



SMITH LEONARD TAX UPDATE

Presented by Patrick Willis, Tax Director
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QUICK REMINDERS:

Don't Forget - Answer 2 Poll Questions

Questions? Ask in the Chat!

Slides Available on Landing Page



**"THE ONLY CONSTANT IN LIFE IS
CHANGE"**

- HERACLITUS



Tax Cuts and Jobs Act of 2017

Slated Tax Changes

SEC. 163(J) INTEREST EXPENSE LIMITATION

Adjusted Taxable Income no longer computed without regard to depreciation, amortization, and depletion (for tax years beginning after December 31, 2021)

SEC. 174 RESEARCH AND EXPERIMENTATION EXPENDITURES

Expenditures must be capitalized and amortized over 5 years (for tax years beginning after December 31, 2021)

BONUS DEPRECIATION PHASE-OUT

- 2023 – 80%
- 2024 – 60%
- 2025 – 40%
- 2026 – 20%
- 2027 – completed phased out

TCJA - Looking Ahead

INDIVIDUAL PROVISIONS SET TO SUNSET AFTER 2025

- Individual rates and brackets
- Standard deduction and personal exemption
- Higher Alternative Minimum Tax exemptions
- Sec. 199A Qualified Business Income deduction
- Excess business loss limitations
- \$10,000 state and local tax itemized deduction cap
- Miscellaneous itemized deduction suspension
- Pease limitation on itemized deductions returns
- Estate tax exemption reverts to \$5 million adjusted for inflation





POLL QUESTION #1:

How many pieces of legislation have been passed via budget reconciliation?



CARES Act

(ENACTED MARCH 27, 2020)

SEC. 163(J) INTEREST EXPENSE LIMITATION

- 30%-of-Adjusted Taxable Income limit increased to 50% for 2019 and 2020 tax years
- 2019 Adjusted Taxable Income could be used to calculate 2020 limit

NET OPERATING LOSSES

- For 2018, 2019, and 2020 tax years
 - 80%-of-taxable income limit suspended
 - Five-year carryback provided

EXCESS BUSINESS LOSSES

- For 2018, 2019, and 2020 tax years
 - \$250,000-per-taxpayer limit on deductible business losses suspended
 - Beginning in 2021, wage income will be treated as nonbusiness income



ANSWER: C

22 pieces of legislation have been passed via budget reconciliation.



CARES Act, Cont.

(ENACTED MARCH 27, 2020)

- Qualified Improvement Property technical correction
- Payroll tax deferral
- Employee Retention Credit
- RMD waiver for 2020
- State nonconformity considerations



CARES Act

Charitable Contributions

ABOVE-THE-LINE AMOUNT

\$300 above-the-line deduction for cash contributions to certain charities

DEDUCTIBILITY

Cash contributions to certain charities deductible up to 100% of adjusted gross income

% OF TAXABLE INCOME

Qualifying contributions for C corporations deductible up to 25% of taxable income



Consolidated Appropriations Act

(ENACTED DECEMBER 27, 2020)

- Reversed and clarified tax treatment of PPP loan forgiveness
- Business meals fully deductible for 2021 and 2022
- Established 2nd round of PPP loans
- Expanded and extended the employee retention credit
- Extended enhanced CARES Act charitable contribution deductions to 2021
- Voluntarily extended paid sick leave and paid family leave credits through March 31, 2021



American Rescue Plan Act of 2021

(ENACTED MARCH 11, 2021)

- Up to \$10,200 unemployment compensation not taxable for 2020
- Child and dependent care credit increased for 2021
- Child tax credit increased for 2021
- 2021 FSA contribution cap increased
- EITC expanded for 2021 and future years
- Employee retention credit extended
- Voluntarily extended paid sick leave and paid family leave credits through September 30, 2021

PPP - Second Round



PREVIOUSLY QUALIFIED

Borrower previously received First Draw PPP loan and has or will spent funds for authorized uses



EMPLOYEE COUNT

Borrower has no more than 300 employees



GROSS RECEIPTS

Borrower had at least a 25% gross receipts decline between comparable 2019 and 2020 quarters



Employee Retention Credit - 2020

(2020 RULES PER CARES ACT AND CAA, 2021)

- For the period 3/12/2020 – 12/31/2020, an employer qualifies for the credit if either:
 - Experienced a 50%-or-greater revenue decline between comparable 2019 and 2020 quarters, or
 - Operations were fully or partially suspended via a government order
- If the employer had more than 100 employees in 2019, only wages paid to employees to not work during a qualifying period qualify for the credit



Employee Retention Credit - 2020, Cont.

(2020 RULES PER CARES ACT AND CAA, 2021)

- The entire quarter experiencing a 50%-or-greater revenue decline is a qualifying period, as well as all subsequent quarters until the end of the quarter in which revenues are at least 80% of the same quarter for the previous year
- The credit is calculated as 50% of qualifying wages and health care costs paid to employees up to a max \$10,000 per employee during 2020 (so max \$5,000 credit per employee potentially available for 2020)
- Any wages taken into account in computing the credit cannot also be used to create PPP loan forgiveness, nor used in the computation of Research & Development credits (i.e. no double-dipping)



Employee Retention Credit - 2021

(2021 RULES PER CARES ACT AND CAA, 2021)

- Credit has been extended through year-end 2021, but may sunset after 3rd quarter 2021
- 50% quarter-to-quarter decline criteria dropped to 20%
- 100-employee threshold for determining whether credit can only be claimed on wages paid for not working increased to 500 FTEs
- Credit amount increased from 50% to 70% of qualifying wages
- Wage cap per employee increased to \$10,000 per quarter (so max \$28,000 credit per employee)
- Special rules for “recovery startup businesses” and “severely financially distressed employers”



Infrastructure Investment and Jobs Act

PASSED BY SENATE AUGUST 2021

- Digital asset broker information reporting requirements
- Employee retention credit sunset as of 3rd quarter 2021, except for “recovery startup businesses”





Build Back Better Act

HOUSE WAYS AND MEANS INDIVIDUAL TAX PROPOSALS

- Top individual marginal tax rate increased to 39.6%
- 3% surcharge on individual income
- Top capital gains rate increased to 25% (effective Sept 13, 2021)
- Net investment income tax expanded to cover active trade or business income
- Cap on Sec. 199A Qualified Business Income deduction
- Excess business loss limitation revised and made permanent (effective for 2021)
- Extend child tax credit provisions of ARPA through 2025
- Make permanent child care credit and earned income tax credit provisions of ARPA



POLL QUESTION #2:

Which revenue-raising provision of the Tax Cuts and Jobs Act of 2017 has NOT been altered by subsequent legislation?

Build Back Better Act

CORPORATE TAX PROPOSALS

- Graduated corporate tax rate 18% - 26.5%
- Expands GILTI to apply on a country-by-country basis and effectively increases rate
- Increase work opportunity tax credit to 50% for first \$10,000 wages through 2023
- Sunset tax credit paid family leave and medical leave in 2024 instead of 2026
- Delaying amortization of research and experimentation expenditures until 2026





ANSWER: A

The \$10,000 state and local tax itemized deduction cap provision of the Tax Cuts and Jobs Act of 2017 has NOT been altered by subsequent legislation.

Build Back Better Act

Retirement Plan Proposals

IRA PROFIT CONTRIBUTIONS

Prohibit contributions to IRAs with balances exceeding \$10 million

IRA RMD'S

Minimum required distributions for IRAs with balances exceeding \$10 million

ROTH CONVERSIONS

Prohibit Roth conversions for high-income taxpayers



Build Back Better Act

ESTATE TAX PROPOSALS

- The unified credit against estate and gift taxes would be cut in half
- Grantor trust changes effective as of “enactment date” of legislation
- Gift or estate tax imposed once a grantor trust is terminated
- Sales between a grantor trust and its owner deemed taxable transactions
- Valuation discounts eliminated as of “enactment date” for certain “nonbusiness assets”



Thank You

Any Questions?

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