



# 2022 Energy Conference

## Tax Update

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# Disclaimer

- This presentation and related materials are designed only to provide general information regarding the subject matter discussed during this presentation. The statutes, authorities, and other laws cited in this presentation are subject to change.
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# Topics from 2021 Energy Conference

- Budget Reconciliation Bill – Build America Back Better
- Various proposals this time last year
  - Top Corporate Tax Rate = 26.5%
    - Graduated rate structure
      - 18% on first \$400,00
      - 21% income up to \$5,000,000
      - 26.5% income over \$5,000,000
      - Graduated rate phase out for income over \$10,000,000
  - Top Individual Rate = 39.6% for MFJ Taxable Income \$450,000 and single at \$400,000
  - Capital Gains Rate – 25%

# Topics from 2021 Energy Conference

- Various proposals this time last year
  - NIIT on all income not subject to FICA or SECA after income thresholds met
  - Surcharge of 3% tax on MAGI of individual over \$5,000,000 for married and single
  - QBI deduction cannot exceed \$500,000 for MFJ and \$400,000 for single
  - Excess business loss limitation permanent

# Inflation Reduction Act

- Passed by the Senate on August 7, 2022
- Passed by the House of Representative on August 12, 2022
- Signed by President Biden on August 16, 2022

# Inflation Reduction Act

- Top Tax Revenue Generators
  - \$222B 15% minimum tax on corporate “book income”
  - \$73B 1% excise tax on corporate stock repurchases
  - \$52B extension of excess business loss deduction limitation
  - \$11B reinstatement of certain Superfund excise taxes

# Inflation Reduction Act

- Top Tax Expenditures
  - \$62B clean energy credits
  - \$51B renewable electricity production tax credit
  - \$30B advanced manufacturing production credit
  - \$30B nuclear power production credit
  - \$22B residential energy efficiency property credit
  - \$14B Energy investment tax credit

# Revenue Generator - Corporate Minimum Tax

- 15% minimum tax on corporations with more than \$1 billion in income reported on their financial statements beginning in tax years after 2022
- Reduce book income by depreciation and amortization deductions
- Excludes S corporations, regulated investment companies and real estate investment trusts



# Revenue Generator - Stock Buybacks

- 1% excise tax on the fair market value of stock buybacks by publicly traded US corporations and any subsidiary that has 50% or more of its stock owned by a corporation
- Exclude stock repurchases that are less than \$1 million for the taxable year, treated as a dividend or contributed to an employer-sponsored retirement plan or similar plan

# Revenue Generator - Excess Business Loss

- Extends the excess business loss limitation on deducting excess business losses of noncorporate taxpayers such as pass-through businesses
- Losses disallowed for taxable years beginning 2021 through 2028

# Tax Expenditures – Green Energy Credits

- Clean Energy Credits
  - New production and investment credits for electricity-generating facilities with carbon emissions at or below zero or energy storage technologies
  - Credit available after 2024 and phased out when emission targets achieved or in 2032, whichever is later
- Production Tax Credit
  - Modify and extend through 2024 credit for facilities that produce electricity from renewable energy
- Advanced Manufacturing Production Credit
  - New credit for domestic production and sale of qualifying solar and wind components and inverters
  - Credit available after 2022 and phased out after 2029, phaseout wouldn't apply to production of critical minerals

# Tax Expenditures – Green Energy Credits

- Residential Energy Efficiency Property Credit
  - Modify and extend through 2032 credit for qualified energy efficiency home improvements
  - Increase to as much as \$1,200 annually, from \$500 lifetime cap for certain expenditures
- New Clean Vehicle
  - Credit for purchases of new “clean vehicles” such as electric and fuel cell vehicles with final assembly in US
  - Equal as much as \$7,500 for meeting certain requirements
  - Phase out at income of \$300,000 for MFJ and \$150,000 for single filers
  - Credit limitations if battery inputs are sourced from China, Russia, Iran or North Korea

# Proposals Excluded from House Passed Bill

- Surtax on high-income households
- Increase to cap on state and local tax deductions
- Extension of the child tax credit
- Paid family and medical leave
- Universal preschool, childcare assistance

# IRS Enforcement

- Appropriates approximately \$80 billion to the IRS to add auditors, improve customer service, and modernize technology

# Corporate Tax Rate

- Current Law
  - Corporate tax rate = 21%
  - Flat rate structure
  - Not eligible for 20% qualified business income deduction
  - Capital gains taxed at flat rate of 21%

# Individual Marginal Tax Rates

- Current Law
  - 2021
    - 37% is top tax rate for MFJ taxable income starting at \$628,300 and single \$523,600
  - 2022
    - 37% is top tax rate for MFJ taxable income starting at \$647,850 and single \$539,900



# Capital Gains Rates

- Current Law
  - 2021
    - 0% MFJ taxable income less than \$80,800 and single less than \$40,400
    - 15% tax rate on taxable income less than MFJ \$501,600 and single \$445,850.
      - Rate increases to 20% at these taxable income numbers and above
  - 2022
    - 0% MFJ taxable income less than \$83,8350 and single less than \$41,675
    - 15% tax rate on taxable income less than MFJ \$517,200 and single \$459,750.
      - Rate increases to 20% at these taxable income numbers and above

# Net Investment Income Tax on Business Income

- Current Law
  - 1.45% (2.9% between employee and employer) on wages and SE income
  - 0.9% on wages in excess of \$250,000 MFJ and \$125,000 single
  - 3.8% on net investment income if AGI is over \$250,000 MFJ and \$200,000 single
  - Net investment income generally defined as interest, dividends, royalties, gains and passive trade or business income

# 199A – Qualified Business Income Deduction

- Current Law
  - Deduction of potentially 20% of passthrough income allowed
  - Qualified vs Specified Service distinction and total deduction cannot exceed 20% of taxpayer's taxable income
  - Qualified – unlimited deduction but tests that must be met if income exceeds \$329,800 for MFJ and \$164,900 for single
  - Specified Service – deduction completely phased out for income levels above \$429,800 for MFJ and \$214,900 single

# Excess Business Losses

- Current Law
  - For tax years beginning after December 31, 2020 excess business losses are not allowed
  - Original effective date was January 1, 2018 but CARES act suspended until tax years beginning after December 31, 2020
  - Disallowed loss treated as NOL and carried to future years
  - For 2021, excess business loss is a loss in excess of \$524,000 MFJ and \$262,000 Single
  - Limitation is applied at taxpayer level and not passthrough

# Net Operating Losses

- 2021
  - NOL's
    - No longer allowed to be carried back
    - NOL's limited to 80% of taxable income

# Meals – Temporary 100% Expense Deduction

- 2021 & 2022
  - Meals are 100% deductible if certain conditions are met
    - Amounts paid must be for food and beverages provided by a restaurant
    - Designed to help restaurants due to Covid
    - Restaurant means a business that prepares and sells food or beverages to retail customers for immediate consumption, regardless of whether the food or beverages are consumed on the business premises.
    - Does not apply to grocery stores, specialty food store, beer, wine or liquor store, drug store, convenience store, newsstand or a vending machine.

# Estate & Gift Taxes

- Current Law
  - 2021
    - Estate Tax Exemption of \$11,700,000
    - 40% Top estate tax rate
    - \$15,000 gifts per person
  - 2022
    - Estate Tax Exemption of \$12,060,000
    - 40% Top estate tax rate
    - \$16,000 gifts per person

# Standard Mileage Rates

- Current Law
  - 2021
    - Business 56 cents per mile
    - Moving 16 cents per mile
    - Medical 16 cents per mile
    - Charitable 14 cents per mile
  - 2022
    - Business 58.5 cents per mile
    - Moving 18 cents per mile
    - Medical 18 cents per mile
    - Charitable 14 cents per mile



# Retirement Plan Limits

- Current Law
  - 2021
    - IRA \$6,000
    - 401(k) \$19,500
    - Roth IRA AGI limit is \$198,000 MFJ and \$125,000 for single
    - Traditional IRA AGI limit is \$105,000 MFJ and \$66,000 for single
  - 2022
    - IRA \$6,000
    - 401(k) \$20,500
    - Roth IRA AGI limit is \$214,000 MFJ and \$144,000 for single
    - Traditional IRA AGI limit is \$109,000 MFJ and \$68,000 for single

# Other Limits

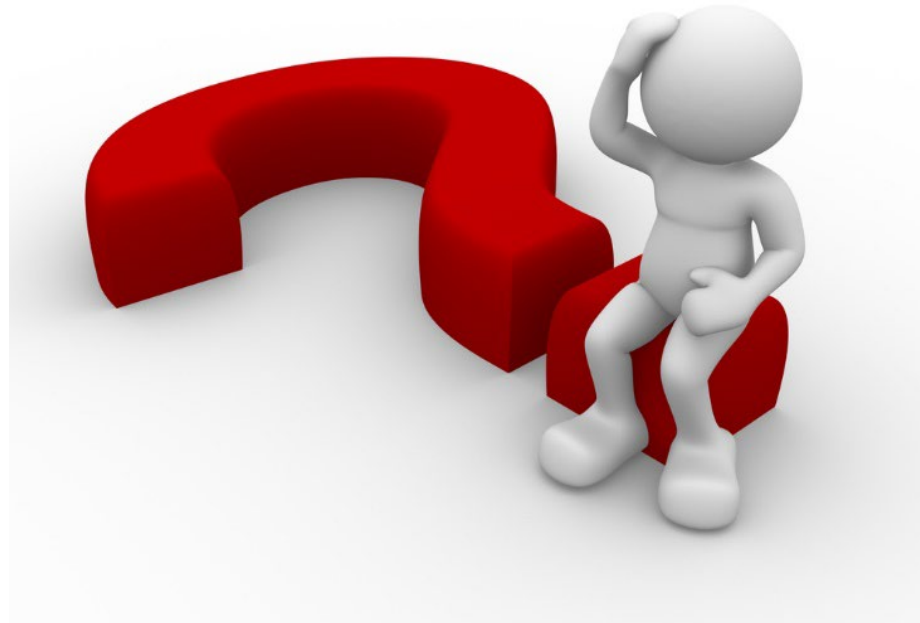
- Current Law
  - 2021
    - HSA \$3,600 for self only and \$7,200 for family coverage
    - Standard deduction of \$25,100 for MFJ and \$12,550 for single
    - Personal Exemptions \$0
    - Social Security limit \$142,800
  - 2022
    - HSA \$3,650 for self only and \$7,300 for family coverage
    - Standard deduction of \$25,900 for MFJ and \$12,950 for single
    - Personal Exemptions \$0
    - Social Security limit \$147,000

# Bonus Depreciation

- 100% Bonus Depreciation
  - Property placed in service before 01/01/2023 is eligible for 100% bonus depreciation
- Phase out of 100% bonus depreciation
  - In subsequent years, the first year bonus depreciation deduction would phase down as follows: 80% for property placed in service after 12/31/2022 and before 1/1/2024, 60% for property placed in service after 12/31/2023 and before 1/1/2025, 40% for property placed in service after 12/31/2024 and before 1/1/2026, and 20% for property placed in service after 12/31/2025 and before 1/1/2027. Phase out 1/1/27

# Tax Proposal – Impacts on Energy Industry

- What we were concerned about
  - IDC Expense
  - Percentage Depletion
  - Energy Credits
- What is in Inflation Reduction Act
  - IDC Expense
  - Percentage Depletion
  - Energy Credits



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