PPP.





## Employee Retention Credit



# **Executive Summary**

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## Infrastructure Bill became law 11/15/2021

- This ends the ERTC effective 9/30/2021
- ERTC is no longer available for 4<sup>th</sup> quarter 2021, EXCEPT for a “Recovery Start Up Business”
- It was available for 4<sup>th</sup> quarter 2021, until this law
- ERTC still available for qualified wages & employer paid health insurance paid 3/13/2020-9/30/2021



# EMPLOYEE RETENTION TAX CREDIT (ERTC)

## EXECUTIVE SUMMARY

- CAN TAKE IF RECEIVED PPP
  - RETROACTIVE BACK TO 3/13/2020
  - WAGES USED FOR ERTC CANNOT BE USED FOR PPP FORGIVENESS
  - WAGES USED ALREADY FOR PPP FORGIVENESS CURRENTLY CAN'T BE USED FOR ERTC PURPOSES
- CREDIT 50% OF QUALIFIED \$10,000 WAGES FOR 2020
- CREDIT 70% OF QUALIFIED \$10,000 WAGES FOR 2021 EXTENDED TO 9/30/2021 (NEW LAW)
- \$10,000 MAX WAGES PER CALENDAR YEAR 2020
  - MAX \$5,000 PAYROLL TAX CREDIT PER EMPLOYEE FOR ALL 2020
- \$10,000 MAX WAGES PER QUARTER FOR 1<sup>st</sup>, 2<sup>nd</sup> & 3<sup>rd</sup> QUARTERS 2021
  - MAX \$7,000 PAYROLL TAX CREDIT PER EMPLOYEE PER QUARTER
    - MAX \$21,000 PER EMPLOYEE FOR 2021 (NEW LAW EFFECTIVE 11/15/21)
- INCLUDES HEALTH INSURANCE PAID BY THE EMPLOYER FOR APPLICABLE PAYROLL
- EMPLOYER SIZE DEPENDENT ON AVERAGE NUMBER OF EMPLOYEES
  - BOTH 2020 AND 2021, THE AVERAGE NUMBER OF EMPLOYEES BASED ON 2019
  - THE THRESHOLD FOR 2020 IS 100 EMPLOYEES
  - THE THRESHOLD FOR 2021 IS 500 EMPLOYEES
  - THE THRESHOLD AND BELOW, ALL WAGES QUALIFY IF EMPLOYER QUALIFIES FOR ERTC (EXCEPTIONS EXIST)
  - ABOVE THE THRESHOLD, ONLY WAGES PAID TO EMPLOYEES THAT DIDN'T PROVIDE SERVICES QUALIFY FOR AN EMPLOYER WHO QUALIFIES FOR ERTC (EXCEPTIONS DO EXIST)
- NOT LIMITED TO EMPLOYER SOCIAL SECURITY TAXES & REFUNDABLE
- NOT AVAILABLE FOR MORE THAN 50% OWNERS OR SPOUSES, RELATED INDIVIDUALS IN MOST EVERY CIRCUMSTANCE OR SELF-EMPLOYED on SELF-EMPLOYED INCOME
- TWO WAYS TO QUALIFY (EITHER/OR) BOTH NOT REQUIRED
  - GOVERNMENT PARTIAL OR FULL SUSPENSION OF OPERATIONS LIMITING COMMERCE, TRAVEL, OR GROUP MEETINGS
  - OR
  - A SPECIFIC DECLINE IN GROSS RECEIPTS FOR THE QUARTER
- IF BY REDUCTION IN GROSS RECEIPTS
  - 50% DECREASE IN GROSS RECEIPTS FOR 2020
    - 2020 QUARTER COMPARED TO CORRESPONDING QUARTER IN 2019
  - 20% DECREASE IN GROSS RECEIPTS FOR 2021
    - 2021 QUARTER COMPARED TO CORRESPONDING QUARTER IN 2019
    - OPTION TO COMPARE TO PRECEDING QUARTER (IRS HAS TO ISSUE GUIDANCE)
- CLAIMING & RECEIVING THE ERTC
  - REPORT & FILE FORM 941 FOR "RECOVERY START UP" BUSINESS
    - EITHER CLAIMING A CREDIT CARRYOVER OR REFUND
  - IF DID NOT CLAIM ON FORM 941, FILE FORM 941-X
  - REGARDLESS OF METHOD TO RECEIVE THE BENEFIT OF THE PAYROLL TAX CREDIT, THE QUALIFIED WAGES & INFO MUST BE REPORTED ON FORM 941 (OR FORM 941-X IF NOT ON ORIGINAL FORM 941)



## THE EMPLOYEE RETENTION TAX CREDIT IS

- **QUALIFIED WAGES**
  - PLUS EMPLOYER PAID HEALTH INSURANCE
  - \$10,000 MAX PER EMPLOYEE WHEN ADDING BOTH TOGETHER
- **DURING QUALIFIED PERIOD**
  - DURING GOVERNMENTAL ORDER
    - **OR**
  - ENTIRE QUARTER, WHEN GROSS RECEIPTS DOWN COMPARED TO **2019**
    - **20% IN 2021**
    - **50% IN 2020**
- **MULTIPLIED BY**
  - 70% in EACH QUARTER in 2021 (**NOW ONLY QUARTERS 1, 2 & 3**)
  - 50% for ENTIRE YEAR in 2020
- **GET MONEY FROM IRS**
  - File Form 941 for refund or applied credit (reporting ERTC regardless) **and/or**
  - File Form 941x for refund or applied credit (if did not do the above)





# BIGGEST CONCERN IN GETTING ERTC IN WHICH FORM 941 HAS ALREADY BEEN FILED?

HOW LONG DO I HAVE TO GO BACK AND GET MY MONEY ("CREDIT")?

## Instructions for Form 941-X

(Rev. July 2021)



Department of the Treasury  
Internal Revenue Service

**Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund**

### Is There a Deadline for Filing Form 941-X?

Generally, you may correct overreported taxes on a previously filed Form 941 if you file Form 941-X within 3 years of the date Form 941 was filed or 2 years from the date you paid the tax reported on Form 941, whichever is later. You may correct underreported taxes on a previously filed Form 941 if you file Form 941-X within 3 years of the date the Form 941 was filed. We call each of these time frames a "period of limitations." For purposes of the period of limitations, Forms 941 for a calendar year are considered filed on April 15 of the succeeding year if filed before that date.

### WHAT?

IF YOU DIDN'T PREVIOUSLY CLAIM THE ERTC,  
YOU HAVE 3 YEARS FROM THE DATE THE ORIGINAL FORM 941  
WAS FILED FOR THAT QUARTER

### OR

2 YEARS FROM DATE YOU PAID THE TAX REPORTED ON FORM 941,  
**WHICHEVER IS LATER.**

**FORM 941 FOR ANY CALENDAR QUARTER IS DUE BY THE END OF THE FOLLOWING MONTH**

1<sup>ST</sup> QUARTER – JAN, FEB, MARCH – FORM 941 DUE APRIL 30<sup>TH</sup>

2<sup>ND</sup> QUARTER – APRIL, MAY, JUNE – FORM 941 DUE JULY 31<sup>ST</sup>

3<sup>RD</sup> QUARTER – JULY, AUG, SEPT – FORM 941 DUE OCTOBER 31<sup>ST</sup>

4<sup>TH</sup> QUARTER – OCT, NOV, DEC – FORM 941 DUE JANUARY 31<sup>ST</sup>



A photograph of the Internal Revenue Service building, showing a stone wall with the words "INTERNAL REVENUE SERVICE" carved into it. The building is a large, classical-style structure with columns and a series of windows. The sky is overcast.

**INTERNAL  
REVENUE  
SERVICE**

**GUIDANCE**



# **IRS OFFICIAL GUIDANCE (Links Provided)**

## **IRS NOTICE 2021-20**

- Addresses calendar year 2020, and the basics of the rules for ERTC for Covid-19 purposes

## **IRS NOTICE 2021-23**

- Addresses 1<sup>st</sup> & 2<sup>nd</sup> quarter of 2021 ERTC, and differences from the 2020 ERTC

## **IRS REVENUE PROCEDURE 2021-33**

- Addresses gross receipts related to ERTC, either year

## **IRS NOTICE 2021-49**

- Acknowledges 3<sup>rd</sup> & 4<sup>th</sup> quarter of 2021 ERTC, and expands on ERTC issues (many applying to both years)

## **IRS NOTICE 2021-65**

- Guidance on ERTC ending early and repayment of advanced payments and reduce payroll deposits in anticipation of the ERTC for 4<sup>th</sup> quarter 2021.



# **LATEST UPDATE**

# **IRS RULES ON ERTC**



# Gross receipt exclusions clarified for ERTC

## Revenue Procedure 2021-33: SAFE HARBOR

- Under the safe harbor, Paycheck Protection Program forgiveness, SVO Grants, Restaurant Revitalization Grants can be excluded from gross receipts for determining eligibility for the Employee Retention Tax Credit.
- These other programs are exempt from “gross income” for tax purposes.
- For ERTC purposes, “gross receipts” includes tax-exempt income.
- Nonetheless, the safe harbor is allowing for the exclusion of the above programs from “gross receipts” specific only the ERTC calculation of determining a reduction in “gross receipts.”
- The safe harbor is elected by simply NOT including the above programs in the calculation.
- The safe harbor is not required, and can be revoked by later not taking the safe harbor in the ERTC calculation.
- IRS Notice 2021-49 confirms this applies to 3<sup>rd</sup> & 4<sup>th</sup> quarter 2021.

**(EXCEPT EFFECTIVE 11/15/2021, ERTC ENDS 9/30/21 UNLESS A “RECOVER START UP” BUSINESS.)**



# IRS offers further guidance on ERTC

## (IRS NOTICE 2021-49)

The changes include, among other items:

- For 3<sup>rd</sup> & 4<sup>th</sup> quarter 2021, the ERTC will be applied against employer “Medicare” payroll taxes.
  - Previously, the ERTC is applied against employer “Social Security” payroll taxes
  - Form 941 and Form 941x will include the calculation changes, most notably on Worksheet 1
  - The ERTC in excess of the employers “Medicare” payroll taxes is still considered a refundable credit
- Expanding the definition of eligible employer to include “recovery startup businesses.”
  - Only applies to 3<sup>rd</sup> & 4<sup>th</sup> quarter 2021 (page 7)
  - Recovery startup businesses are those that began carrying on a trade or business after 2/15/2020 and had less than \$1 million in annual gross receipts, along with several other conditions.
  - Must qualify in each quarter.
  - The maximum ERTC is \$50,000 for each quarter.
    - Unless the business does not qualify as this type of business for 4<sup>th</sup> quarter, no limit
  - Aggregation rules apply
  - See pages 6-11 for further details as this is rare circumstances
    - **NOTE: CONTINUES TO QUALIFY IN 4<sup>th</sup> QUARTER, EVEN WITH LAW CHANGE ON 11/15/21**



# IRS offers further guidance on ERTC (IRS NOTICE 2021-49)

The changes include, among other items:

- **Timing of qualified wages deduction disallowance**
  - Defines when the employer must take the reduction in wages for tax purposes
  - The tax year in which the qualified wages were paid or incurred is the tax year that wages must be reduced
    - If the wages were paid or incurred in 2020, the reduction of wages is reported on the 2020 tax return
    - Same for 2021
  - Amending a payroll tax filing does not change the timing (year) of the reduction
    - Form 941x is filed in 2021 for any quarter in 2020
      - The tax credit is refunded in 2021 or applied to a future quarter in 2021
      - The reduction in wages is applied to tax year 2020
  - What if the employer already filed a income tax return for 2020
    - IRS recommends the employer file an amended income tax return for 2020
      - **OR** an Administrative Adjustment Request (AAR)



# IRS offers further guidance on ERTC (IRS NOTICE 2021-49)

- Related individuals further defined, as well as addressing majority owner & spouses wages
  - Also see examples in the IRS Notice on pages 30-31
  - Rules did not change, but were expanded upon
  - Family attribution rules apply, possible making related parties constructive majority owners
    - Section 267(c) of the Code provides rules for constructive ownership
  - Majority owner wages are excluded from qualified wages for ERTC
  - Spouses of majority owners are excluded from qualified wages for ERTC
  - EXCEPTION to the rule of majority owner and spouses of majority owners wages being excluded
    - IF THE MAJORITY OWNER (& IF MARITAL SPOUSE) HAVE NO BROTHER OR SISTER WHETHER WHOLE OR HALF-BLOODED, ANCESTOR, OR LINEAL DESCENDANT AS DEFINED IN SECTION 267(c)(4) of the CODE
- RESTATED
  - IF THE MAJORITY OWNER (& IF MARITAL SPOUSE) HAS A BROTHER OR SISTER WHETHER WHOLE OR HALF-BLOODED, ANCESTOR, OR LINEAL DESCENDANT AS DEFINED IN SECTION 267(c)(4) of the CODE, THE WAGES OF THE MAJORITY OWNER AND THE SPOUSE OF THE MAJORITY OWNER ARE DISQUALIFIED



# IRS offers further guidance on ERTC ending 9/30/21 (IRS NOTICE 2021-65)

- Employers that received an advance payment of the employee retention credit (ERC) or reduced their employment tax deposits in anticipation of receiving the ERC for the fourth calendar quarter of 2021 may repay or deposit the taxes without penalty under new IRS guidance.
- Recovery startup businesses under Sec. 3134(c)(2)) are still eligible for 4<sup>th</sup> quarter 2021.
- Employers that received such advance payments (Form 7200) may repay them by the due date of their applicable employment tax return that includes the fourth calendar quarter of 2021 and so avoid failure-to-pay penalties. This would be January 31, 2022.
- Employers that reduced their deposits due with respect to wages paid on or after Oct. 1, 2021, but before Jan. 1, 2022, by the amount of an ERC they expected to claim (and are not recovery startup businesses) must deposit those taxes. They may have penalties waived for failing to deposit those taxes, but only with respect to deposits due before Dec. 20, 2021. The IRS will not waive failure-to-deposit penalties for such reductions after Dec. 20, 2021.



# IRS offers further guidance on ERTC waiver of failure-to-deposit penalties (IRS NOTICE 2021-65)

The waiver of failure-to-deposit penalties is also subject to three other conditions:

1. The employer reduced its deposits in anticipation of the ERC, consistent with the rules provided in Section 3.b. of Notice 2021-24;
2. The employer deposits the amounts it had retained in anticipation of claiming the ERC on or before the relevant due date for employment taxes with respect to wages paid on Dec. 31, 2021, (regardless of whether the employer actually pays wages on that date); and
3. The employer reports the tax liability resulting from the termination of the employer's ERC on the applicable employment tax return or schedule that includes the period from Oct. 1, 2021, through Dec. 31, 2021.



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# ERTC SEMINAR

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FLOWCHARTS, EXCEL SHEETS,  
EXAMPLES & LINKS

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## ERTC EXAMPLES & RESOURCES

**2021 ERTC FLOWCHART TO OPTIONS**

**2020 ERTC FLOWCHART TO OPTIONS**

**PPP vs. ERTC: ECONOMIC VALUE CALC (pdf)**

**2021 ERTC CALCULATION EXAMPLES**

**2020 ERTC CALCULATION EXAMPLES**

## ERTC: EXCEL SPREADSHEETS

**PPP vs. ERTC: ECONOMIC VALUE CALC (Excel)**

**CALCULATE AVG. NUMBER OF EE's (EXCEL)**

**GROSS RECEIPTS TEST 2020 & 2021 (EXCEL)**

**CALC TOTAL ERTC "WAGES" w/ HEALTH (EXCEL)**

**ANALYSIS: MAX ERTC & PPP LOAN FORGIVENESS (EXCEL)**

**ERTC CALCULATION WORKSHEET 2020 & 2021 (EXCEL)**

## IRS FORMS RELATED TO ERTC

**FORM 7200 & INSTRUCTIONS (LATEST VERSION)**

**FORM 941 & INSTRUCTIONS (LATEST VERSION)**

**FORM 941-X & INSTRUCTIONS (LATEST VERSION)**

## IRS LINKS RELATED TO ERTC

**IRS NOTICE 2021-49 (ERTC CLARIFICATIONS)**

**IRS REVENUE PROC. 2021-33 (ERTC GROSS RECEIPTS)**

**IRS NOTICE 2021-23 (ABOUT ERTC 2021)**

**IRS NOTICE 2021-20 (ABOUT ERTC 2020)**

**READ: ERTC TAX LAW IN PLAIN FORM**

**IRS 8/10 ANNOUNCEMENT: ERTC SAFE HARBOR**

**IRS 8/4 ANNOUNCEMENT: 3rd & 4th QTR 2021**

**IRS 8/10 ANNOUNCEMENT: ERTC SAFE HARBOR**

**IRS 8/4 ANNOUNCEMENT: 3rd & 4th QTR 2021**

**IRS 1/22 ANNOUNCEMENT: 4th QUARTER OPTION**

**IRS 1/26 ANNOUNCEMENT: 2021 ERTC & PPP/ERTC**

**IRS FAQs ON ERTC (WELL ORGANIZED)**

**IRS INFORMATION ON EMPLOYEE RETENTION TAX CREDIT**

## ADDITIONAL LINKS

**CONSOLIDATED APPROPRIATIONS ACT (PDF: PAGE 4927)**

**CONSOLIDATED APPROPRIATIONS ACT (TEXT VERSION)**

**CARES ACT FULL TEXT (ERTC STARTS PAGE 67)**

**FAMILY FIRST CORONAVIRUS RESPONSE ACT FULL TEXT**



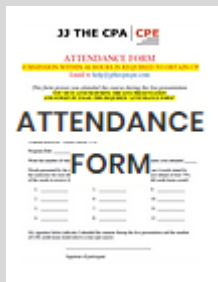
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