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Certified Public Accountants and Consultants

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A background image showing a business meeting. Two people are seated at a table, looking at documents. A laptop is visible in the foreground. The image is overlaid with a blue semi-transparent rectangle containing the text.

2022 Business Tax Update

Presented by: Nicholas L. Shires, CPA

November 10, 2022

... 2022 Business Tax Update - Agenda

- Legislative Update
- IRS Operations
- Future Outlook & Planning Opportunities
- Recent IRS Rulings

Legislative Update

... Legislative Update – Infrastructure Investment and Jobs Act

- Signed into law on November 15, 2021
- Early Termination of the Employee Retention Credit (ERC)
 - Except for Recovery Startup Businesses
- Brokers must report digital asset transactions (beginning in 2023)
- Business Reporting for digital assets exceeding \$10,000
 - Form 8300 is due within 15 days of receipt

... Legislative Update – Creating Helpful Incentives to Produce Semiconductors (CHIPS) Act

- Signed into law on August 9, 2022
- Advanced Manufacturing Investment Credit
 - Property placed in service after December 31, 2022
 - Construction must begin prior to December 31, 2026
 - 25% of qualified investment in advanced manufacturing facility

... Legislative Update – Inflation Reduction Act (IRA)

- Signed into law on August 16, 2022
 - Reduce deficit, invest in domestic energy production, lower prescription drug costs
- Expected Revenue Raised = \$737 Billion
 - Tax increases and increased compliance
- Expected Costs = \$437 Billion
 - Tax credits and increased appropriations for IRS

... Legislative Update – Inflation Reduction Act (IRA)

- 15% Corporate Alternative Minimum Tax
 - Book income of \$1 billion (effective 1/1/2023)
- 1% Excise Tax on Corporate Stock Buybacks (effective 1/1/2023)
- Raises the Superfund Tax on crude oil and imported petroleum
- Extension of limitation on pass-through losses to 2027 and 2028
- Excise Tax on drug manufacturers, producers, importers (Oct. 2026)

... Legislative Update – Inflation Reduction Act (IRA)

- Green Energy Credits – Clean Electricity and Reducing Carbon Emissions
 - Extension and modification of credit for electricity produced from certain renewable sources (sunset 12/31/24)
 - Extension and modification of the energy credit (sunset 12/31/24)
 - 12/31/34 for ground water heating and cooling property
 - Increased energy credit for solar and wind facilities in certain low-income communities (additional 10% or 20% in 2023 and 2024)
 - Extension and modification of credit for carbon oxide sequestration (sunset 12/31/32)
 - Zero-Emission nuclear power production credit (sunset 12/31/32)

... Legislative Update – Inflation Reduction Act (IRA)

- Green Energy Credits – Clean Fuels
 - Extension of incentives for biodiesel, renewable diesel, and alternative fuels (sunset 12/31/24)
 - Extension of second-generation biofuel incentives (sunset 12/31/24)
 - Sustainable aviation fuel credit (sunset 12/31/24)
 - Credit for production of clean hydrogen (sunset 12/31/32)

... Legislative Update – Inflation Reduction Act (IRA)

- Green Energy Credits – Clean Vehicles
 - Clean vehicle credit (sunset 12/31/32)
 - Up to \$7,500
 - Final assembly requirement
 - MSRP limitation
 - Vans, SUVs, pickups = \$80,000
 - All other vehicles = \$55,000
 - Purchaser can transfer credit back to dealer (after 12/31/2023)
 - Credit for previously-owned clean vehicles (sunset 12/31/32)
 - Purchaser can transfer credit back to dealer (after 12/31/2023)

... Legislative Update – Inflation Reduction Act (IRA)

- Green Energy Credits – Clean Vehicles
 - Credit for qualified commercial clean vehicles (sunset 12/31/32)
 - IRS Notice 2022-56
 - 15% of basis OR “incremental cost”
 - \$7,500 for under 14,000 lbs.
 - \$40,000 for over 14,000 lbs.
 - Alternative fuel refueling property credit (sunset 12/31/32)

... Legislative Update – Inflation Reduction Act (IRA)

- Green Energy Credits – Investment in Clean Energy Manufacturing and Energy Security
 - Extension of the advanced energy project credit
 - Additional \$10 billion in allocations with at least \$4 billion to projects within census tract
 - 6% of qualified investment (30% if project meets prevailing wage and apprenticeship requirements)

... Legislative Update – Inflation Reduction Act (IRA)

- Green Energy Credits – Investment in Clean Energy Manufacturing and Energy Security
 - Advanced manufacturing production credit (sunset 12/31/32)
 - Credit computed on sales of eligible components
 - Solar energy components
 - Wind energy components
 - Inverters
 - Qualifying battery components
 - Applicable critical minerals
 - Credit phases out beginning in 2030 through 2032

... Legislative Update – Inflation Reduction Act (IRA)

- Green Energy Credits – Incentives for Clean Electricity and Clean Transportation
 - Clean energy production credit
 - Credit based on the energy produced or stored
 - Clean energy investment credit
 - Credit based on the percentage of investment in property
 - Cost recovery for qualified facilities, qualified property, and energy storage technology
 - Clean fuels production credit (sunset 12/31/27)

... Legislative Update – Inflation Reduction Act (IRA)

- Green Energy Credits – Individual
 - Extension, increase, and substantial modification of nonbusiness energy property credit (sunset 12/31/32)
 - Extension and modification of residential energy efficient property credit (sunset 12/31/34)
 - Extension, increase, and modification of new energy efficient home credit (sunset 12/31/32)

... Legislative Update – Inflation Reduction Act (IRA)

- Accelerated Cost Recovery for Green Building Property (Section 179D) – Pre-IRA
 - Deduction up to \$1.80 (\$1.88 for 2022) per square foot on Energy Efficient Commercial Building Property
 - Part of Interior Lighting, HVAC, or Building Envelope
 - 50% or more annual energy savings
 - Building must be owned by the Taxpayer
 - Government owned building allocation

... Legislative Update – Inflation Reduction Act (IRA)

- Accelerated Cost Recovery for Green Building Property (Section 179D) – Post-IRA
 - Buildings Placed in Service after December 31, 2022
 - Reduced Energy Savings Requirement from 50% to 25%
 - Applicable Dollar Value Method
 - \$.50 increased up to \$1.00
 - Potential increase to \$2.50 up to \$5.00
 - Prevailing wage AND apprenticeship requirements (12.5% in 2023, 15% thereafter)
 - “Government” changed to “Tax Exempt”

... Legislative Update – Inflation Reduction Act (IRA)

- Accelerated Cost Recovery for Green Building Property (Section 179D) – Post-IRA
 - Alternative Deduction for Retrofit Property
 - Based on Percentage Reduction in energy use intensity rather than total energy costs
 - Qualified Retrofit Plan established after December 31, 2022
 - Alternative Deduction cannot exceed adjusted basis of retrofit property placed in service

... Legislative Update – Inflation Reduction Act (IRA)

- Increase in Qualified Small Business Payroll Tax Credit for Increasing Research Activities
 - Up to \$250,000 of R&D credit can be utilized as a payroll tax credit to offset the employer's share of Social Security tax
 - Small Business
 - Gross receipts of less than \$5 million
 - Zero gross receipts in any tax year prior to 5-year lookback period (start-up business)
 - Tax years beginning after December 31, 2022

... Legislative Update – Inflation Reduction Act (IRA)

- Tax Foundation Analysis
 - Net Revenue \$324 billion over 10 years
 - Includes \$278 billion from drug pricing enforcement and excise tax
 - Includes \$130 billion from additional IRS enforcement
 - Results in a net loss of \$84 billion before revenue from increased enforcement
 - Additional IRS Spending - \$80 billion

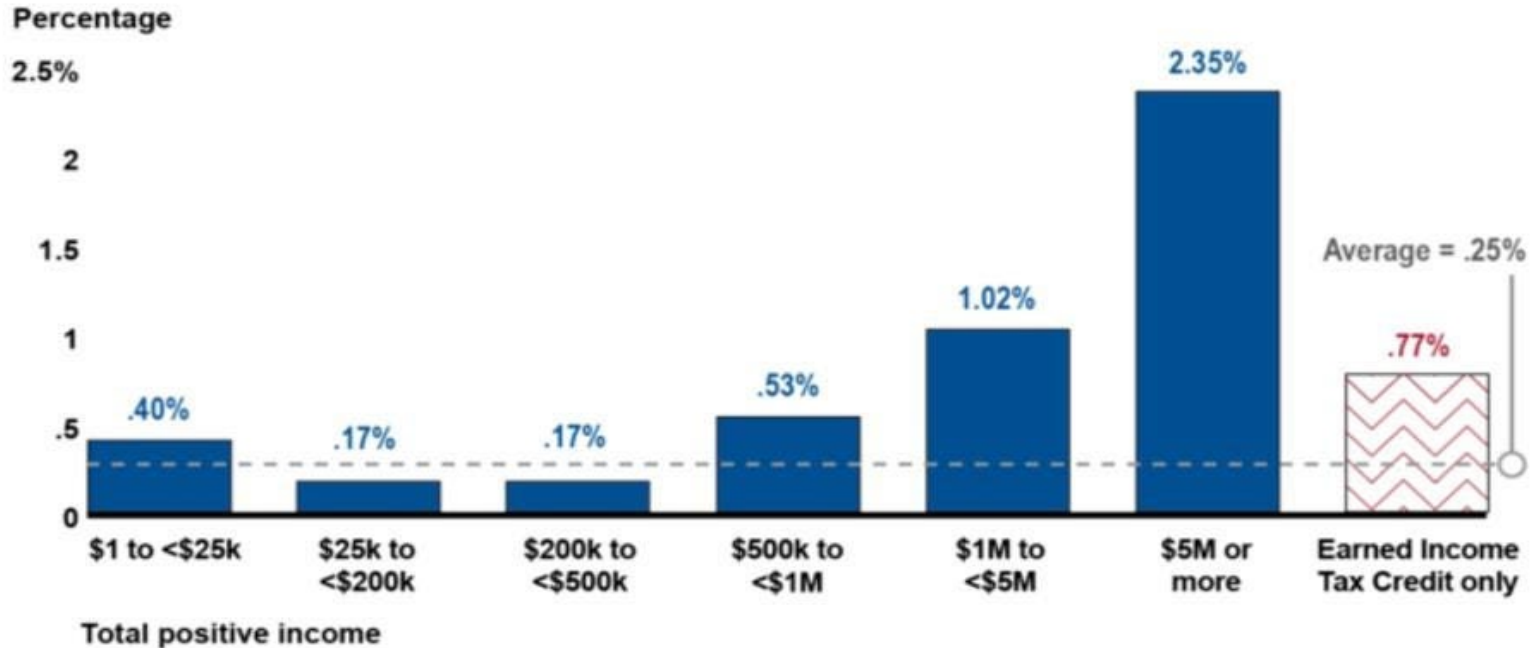
IRS Operations

... IRS Operations



IRS Operations – Audit Rates

Audit Rates by Total Positive Income, Tax Year 2019

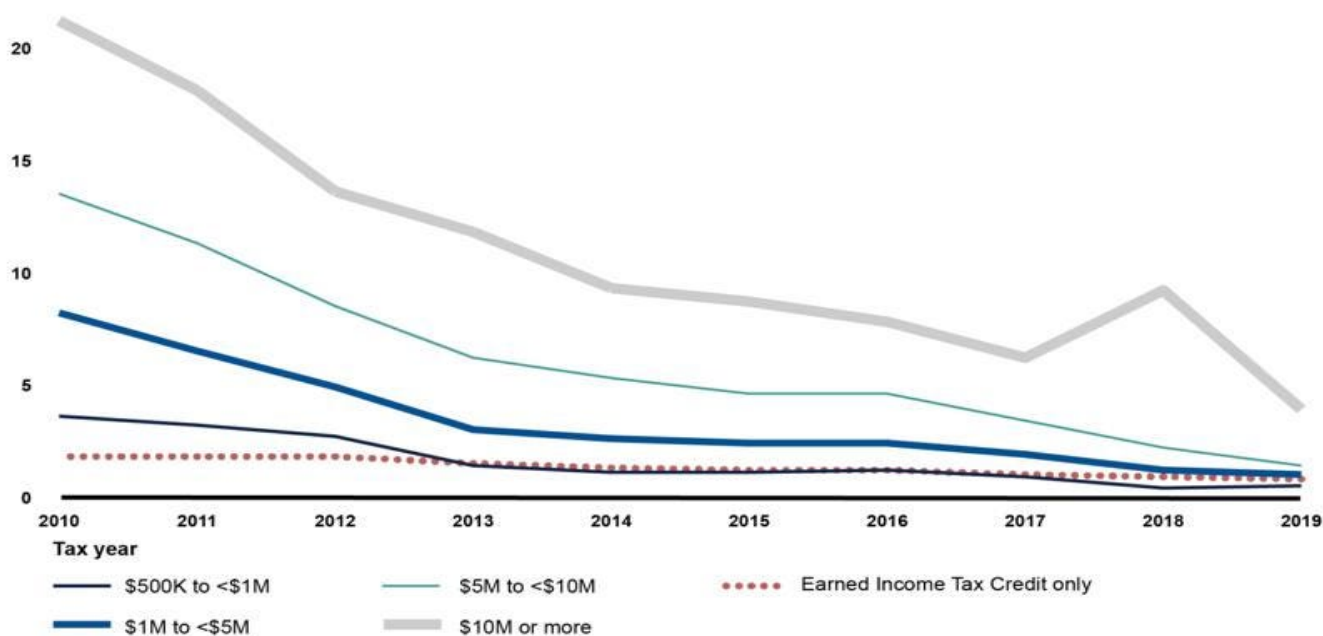


Source: GAO analysis of Internal Revenue Service data. | GAO-22-104960

IRS Operations – Audit Rates

Figure 9: Audit Rates of Individual Tax Returns by Select Taxpayer Total Positive Income Categories and Earned Income Tax Credit (EITC), Tax Years 2010 to 2019

Percentage
25%



Source: GAO analysis of Internal Revenue Service data. | GAO-22-104960

... IRS Operations – Audit Rates

Taxpayer	Returns Filed	Returns Audited	Percentage Audited
C-Corporation	1,522,958	4,395	0.29%
S-Corporation	4,940,351	3,182	0.06%
Partnership	4,512,292	1,335	0.05%
Individual	157,951,815	341,845	0.22%

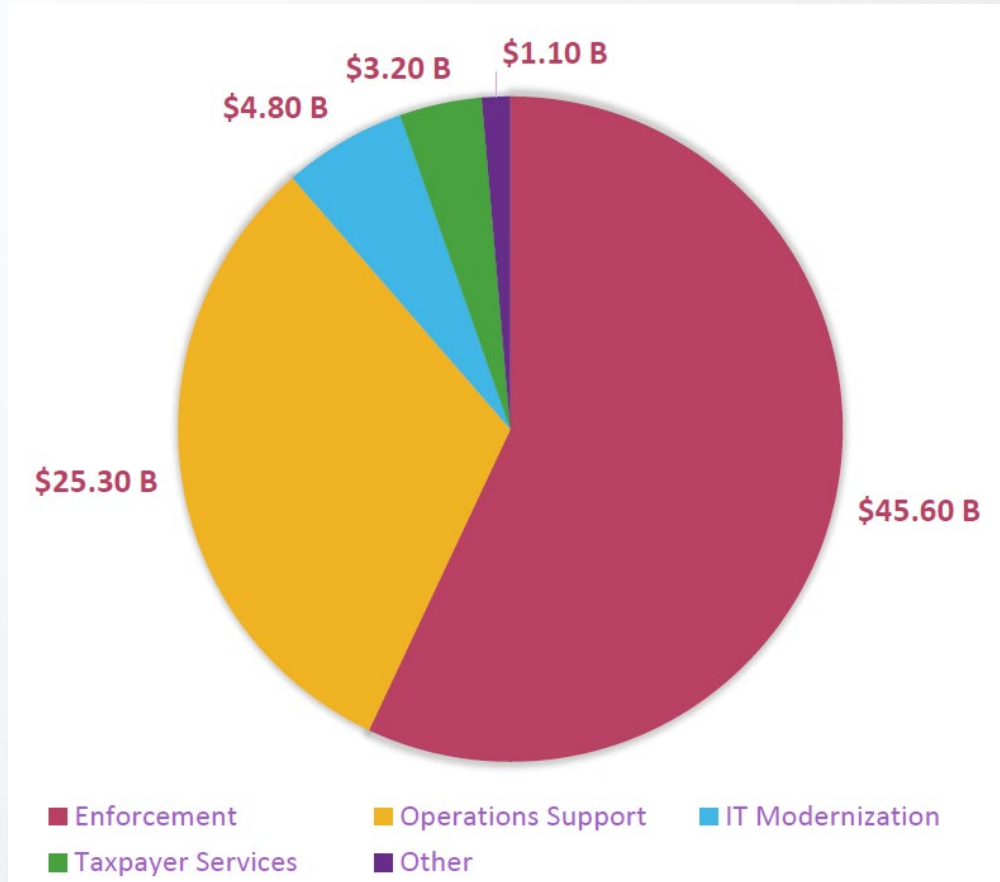
... IRS Operations

- Tax Gap Estimates
 - “Gross Tax Gap” is the difference between estimated true tax liability and the amount of tax paid on time
 - IRS Study released October 28th
 - 2014–2016 tax gap increased to \$496 billion
 - Late payments and collection efforts resulted in an additional \$68 billion collected
 - Resulting Tax Gap remains at \$428 billion

... IRS Operations

- Tax Gap Estimates
 - Tax Gap is an indication of non-filing and non-compliance
 - Non-filing \$39 billion
 - Underreporting \$398 billion
 - Underpayment \$59 billion
 - 85% Compliance Rate
 - System is reliant on voluntary compliance
 - Compliance rate has remained steady

IRS Operations – Inflation Reduction Act Appropriations



... IRS Operations

- IRS Next Steps – Taxpayer Phone Service
 - October 27th – IRS hired 4,000 customer service representatives to assist with answering phones during the upcoming busy season
 - 1 in 10 calls during 2022 filing season reached an IRS employee
 - Goal is to add another 1,000 by the end of the year
 - Pilot program to thwart line-jumping services
 - Improved Practitioner Priority Service line

... IRS Operations

- IRS Next Steps – Enforcement
 - 87,000 agents to be hired over 10-year period
 - Focus on enforcement of compliance by auditing high income taxpayers
 - Technology improvements to lead to more efficient, timely processing of returns

... IRS Operations

- IRS Next Steps – Enforcement Focus Areas
 - Employee Retention Credit – New Release 2022-183 (10/19/2022)
 - “ERC Mills” – contingent fee arrangements
 - Income Tax audits
 - Possible Voluntary Disclosure Policy
 - Cryptocurrency
 - Foreign Investment and High Earning Non-Filers

... IRS Operations

- IRS Office of Appeals – 2023 Focus Guide (IR-2022-195, 11/4/2022)
 - Increase stakeholder outreach
 - Improve access to in-person and video conferences
 - Leverage technology to improve how Appeals works and manages its cases
 - Continue the Practitioner Perspectives series
 - Develop training for Appeals employees on enhancing customer engagement

Future Outlook and Planning Opportunities

... Future Outlook and Planning Opportunities

- Tax Cuts and Jobs Act – Expiring Provisions
 - R&D Expenditures – Change in Accounting Method
 - Effective for tax years beginning after 12/31/21
 - Amortize domestic expenses over 5 years
 - Amortize foreign expenses over 15 years
 - Includes software development expenditures

... Future Outlook and Planning Opportunities

- Tax Cuts and Jobs Act – Expiring Provisions (cont.)
 - R&D Expenditures – Example
 - \$500,000 in R&D costs, incurred evenly throughout the year
 - Year 1 amortization - \$50,000
 - Deferred deduction = $\$450,000 \times 30\% \text{ tax rate} = \$135,000$
 - R&D credit approximately \$50,000

... Future Outlook and Planning Opportunities

- Tax Cuts and Jobs Act – Expiring Provisions (cont.)
 - 163(j) Interest Limitation
 - Interest expense deduction is limited to 30% of adjusted taxable income
 - Depreciation, Amortization, and Depletion reduce adjusted taxable income in tax years after December 31, 2021
 - Think twice about accelerating depreciation!

Future Outlook and Planning Opportunities

- Tax Cuts and Jobs Act – Expiring Provisions (cont.)
 - Bonus Depreciation Phase Out
 - 2022 100%
 - 2023 80%
 - 2024 60%
 - 2025 40%
 - 2026 20%
 - Still have increased Section 179 Expensing Election
 - 2022 limit is \$1,080,000 (P.I.S. limit is \$2,700,000)

... Future Outlook and Planning Opportunities

- Tax Cuts and Jobs Act – Expiring Provisions (cont.)
 - Qualified Business Income (QBI) Deduction (expires after 2025)
 - Lower Tax Rates (expires after 2025)
 - C-Corp vs. S-Corp?
 - Look ahead when planning for 2022 year-end
 - Deferring income still works
 - Don't create permanent tax cost – time value of money

Future Outlook and Planning Opportunities

- Example - Assume Manufacturer with \$1,000,000 of annual taxable income – large equipment upgrade (full bonus)

	2022	2023	2024	2025	2026	2027
Net Income	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000
Bonus Depreciation	(1,000,000)	-	-	-	-	-
Section 179	-	-	-	-	-	-
Regular Depreciation	-	-	-	-	-	-
Net Pass Through Income	-	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
QBI Deduction	-	(200,000)	(200,000)	(200,000)	-	-
Taxable Income	-	800,000	800,000	800,000	1,000,000	1,000,000
Tax Rate	37%	37%	37%	37%	39.6%	39.6%
	\$ -	\$ 296,000	\$ 296,000	\$ 296,000	\$ 396,000	\$ 396,000
Total Tax	<u>\$ 1,680,000</u>					

Future Outlook and Planning Opportunities

- Example - Assume Manufacturer with \$1,000,000 of annual taxable income – large equipment upgrade (50% 179)

	2022	2023	2024	2025	2026	2027
Net Income	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000
Bonus Depreciation	-	-	-	-	-	-
Section 179	(500,000)	-	-	-	-	-
Regular Depreciation	(100,000)	(160,000)	(96,000)	(57,600)	(57,600)	(28,800)
Net Pass Through Income	400,000	840,000	904,000	942,400	942,400	971,200
QBI Deduction	(80,000)	(200,000)	(200,000)	(200,000)	-	-
Taxable Income	320,000	672,000	723,200	753,920	942,400	971,200
Tax Rate	37%	37%	37%	37%	39.6%	39.6%
	<u>\$ 118,400</u>	<u>\$ 248,640</u>	<u>\$ 267,584</u>	<u>\$ 278,950</u>	<u>\$ 373,190</u>	<u>\$ 384,595</u>
Total Tax	<u>\$ 1,671,359</u>					

Future Outlook and Planning Opportunities

- Example - Assume Manufacturer with \$1,000,000 of annual taxable income – large equipment upgrade (no bonus or 179)

	2022	2023	2024	2025	2026	2027
Net Income	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000	\$ 1,000,000
Bonus Depreciation	-	-	-	-	-	-
Section 179	-	-	-	-	-	-
Regular Depreciation	(200,000)	(320,000)	(192,000)	(115,200)	(115,200)	(57,600)
Net Pass Through Income	800,000	680,000	808,000	884,800	884,800	942,400
QBI Deduction	(160,000)	(136,000)	(161,600)	(176,960)	-	-
Taxable Income	640,000	544,000	646,400	707,840	884,800	942,400
Tax Rate	37%	37%	37%	37%	39.6%	39.6%
	<u>\$ 236,800</u>	<u>\$ 201,280</u>	<u>\$ 239,168</u>	<u>\$ 261,901</u>	<u>\$ 350,381</u>	<u>\$ 373,190</u>
Total Tax	<u>\$ 1,662,720</u>					

... Future Outlook and Planning Opportunities

- Possible Year-End Legislation?
 - Continuing Resolution expires December 16th
 - SECURE Act 2.0?
 - R&D Fix?
 - 163(j) Fix?
 - Bonus Depreciation?
 - LIFO Relief for Auto Dealers?

... Future Outlook and Planning Opportunities

- SECURE Act 2.0
 - Larger tax credit for small employers with up to 50 employees
 - Aimed at increasing participation
 - Automatic enrollment in 401k and 403b
 - Increase eligibility for Saver's Credit
 - Boost catch up contribution for ages 62-64
 - Match of student loan payments

Recent IRS Rulings

Recent IRS Rulings

- IRS Notice 2022-36
 - Penalty Relief for failure to file 2019 and 2020
 - Returns Filed on or before September 30, 2022
 - Disaster Area extension

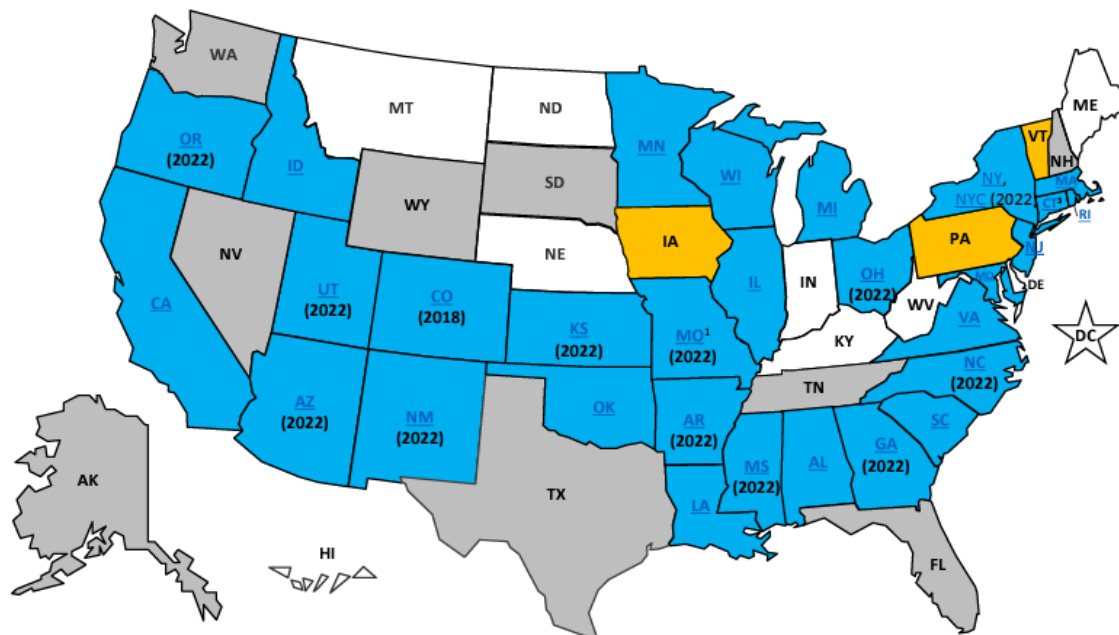
Recent IRS Rulings

- IRS Notice 2020-75
 - Pass-Through Entity Tax
 - Accrual basis entity required to pay before year-end?
 - Most states still elective programs (CT mandatory)
 - Non-resident owners

Recent IRS Rulings

States with Enacted or Proposed Pass-Through Entity (PTE) Level Tax

As of August 31, 2022



- 29 states (& 1 locality) that enacted a PTE tax since TCJA SALT deduction limitation, effective for 2021 (or earlier) unless noted:

[AL](#), [AR](#)¹, [AZ](#)¹, [CA](#), [CO](#)², [CT](#)³, [GA](#)¹, [ID](#), [IL](#), [KS](#)¹, [LA](#), [MA](#), [MI](#), [MD](#), [MN](#), [MO](#)¹, [MS](#)¹, [NC](#)¹, [NJ](#), [NM](#)¹, [NY](#), [OH](#)¹, [OK](#), [OR](#)¹, [RI](#), [SC](#), [UT](#)¹, [VA](#), [WI](#), and [NYC](#)¹

¹ Effective in 2022 or later – on map (2022) or (2023)

² Retroactive to 2018

³ Mandatory

- 3 states with proposed PTE tax bills:
IA – [HF 2087](#), session over, not enacted
PA – [HB 1709](#), in committee
VT – [H 0527](#), session over, not enacted

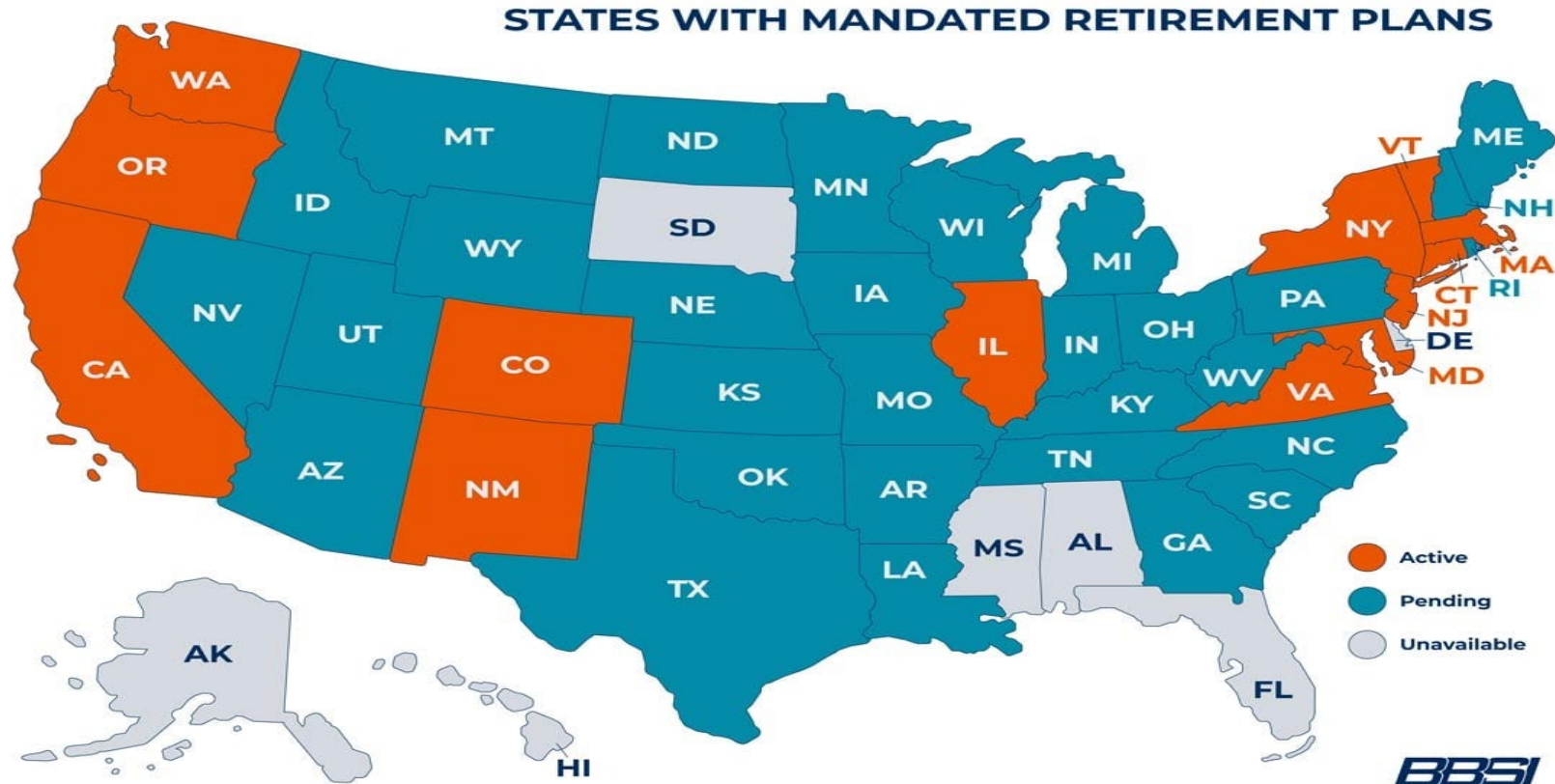
- 9 states with no owner-level personal income tax on PTE income:

AK, FL, NH, NV, SD, TN, TX, WA, WY

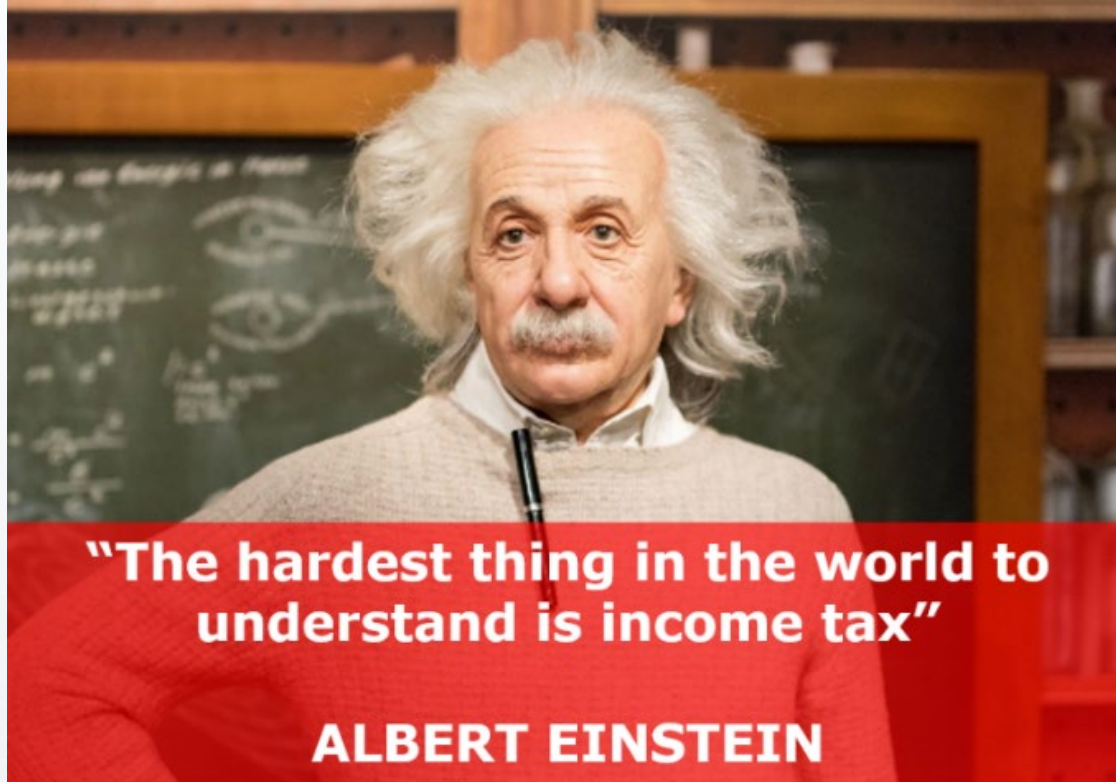
- 10 states with an owner-level personal income tax on PTE income that have not yet proposed or enacted PTE taxes:
DE, HI, IN, KY, ME, MT, NE, ND, VT, WV



Recent IRS Rulings



... Questions?





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