

TAX UPDATE & PLANNING STRATEGIES

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AGENDA

- Federal Tax Updates
 - The Infrastructure Investment & Jobs Act
 - The Build Back better Act – House version
- Tax Planning Strategies
- Estate & Gift Tax Updates



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INFRASTRUCTURE INVESTMENT & JOBS ACT

- \$1.2 trillion
- H. R. 3684
- November 15, 2021
- Infrastructure Provisions
- Tax provisions –
 - Cryptocurrency Reporting
 - Employee Retention Credit
 - Pension Smoothing
 - Disaster Relief



US President Joe Biden signs the 'Infrastructure Investment and Jobs Act' on the South Lawn at the White House in Washington DC

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IIJA – CRYPTO ASSET / ERC / PENSION / DISASTER

Cryptocurrency Reporting

- Information Reporting
- Broker



Employee Retention Credit

- Early Sunset
- Recovery Startup Business



Pension Smoothing

- Defined Benefit Plans



Disaster Relief

- 60 days



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BUILD BACK BETTER ACT

- \$1.9 trillion
- House passed H. R. 5376
- November 18, 2021



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BUILD BACK BETTER ACT

• Tax provisions – OUT

- Corporate Income Tax Rate Increase
- Individual Ordinary Income Tax Rate Increase
- Capital Gains and Dividends Rate Increase
- QBI (§199A) Changes
- Grantor Trust Changes
- Estate Tax Unified Credit – Early Sunset



• Tax provisions – IN

- Corporate AMT – Based on Book Income
- Revised SALT Cap
- Expanded NIIT – Individuals, Estates, Trusts
- Surcharge on High-Income – Individuals, Estates, Trusts



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BBB ACT – HOUSE VERSION – MAJOR TAX PROVISIONS

Income Taxes :

• Surcharge on High-Income:

- Individuals (Tax Form 1040):
 - Modified Adjusted Gross Income of over \$10 million – 5% surtax
 - Modified Adjusted Gross Income of over \$25 million – an additional 3% surtax (8% total)
- Estates/Trusts (Tax Form 1041)
 - Modified Adjusted Gross Income of over \$200,000 – 5% surtax
 - Modified Adjusted Gross Income of over \$500,000 – an additional 3% surtax (8% total)
- Trusts could consider distributions to potentially avoid some/all of the surtax

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BBB ACT – HOUSE VERSION – MAJOR TAX PROVISIONS

Individual Income Taxes :

- Expanded Net Investment Income Tax (NIIT) – Individuals, Estates, Trusts
 - High-income taxpayer's *active* business income for pass-through firms
 - Beginning 2022

Example:

S corporation earns \$200,000 in profits and S corporation owner splits \$200,000 of profit into \$80,000 in wages and \$120,000 in distributive share.

- Before BBB:**
 - S corporation owner pays Social Security and Medicare taxes on the \$80,000. *But not on the \$120,000.*
 - Even if S corporation owner materially participates in the business, he/she pays no net investment income tax either.
- After BBB:**
 - Starting in 2022, BBB would make a *“high income” taxpayer* treat the S corporation income as net investment income (NII).
 - Assuming the net investment income is lower than the amount by which the taxpayer's MAGI exceeds the \$200,000 threshold for purpose of computing NIIT...
 - It *potentially* triggers the **3.8%** net investment income tax *on* the NII, the S Corp distributive share of **\$120,000.**



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BBB ACT – HOUSE VERSION – MAJOR TAX PROVISIONS

Individual Income Taxes :

- Excess Business Loss Limitation (§461(l)) – Non-corporate Taxpayers
 - 2021 - \$262,000 (\$524,000 for Joint filers)
 - 2022 - \$270,000 (\$540,000 for Joint filers)
 - Permanent starting in 2022.

Example:

Annie is single and earns wages of \$360,000. She also owns a sole proprietorship with \$100,000 of income and \$400,000 of allowed deductions (\$300,000 loss). She has enough tax basis to cover the loss and is considered at risk for the loss amount, and she materially participates in the activity. How much of the loss is deductible under the excess business loss rules?

Before BBB:

- Annie can deduct \$262,000 (threshold for Single taxpayer) of the loss this year. \$38,000 is disallowed under the excess business loss rules for 2021. She will carry the \$38,000 excess business loss forward *as a net operating loss.*

After BBB:

- Annie can deduct \$262,000 (threshold for Single taxpayer) of the loss this year. \$38,000 is disallowed under the excess business loss rules for 2021. She will carry the \$38,000 excess business loss forward *as a trade or business loss that's included in the “trade or business income or loss” bucket in the following year for purposes of calculating the limitation.*
- Therefore, the *prior year loss may again be subject to the excess business loss rules* in the following year, possibly postponing the deductibility of a loss for multiple years.



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BBB ACT – HOUSE VERSION – MAJOR TAX PROVISIONS

Individual Income Taxes :

- Small Business Stock
 - Taxpayers with AGI > \$400,000; Trusts; Estates
 - Exclusion limited to 50%
 - Could be retroactively effective to September 2021
- Retirement Plans
 - Taxpayers exceeding certain income thresholds, with IRA and Defined Contribution > \$10 million
 - Limit contribution for tax year beginning after December 31, 2028
 - RMD
 - "Back door" Roth conversion prohibited after December 31, 2021
- Revised SALT Cap
 - \$80,000 Cap (\$40,000 for estates & trusts & MFS)
 - Beginning after December 31, 2020, therefore applying to the 2021 calendar year
 - Various states - enacted new rules for owners of pass-through entities



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BBB ACT – HOUSE VERSION – MAJOR TAX PROVISIONS

Individual Income Taxes :

- Child Tax Credit (CTC)
 - Extend expansion through 2022
 - Fully refundable - Permanently
- Earned Income Tax Credit (EITC)
 - Extend expansion through 2022
- Premium Tax Credit (PTC)
 - Extend expansion
 - HI > 400% of poverty line
- Wash-sale
 - Crypto Assets
 - Foreign Currencies
 - Commodities

The infographic contains four panels:

- The Child Tax Credit:** \$3,000 to \$3,600 per child for nearly all working families. Automatic monthly payments for nearly all working families. CHILD Tax Credit . GOV
- EITC:** EARNED INCOME TAX CREDIT. Put extra cash in your pocket! (Icons for car, graduation cap, house, dollar sign)
- Premium Tax Credit:** Health Insurance icon.
- Wash Sale:** A timeline from 0 to 30 days. A downward arrow labeled 'SELL ABC SHARES' is at day 0. An upward arrow labeled 'BUY ABC SHARES' is at day 23. A bracket below the timeline is labeled 'LESS THAN THIRTY DAYS'. Below the timeline, it says 'Loss Cannot Be Claimed!' with a red X over the word 'Loss'.



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BBB ACT – HOUSE VERSION – MAJOR TAX PROVISIONS

Corporate Income Taxes :

Corporate AMT – Based on Book Income

- 15% Minimum Tax – Corp book income > \$1 billion
- Tax year beginning after December 31, 2022

Corporate Stock Buybacks

- 1% Excise Tax
- Tax year beginning after December 31, 2021

Corporate Interest Expense Deduction

- Limited u/s 163(n) for certain corporations
- Tax year beginning after December 31, 2022

Global Intangible Low Income Tax (GILTI)

- Increase
- Reform



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MISC ITEMS / TAX PLANNING STRATEGIES

- Shifting income and deductions -
 - Income in year with lower marginal tax rate
 - Expenses in year with higher marginal tax rate
- IRA contribution
 - Wholly or partially tax deductible
 - Use Tax Refund – Form 8888
- RMDs, QCDs
- Education Tax Credits
- IRS Notice 6475 – Economic Impact Payments (aka Stimulus)
- IRS Letter 6419 - Advance Child Tax Credit



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TAX EXTENDERS - EXPIRED AT END OF 2021

- Research & Development (R&D) Expenditures
- Interest Deduction Limitation Changes from EBITDA to EBIT
- Expansion of the Child Tax Credit
- Expansion of the Earned Income Tax Credit
- Expansion of the Child and Dependent Care Tax Credit (CDCTC)
- Above-the-line Charitable Contribution Deduction
- Modified Limitations for Charitable Contributions
- Employee Retention and Rehiring Tax Credit

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ESTATE, GIFT, & TRUST

- BBB Act House Version – Not Many Changes
- Annual Exclusion
 - 2021 - \$15,000
 - 2022 - \$16,000
- Unified Estate & Gift Tax Exemption and GST Tax Exemption
 - 2021 - \$11,700,000
 - 2022 - \$12,060,000



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ESTATE, GIFT, & TRUST

There Are Planning Strategies Available To Us:

- Valuation Discounts
- Grantor Trusts
- Step-Up in Basis
- Trust Structures
 - Irrevocable Life Insurance Trust (ILIT)
 - Spousal Lifetime Access Trust (SLAT)
 - Charitable Lead Annuity Trust (CLAT)
 - Charitable Remainder Annuity Trust (CRAT)
 - Qualified Terminable Interest Property Trust (QTIP)
 - Qualified Personal Residence Trust (QPRT)



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ESTATE, GIFT, & TRUST

BBB Act – House Version

- Expanded NIIT – Estates & Trusts,
 - 5% Surtax at \$200,000; Additional 3% Surtax at \$500,000
 - Beginning 2022



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2021 FEDERAL INCOME TAX RATE BRACKETS

Tax Rate	Joint/Surviving Spouse	Single	Head of Household	Married Filing Separately	Estate & Trusts
10%	\$0 - \$19,900	\$0 - \$9,950	\$0 - \$14,200	\$0 - \$9,950	\$0 - \$2,650
12%	\$19,901 - \$81,050	\$9,951 - \$40,525	\$14,201 - \$54,200	\$9,951 - \$40,525	-
22%	\$81,051 - \$172,750	\$40,526 - \$86,375	\$54,201 - \$86,350	\$40,526 - \$86,375	-
24%	\$172,751 - \$329,850	\$86,376 - \$164,925	\$86,351 - \$164,900	\$86,376 - \$164,925	\$2,651 - \$9,550
32%	\$329,851 - \$418,850	\$164,926 - \$209,425	\$164,901 - \$209,400	\$164,926 - \$209,425	-
35%	\$418,851 - \$628,300	\$209,426 - \$523,600	\$209,401 - \$523,600	\$209,426 - \$314,150	\$9,551 - \$13,050
37%	Over \$628,300	Over \$523,600	Over \$523,600	Over \$314,150	Over \$13,050

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2022 FEDERAL INCOME TAX RATE BRACKETS

Tax Rate	Joint/Surviving Spouse	Single	Head of Household	Married Filing Separately	Estates & Trusts
10%	\$0 - \$20,550	\$0 - \$10,275	\$0 - \$14,650	\$0 - \$10,275	\$0 - \$2,650
12%	\$20,551 - \$83,550	\$10,276 - \$41,775	\$14,651 - \$55,900	\$10,276 - \$41,775	-
22%	\$83,551 - \$178,150	\$41,776 - \$89,075	\$55,901 - \$89,050	\$41,776 - \$89,075	-
24%	\$178,151 - \$340,100	\$89,076 - \$170,050	\$89,051 - \$170,050	\$89,076 - \$170,050	\$2,651 - \$9,550
32%	\$340,101 - \$431,900	\$170,051 - \$215,950	\$170,051 - \$215,950	\$170,051 - \$215,950	-
35%	\$431,901 - \$647,850	\$215,956 - \$539,900	\$215,951 - \$539,900	\$215,956 - \$323,925	\$9,551 - \$13,050
37%	Over \$647,850	Over \$539,900	Over \$539,900	Over \$323,925	Over \$13,050

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CONTRIBUTION LIMITS

	2022	2021
Defined Contribution Plans; SEP	\$61,000	\$58,000
Defined Benefit Plans	\$245,000	\$230,000
Limit on employee contributions to 401k, 403b, or 457 plan	\$20,500	\$19,500
Limit on age 50+ catchup contributions to 401k, 403b, or 457 plan	\$6,500	\$6,500
SIMPLE 401k or SIMPLE IRA contributions limit	\$14,000	\$13,500
SIMPLE 401k or SIMPLE IRA age 50+ catchup contributions limit	\$3,000	\$3,000
Traditional and Roth IRA contribution limit	\$6,000	\$6,000
Traditional and Roth IRA age 50+ catchup contribution limit	\$1,000	\$1,000
Healthcare FSA Contribution Limit	\$2,850	\$2,750
HSA Contribution Limit – Single / Family Coverage	\$3,650 / \$7,300	\$3,600 / \$7,200
HSA age 55 catchup	\$1,000	\$1,000



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Q & A



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CONTACT INFORMATION/THANK YOU

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