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2021 Tax Reform

AICPA PFP Section Podcast

Income Tax Changes Introduced by the Ways & Means Committee

2021 Tax Reform – IRS Funding & Compliance

- The legislation would appropriate nearly \$80 billion to the IRS to improve compliance.
 - Additional funds would be appropriated to Treasury to supervise the IRS and the Tax Court.
 - These funds would be available to the through 9/30/2031.
 - The CBO estimates this would make the IRS's 2031 budget 90% larger than its current baseline projection and would double staffing.
 - The CBO estimates 75% of the money would be used for enforcement and this would increase revenue by \$200B over 10-years.
- The legislation would impose additional reporting requirements for third party network transactions.

<https://www.cbo.gov/publication/57444>

2021 Tax Reform – Social Safety Net

- Child Tax Credit – extension American Rescue Plan Act (ARP) changes
- Credit for Other Dependents – extension of ARP changes
- Child and Dependent Care Tax Credit – ARP changes made permanent
- Employer-Provided Dependent Care Assistance – ARP changes made permanent
- Earned Income Tax Credit – ARP changes made permanent
- Premium Tax Credit – Temporary expansion
- Payroll Tax Credit for Child Care Workers – New credit

2021 Tax Reform – Social Safety Net

- Caregiver Expenses – New credit:
 - Up to \$4,000
 - 50% of qualified expenses incurred caring for relatives living at home unable to perform the activities of daily living
 - Phased-out if the taxpayer's income exceeds \$75,000

2021 Tax Reform – Individuals

- The 39.6% rate is restored:

	TOP OF EACH BRACKET				
	S	MFJ/QW	MFS	HOH	T&E
10%	\$9,950	\$19,900	\$9,950	\$14,200	\$2,650
12%	\$40,525	\$81,050	\$40,125	\$54,200	-
22%	\$86,375	\$172,750	\$86,375	\$86,350	-
24%	\$164,925	\$329,850	\$164,925	\$164,900	\$9,550
32%	\$200,000	\$400,000	\$200,000	\$200,000	-
35%	\$400,000	\$450,000	\$225,000	\$425,000	\$12,500
39.6%					

- The 20% capital gains rate increases to 25%

**New rate applies
The date the
bill is introduced.**



	TOP OF EACH BRACKET				
	S	MFJ/QW	MFS	HOH	T&E
0%	\$40,400	\$80,800	\$40,400	\$54,100	\$2,650
15%	\$400,000	\$450,000	\$225,000	\$425,000	\$12,500
25%					

Using 2021 figures, except for the new 35%, 39.6%, and 25% thresholds.

2021 Tax Reform – Individuals

- 3.8% Net Investment Income Tax (NIIT) expansion
 - Expands the NIIT to cover income derived in the ordinary course of a trade or business for high income taxpayers
 - Does not apply to income on which FICA is already imposed
 - Applies after 12/31/21

Expanded NIIT Threshold	
Married Filing Jointly (MFJ)	\$500,000
Head of Household (HoH)	\$400,000
Single	\$400,000
Married Filing Separately	\$250,000
Estates & Trusts	\$12,500

2021 Tax Reform – Individuals

- New Section 199A Limitation
 - Imposes a maximum allowable deduction - I.E. A CAP ON THE AMOUNT CLAIMED
 - Applies after 12/31/21

199A Maximum Deduction	
Married Filing Jointly (MFJ)	\$500,000
Head of Household (HoH)	\$400,000
Single	\$400,000
Married Filing Separately	\$250,000
Estates & Trusts	\$10,000

2021 Tax Reform – Individuals

- Excess Business Loss Limitation
 - Section 461(l) limits pass-through business net losses which can offset non-business income to \$250,000 (or \$500,000 MFJ)
 - This was added by the TCJA and set to sunset in 2025 (note, the CARES Act modified the effective date)
 - This legislation would permanently apply the limitation beyond 2025

2021 Tax Reform – Individuals

- *New High Income Taxpayer Surcharge*
 - A surcharge equal to 3% of excessive Modified AGI
 - The AGI threshold is \$5,000,000 generally (\$2,500,000 MFS)
 - **The AGI threshold is \$100,000 for trusts & estates**
 - Modifications to AGI include a reduction for investment interest

$$39.6\% + 3.8\% + 3\% = 46.4\%$$

2021 Tax Reform – Corporate & International

- Graduated corporate rate structure to replace the 21% flat rate:

Income Brackets			Rate
\$0	to	\$400,000	18%
\$400,000	to	\$5,000,000	21%
\$5,000,000	and over		26.5%

- New international interest expense limits, new outbound international provisions, new inbound international provisions, BEAT modifications, and various other business tax provisions.

2021 Tax Reform – Other Select Business Reforms

- Interestingly, the legislation would allow eligible S-corporations to reorganize as partnerships tax-free.
 - Eligible S-corporations means any corporation that was an S-corporation on 5/13/1996 (prior to the “check the box” regulations).
 - If the reorganization is desired, the corporation would have to completely liquidate to a domestic partnership within two years of 12/31/21.

2021 Tax Reform – Other Select Business Reforms

- Work Opportunity Tax Credit (WOTC) Enhancement During COVID-19 Recovery Period
 - The legislation would increase the WOTC to 50% for the first \$10,000 in wages through 12/31/2023 for all targeted groups, except summer youth employees.
 - The increase would also be available in the second year of employment (current law limits it to the first year).

2021 Tax Reform – Other Select Business Reforms

- Modifications to Limitation on Deduction of Excessive Employee Remuneration: The effective date of the new expanded limit on the eight most highly compensated officers as provided for in the ARPA would be moved up from 12/31/26 to 12/31/21.
- Termination of Employer Credit for Paid Family Leave and Medical Leave: Accelerates the termination of the credit from 2026 to 2024.
- Modification of Rules for Partnership Interests Held in Connection with the Performance of Services (12/31/21 effective date).
- Limitation on Certain Special Rules for Section 1202 Gains – basically caps the exclusion to 50% if the taxpayer's AGI exceeds \$400,000 (9/13/21 effective date).
- Constructive Sales – to include digital assets (12/31/21 effective date).
- Wash Sales – to include digital assets (12/31/21 effective date).

2021 Tax Reform – Specialized Practice

- State and local bond incentives
- US Possessions Economic Activity Credit – new tax credit
- NMTC: Permanent extension and temporary increase
- HTC: Temporary and permanent increases
- LIHTC: Temporary state allocation increase
- Qualified Wildfire Mitigation Expenditures – new tax credit
- Neighborhood Homes Credit – new tax credit

2021 Tax Reform – Energy, Specialized Practice Areas

- Renewable Energy Production Credit – extension and modification
- Qualifying Electric Transmission Property – new tax credit
- Carbon Oxide Sequestration – extension & modification
- Second Generation Biofuel Credit – extension
- Sustainable Aviation Fuel Credit – new tax credit
- Credit for Production of Clean Hydrogen – new tax credit
- Energy Efficient Commercial Buildings Deduction – temporary increase and modification
- Energy Efficient New Home Credit – extension, increase and modification

2021 Tax Reform – Energy, Specialized Practice Areas

- Qualified Fuel Cell Motor Vehicles – modification and extension
- Alternative Fuel Refueling Property Credit – modification and extension
- Bicycle commuting fringe benefit reinstated and expanded
- Credit for new electric bicycles – a new credit
- Advanced energy project credit – extension
- Labor Costs of Installing Mechanical Insulation Property – a new credit
- Qualified Environmental Justice Programs – a new credit
- Superfund reinstatement
- Nuclear Power Production Credit – a new credit
- **Green Publicly Traded Partnerships – PTP expansion**

2021 Tax Reform – Energy, Broad Application

- Energy Credit – extension and modification
 - Business credit
 - Generally extended through 2033
 - The definition of *Energy Property* and the application of the 30% credit is expanded to include: energy storage technology, qualified biogas property, and microgrid controllers
 - Increased credit for solar in low-income communities
 - Credit treated as payment and fully refundable

Solar Investment Tax Credit											
	2006-2019	2020-2021	2022	2023	2024	2025	2026-2031	2032	2033	2034	2035
Current Law	30%	26%	26%	22%	10%	10%	0%	0%	0%	0%	0%
Proposal	30%	26%	30%	30%	30%	30%	30%	26%	22%	10%	10%

2021 Tax Reform – Energy, Broad Application

- Non-business energy property credit – extension and modification:
 - Extended through 2031 (was set to expire in 2021);
 - Credit increased from 10% to 30% of qualified energy efficiency improvements;
 - Lifetime cap increased from \$500 to \$1,200;
 - Numerous other small changes.

2021 Tax Reform – Energy, Broad Application

Residential Energy Efficient Property – extension and modification:

- Extended through 2033 (was set to expire in 2023);
- Expanded to include *qualified battery storage technology expenditures*.

Residential Energy Efficient Property

	2006-2019	2020-2021	2022	2023	2024	2025	2026-2031	2032	2033	2034
Current Law	30%	26%	26%	22%	0%	0%	0%	0%	0%	0%
Proposal	30%	26%	30%	30%	30%	30%	30%	26%	22%	0%

2021 Tax Reform – Energy, Broad Application

- **New Qualified Plug-in Electric Drive Motor Vehicles**
 - Credit for personal use vehicles through 2031
 - Capped at 50% of the purchase price
 - Base credit of \$4,000
 - Additional \$3,500 for vehicles with greater battery capacity
 - Additional \$4,500 for vehicles assembled in the US
 - Additional \$500 for vehicles with US-made parts
 - Phaseout for taxpayers with income in excess of \$800,000 (MFJ)
 - MSRP vehicle eligibility cap
 - 2 or 3 wheeled vehicles separately eligible
 - Repeals the current credit provided by Section 30D

2021 Tax Reform – Energy, Broad Application

- Credit for Previously-owned Qualified Plug-in Electric Drive Motor Vehicles.
 - Credit equals:
 - ❑ \$1,250, plus
 - ❑ The lesser of \$1,250 or \$208.50 for each kwh of battery capacity exceeding 4 kwh.
 - Credit cannot exceed 30% of the sale price.
 - Sale price cannot exceed \$25,000.
 - Phased-out as AGI exceeds \$150,000 (MFJ).
 - Car must be at least two model years earlier than the calendar year
 - Must be acquired with a *qualified sale*.
 - Can only claim the credit once every 3-years.

2021 Tax Reform – Energy, Broad Application

- Credit for Qualified Commercial Electric Vehicles
 - Credit equals 30% of the vehicle's basis
 - Must be a plug-in vehicle without a combustion engine (or a qualified fuel cell vehicle)
 - Credit available from 2022 through 2031

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