

Tax Law Update and Potential Legislation

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Tax Law Updates



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American Rescue Plan

- Signed by President on March 11, 2021
- \$1.9 trillion package with money for state and local government, schools, small businesses, socially disadvantaged farmers, etc.



Premium Tax Credit

- Household income $>400\%$ federal poverty level are eligible in 2021 and 2022
 - Must contribute 8.5% toward marketplace insurance
- Removes subsidy “cliff”
- Taxpayers who receive unemployment treated as though household income is 133% of FPL



Economic Impact Payment

- \$1,400 payment to taxpayer and spouse
- \$1,400 for any legal dependent
 - Prior EIPs were made for dependents under age 17
- Advance of a refundable credit on 2021 tax return
 - Must be reconciled when 2021 return is filed in 2022



Child Tax Credit

- Changes apply to 2021 only
- Eligible child expanded to kids <18 (was under 17)
- Credit increased to \$3,000/child age 6-17 and \$3,600/child age <6
 - Two step phase out depending on AGI
- Entire CTC is refundable with no earned income requirement



Child Tax Credit

- Advance payment of CTC beginning July 2021
- Equal to half of estimated 2021 CTC
- Could opt out of advance payments
 - Proved to be a difficult process
- Advance payments reconciled on 2021 tax return



Earned Income Credit

- EIC increased for taxpayers with no qualifying children (max increased from \$543 to \$1,500)
- Available for taxpayers age >19 (was 25-65)
- Investment income limit increased to \$10,000 (was \$3,500)



Child and Dependent Care Credit

- Credit available on \$8,000 or \$16,000 of expense
 - 50% expense if AGI <\$125,000
 - Credit decreases 1% for every \$2,000 above \$125,000
 - 20% expense if AGI \$185,000 – 400,000
- Credit limited to earned income of both spouses
 - One spouse doesn't work, no credit



Employee Retention Credit

- Extended through Dec 31, 2021
- Requires 20% reduction in gross receipts in a calendar quarter compared to same quarter in 2019
- Credit of 70% of wages (up to \$10,000) per employee per qualifying quarter
 - Credit can offset SS & Medicare in Q1 and Q2
 - Credit can offset Medicare in Q3 and Q4
 - Claim on quarterly 941, annual 943 or request refund



Proposed Tax Law Changes



Proposed Tax Law Changes

- ***Disclaimer:*** The information presented here relates to PROPOSED changes only
- On September 15, the House Ways and Means Committee proposed tax changes to offset spending in the Build Back Better Act
 - Proposals are subject to change as Congress negotiates
- Overall, *most* ag producers will not be affected except years with large land or equipment sales

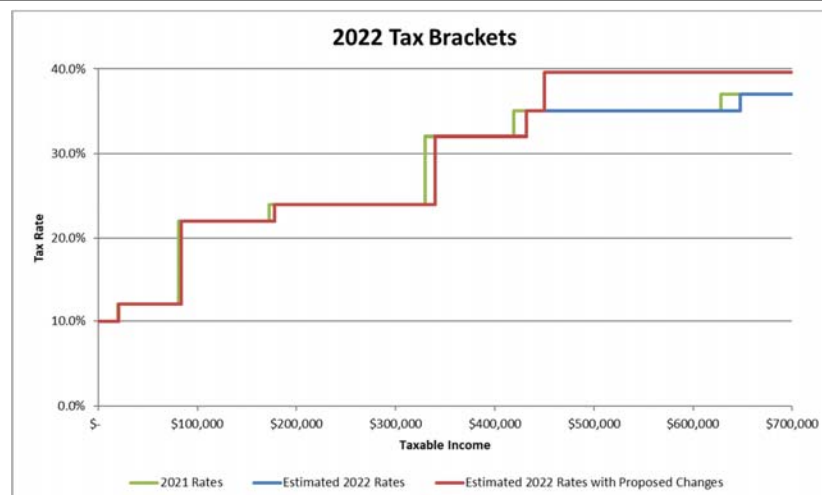


Individual Income Tax

- Increase top marginal rate to 39.6% (from 37%)
 - MFJ taxable income >\$450,000
 - Single taxable income >\$400,000
 - Tax years beginning after 12/31/21
- Additional surtax of 3% if AGI >\$5,000,000
 - Tax years beginning after 12/31/21
- Increase maximum capital gain rate to 25% (from 20%)
 - Applies to capital gain after 9/13/21



Individual Income Tax



Net Investment Income Tax (NIIT)

- NIIT of 3.8% would apply to active business income
 - Passthrough income (1065 and 1120-S) currently exempt with active participation
 - Applies if AGI >\$500,000 (MFJ)
 - Would not apply to income subject to self-employment tax
 - Tax years beginning after 12/31/21



IRA Contributions

- Contributions to IRAs prohibited if retirement account balances >\$10,000,000 and taxable income >\$450,000 (MFJ)
 - Required Minimum Distribution (RMD) of 50% of the account balance >\$10,000,000
 - RMD of 100% of account balance >\$20,000,000
 - Tax years beginning after 12/31/21
- “Back door” Roth IRA contributions prohibited if taxable income >\$450,000 (MFJ)



Child Tax Credit

- American Rescue Plan changes to Child Tax Credit made permanent through 2025
 - Increased credit amount
 - Fully refundable
 - Monthly advance payments



Corporate Income Tax

- Reinstate marginal tax brackets
 - 18% \$0-400,000
 - 21% \$400,000-5,000,000
 - 26.5% >\$5,000,000
 - Tax years beginning after 12/31/21
 - Prorated tax for fiscal year corporations



Section 1202 Gain Exclusion

- Currently, 75% or 100% of gain from the sale of certain small business stock can be excluded from income
- Proposal to reduce exclusion to 50% for those with AGI >\$400,000



Qualified Business Income Ded.

- Max QBID deduction of \$500,000 (MFJ)
 - Equates to max qualified business income of \$2,500,000
- Tax years beginning after 12/31/21
- QBID set to expire in 2025



Excess Business Losses

- Under TCJA taxpayers cannot deduct business losses exceeding \$500,000 (MFJ)
- Provision was to expire 2025
- Proposal to make permanent
- Create new EBL carryover rather than treat as a net operating loss
- Tax years beginning after 1/1/20



Tax-Free S Corp Conversion

- Usually, an S corporation conversion to a partnership is a taxable event
- Proposal allows S corporation conversion to partnership tax-free in 2022 or 2023
 - Must have been S corporation since May 14, 1996



Estate and Gift Tax

- Eliminate temporary increase in estate tax exemption
 - Scheduled to expire 2026
 - Currently \$11,700,00 per person
 - Would end up about \$6,000,000 per person
 - Apply to decedents dying after 12/31/21
- “Transfer tax” at death is NOT included in Ways & Means proposals (amendments are still possible)



Estate and Gift Tax

- Grantor trust changes
- Elimination of valuation discounts on entities when holding non-business assets
- Increase allowable special use valuation (2032A) reduction to about \$12,000,000 (was \$750,000)
 - 2032A allows an estate or trust to value agricultural land at use value rather than FMV



Required Bank Reporting

- Biden administration suggestion to require banks to report accounts with total annual withdrawals or deposits more than \$600
 - Attempt to reduce the estimated tax gap of \$7 billion so IRS has a better idea of who to audit
 - Discussion to increase the annual limit to \$10,000
 - Promise that audit rates will not increase for those earning less than \$400,000



Proposals NOT Included

- Biden administration had made earlier suggestions:
 - Requirement to tax unrealize capital gain upon death or gift, with \$1,000,000 exclusion and deferral for family-owned business assets
 - Elimination of step-up basis
 - Requirement to recognition unrealize gain every 90 years
 - Self-employment tax on certain pass-through income
 - Limitation on like-kind exchanges



Questions?

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