



# Federal Legislation

12/01/2021

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# Agenda

- Infrastructure Act
- Build Back Better Bill HR 5376
- Key Areas Removed
- Legislative Path

# Infrastructure Investments and Jobs Act

- Spending- \$1.2 Trillion in total
- \$550 billion over first 5 years
  - ▶ \$250 billion- highways, bridges, rail, ports and airports
  - ▶ \$65 billion- power grid
  - ▶ \$65 billion – broadband internet
  - ▶ \$7.5 billion – electric vehicle charging stations
- CBO estimates additional deficient spending \$256 billion over 10 years

# Infrastructure Investments and Jobs Act

- Reinstate Superfund fees and increase rates on certain chemicals
  - ▶ JCT- \$14.45 billion in revenue
- Digital asset information reporting
  - ▶ Focus- cryptocurrency
  - ▶ JCT- \$28 billion in revenue
- ERC eliminated for wages paid after September 30, 2021
  - ▶ Except for recovery startup businesses, expire at end of 2021
  - ▶ Part of estimated \$210 billion of unused COVID relief bills

# Build Back Better Bill- HR 5376

- House approved bill on November 19<sup>th</sup> vote of 220 to 213
- \$1.7 trillion in spending
- \$1.5 trillion in new tax provisions; down from over \$2 trillion
- CBO still projects increase to deficit over 10 years
- Senate working on own version of the bill

# Proposals – Corporate and General Business Reforms

- Increase Corporate Tax Rate with graduated rates up to 26.5%
  - ▶ 18% on 1<sup>st</sup> \$400K; 21% up to \$5M; 26.5% over \$5M
  - ▶ Over \$10M- 3% surtax until hit flat 26.5%
  - ▶ PSC not eligible for graduated rates
- Corporate Minimum Tax
  - ▶ 15% minimum tax on C corporations with average book income over \$1 billion
    - Tested over 3 year period
  - ▶ Applicable to tax years beginning after December 31, 2022
- Excise Tax on Stock Repurchases
  - ▶ 1% excise tax on value of repurchased shares
  - ▶ Only applicable to shares traded on an “established securities market”

# Proposals – Corporate and General Business Reforms

- Worthless Partnership Interests
  - ▶ Add IRC 165(g) to treat any loss as a sale or exchange under IRS 741
  - ▶ Eliminate Rev Rul 93-80 ordinary loss on abandonment
- Permanent Excess Business Loss
  - ▶ IRC 461(l) \$500,000 business loss becomes permanent
  - ▶ Carryovers are treated as excess business losses in subsequent year
  - ▶ Tax years beginning after 12/31/20
- Section 1202 Restrictions
  - ▶ Limited to 50% exclusion if AGI of \$400K and above
  - ▶ Apply to sales or exchanges after 9/13/21
  - ▶ AGI tested with full gain included



# Proposals – Corporate and General Business Reforms

- IRC 163- Interest Expense
  - ▶ Amend IRC 163(j)(4) to apply interest limit at partner level; not partnership level
  - ▶ Add 163(n) which would add a new limit for certain domestic corporations that are part of a multinational group that prepares consolidated financial statements (IFRS).
  - ▶ Add 163(o) which would provide that excess business interest expense would expire after 5 years
- R&D Expensing Extended
  - ▶ Delays TCJA rule requiring 5 year amortization of R&D expenses from 2022 to 2026
- WOTC Increased
  - ▶ Credit of 50% of first \$10,000 of wages through December 31, 2023 (except summer youth)
- Wash Sale Rules
  - ▶ Expanded to include digital assets, commodities and currencies

# Proposals – Individuals

- Surcharge Tax on MAGI (not taxable income)
  - ▶ 5% surcharge on MAGI over \$10M (\$5.0M MFS, \$200K for estate or trust)
  - ▶ Additional 3% surcharge (total 8%) on MAGI over \$25M (\$12.5M MFS, \$500K for estate or trust)
- NIIT of 3.8% Tax on all business income not subject to SE tax
  - ▶ Applies to taxpayers with taxable income over \$400K (\$500K for MFJ and \$250K for MFS)
- Increase State and Local Tax Deduction
  - ▶ Increase limit from \$10,000 to \$80,000 through 2030
  - ▶ Effective for 2021 tax year
  - ▶ Cap would revert to \$10,000 in 2031 for one year; appears as all limits would be removed after 2031

# Proposals – International Business Reforms

- FDII- Reduced Rate
  - ▶ IRC 250 deduction reduced 37.5% to 24.8%
  - ▶ Effective tax years beginning after December 31, 2022
- Modifications to FTC
  - ▶ Determine FTC on a country by country basis
- GILTI Modifications
  - ▶ IRC 250 deduction reduced 50% to 28.5%
  - ▶ Rate of return on QBAI rate decreased from 10% to 5%
- BEAT modifications
- As noted - additional limitations on interest expense for multinational groups

# Proposals – Modification of Rules Related to Retirement Plans

- Contribution Limits for IRA and Roth IRA
  - ▶ No contributions allowed for “high income” individuals with combined IRA and retirement plans exceeding \$10M
  - ▶ Applies to taxpayers with taxable income \$450K (MFJ), \$400K (single or MFS), \$450K (HOH)
- RMD Increases
  - ▶ Distribution of 50% of value exceeding \$10M required for “high income” individuals
  - ▶ 100% of “applicable Roth excess amount”
- Contribution and RMD rules apply for tax years beginning after December 31, 2028
- Eliminates back door Roth conversions for transactions after December 31, 2021

# Key Provisions Dropped

- Increase Top Marginal Tax Rate to 39.6%
- Increase Top Capital Gains Rate to 25%
- 199A Deduction Limits
- Reversion of Unified Credit to \$5M
- Elimination of Discounts for Nonbusiness Assets
- Inclusion of Grantor Trusts in Estate
- Prohibited IRA investments of non publicly traded entity in which taxpayer owns a 10% or greater interest