



# Top Individual Tax Planning Strategies

ITPS/21/W1

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## Today's Presenter

### **Michael J. Tucker, CPA**

Mike is an employee of Surgent CPE, who heads up Surgent's webinar efforts. He has authored many professional articles and is a veteran TV and live seminar presenter. Mike writes and hosts many of the webinars Surgent McCoy sponsors and presents.

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## Today's Presenter

### **Bob Lickwar, CPA, MST**

Bob has more than 30 years of experience as a practicing CPA and has worked exclusively with privately held businesses and owners to provide compliance services and sophisticated tax planning strategies including like-kind exchanges, tax efficient workouts and restructurings, reorganizations and estate planning services. He has assisted clients in the development of tax-favored and other retirement plans and has worked with firm partners in developing tax efficient succession transitions, including acquisitions and sales of businesses. He also has extensive experience in dealing with tax authorities at both the federal and state levels.

## Prepare for Substantial Tax Changes Impacting Individuals — Build Back Better Act



## Passage of the Infrastructure Investment and Jobs Act (IIJA)

- On November 5, 2021, the U.S. House of Representatives passed H.R. 3684, the “Infrastructure Investment and Jobs Act” or IIJA
- The U.S. Senate had already passed the same version of the IIJA on August 10, 2021
- Congressional action on the IIJA is complete and President Biden signed the bill on November 15, 2021
- The IIJA, which includes a few tax-related provisions, is one of two legislative priorities which congressional Democrats have been focused on for several months
- The other legislative priority for Democrats is H.R. 5376, the “Build Back Better Act” or BBB Act, which includes many important tax provisions
- As of the writing of these materials, the House but not the Senate voted on the BBB Act
- A Senate vote on the BBB Act is scheduled for around Christmas
- Presumably there will be a conference committee that will resolve differences between the House and Senate versions of the legislation



## Budget Reconciliation

- Democrats will try to enact the BBB Act using budget reconciliation procedures
- This process would require only a majority vote, not 60 votes, for passage
- The BBB Act incorporates most of the president’s social and tax agenda and as of this writing, is not a finished product as changes may continue to be made in the text
- As the political process evolves more changes may be expected in the BBB Act before a final vote is taken on it
- Created by the Congressional Budget Act of 1974, budget reconciliation is a process which allows for expedited consideration of certain tax, spending, and debt limit legislation
- In the Senate, reconciliation bills are not subject to filibuster and the scope of amendments is limited
- Thus, reconciliation is an easier way to enact controversial budget and tax measures



## Individual Tax Provisions of the IIJA

- The IIJA, over 2,700 pages, includes a few tax law changes but is more focused on infrastructure repairs and improvements



## Cryptocurrency Reporting on 2021 Form 1040

- Draft year 2021 Form 1040, asks the following question:
- At any time during 2021, did you receive, sell, exchange, or otherwise dispose of any financial interest in any virtual currency? (Yes) (No)



## Cryptocurrency Reporting

- The IIJA expanded the definition of brokers to include *“any person who (for consideration) is responsible for regularly providing any service effectuating transfers of digital assets on behalf of another person”*
- A digital asset is *“any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary”*
- As a result of this change, brokers will have increased reporting requirements for cryptocurrency transactions



## Cryptocurrency Reporting

- Section 6050I requires that any person engaged in a trade or business that receives cash in excess of \$10,000 in a single transaction or in related transactions must file Form 8300, *Report of Cash Payments Over \$10,000 Received in a Trade or Business*
- The IIJA expanded Section 6050I(a) to include required reporting of digital assets
- Individuals engaged in a trade or business will be required to report cryptocurrency transactions over \$10,000
- Hence, a digital asset acquired on or after January 1, 2023, would be a covered security and brokers would have to report a customer's basis and gain or loss when the customer sells or exchanges the digital asset
- The reporting requirements are effective for transactions entered into as of January 1, 2023, or later



## Modification of Limitation on Deduction for State and Local Taxes

- The current limitation on the state and local tax deduction (SALT deduction) is \$10,000
- The SALT deduction limitation in the BBA Act is currently \$80,000 (formerly \$72,500)
- (\$36,250/\$40,000 in the case of an estate, trust, or married individual filing a separate return)
- This change will apply for taxable years beginning after December 31, 2020
- The SALT deduction limitation is a hot political issue and additional changes in the amount may be forthcoming



## Extension of Period of Limitation for Certain Legally Married Couples

- In the case of an individual first treated as married for purposes of the IRC of 1986 by the application of the holdings of Revenue Ruling 2013–17
- If such individual filed a return, other than a joint return, for a taxable year ending before September 16, 2013, for which a joint return could have been made by the individual and the individual's spouse but for the fact that such holdings were not effective at the time of filing, such return shall be treated as a separate return within the meaning of Section 6013(b) and the time prescribed by Section 6013(b)(2)(A) for filing a joint return after filing a separate return shall not expire before the date prescribed by law (including extensions) for filing the return of tax for the taxable year that includes the date of the enactment of the BBA Act



## Exclusion of Amounts Received From State-Based Catastrophe Loss Mitigation Programs

- Gross income does not include any amount received by an individual as a qualified catastrophe mitigation payment under a program established by:
  - A state, or a political subdivision or instrumentality thereof, a joint powers authority\*, or
  - An entity created under state law to ensure the availability of an adequate market of last resort for essential property insurance, over which a state agency or state department of insurance has regulatory oversight
  - \*A **joint powers authority** (JPA) is an entity permitted under the laws of some states whereby two or more public authorities (e.g. local governments or utility or transport districts), not necessarily located in the same state, may jointly exercise any power common to all of them



## Exclusion of Amounts Received From State-Based Catastrophe Loss Mitigation Programs

- The term 'qualified catastrophe mitigation payment' means any amount that is received by an individual to make improvements to such individual's residence for the sole purpose of reducing the damage that would be done to such residence by a windstorm, earthquake, or wildfire
- No increase in taxpayer's basis results
- The amendments made shall apply to taxable years beginning after December 31, 2020



## Credit for Qualified Wildfire Mitigation Expenditure

- A credit is allowed against the tax imposed for the taxable year in an amount equal to 30 percent of the qualified wildfire mitigation expenditures paid or incurred by the taxpayer during such taxable year with respect to real property owned or leased by the taxpayer
- The term 'qualified wildfire mitigation expenditures' means any specified wildfire mitigation expenditure made pursuant to a qualified state wildfire mitigation program of a state which requires expenditures for wildfire mitigation to be paid both by the taxpayer and such state
- Expenditures can produce either a business credit or a personal credit, depending on the character of the expenditure



## Health Care

- The Senate has agreed to empower Medicare to negotiate prices of certain costs of medications administered in doctors' offices or purchased at the pharmacy
- Drugs would not be eligible until they were outside their initial exclusivity periods — nine years for many, 12 years for others
- Medicare would negotiate up to 10 drugs, starting in 2023, with prices taking effect in 2025
- The number would rise to up to 20 medications starting in 2028
- This is a far more limited proposal than the one Democratic leaders in the House have backed
- The Senate agreement would also impose a tax penalty if drug companies increase their prices faster than inflation
- A Kaiser Family Foundation report indicates that half of all drugs purchased at pharmacies exceeded that threshold





## Child Tax Credit (CTC)

- The child tax credit (CTC) increased from \$2,000 to \$3,600 for children under age 6 and to \$3,000 for all others under age 18
- Half of the CTC was paid out in 6 monthly installments from \$250 (= \$1,500) to \$300 (= \$1,800) as an advance against the CTC that can be taken when the 2021 tax return is filed
- The monthly advanced payments began July 15, 2021, and continued through December 2021
- The majority of eligible parents were automatically enrolled to receive the advanced payments



## Child Tax Credit (CTC)

- To qualify, MFJ parents had to have filed a 2019 or 2020 tax return and claimed the CTC, maintained a home in the U.S. for more than half the year or filed a joint return with a spouse that maintained a home in the U.S. for more than half of the year, had a qualifying child under age 18 by the end of 2021 with a valid SSN, and met certain income limits



## BBB Act Changes Relating to the CTC

- BBB Act contains a one-year extension of the increase in the CTC as enacted in the American Rescue Plan, and a continuation of advance payments through 2022
- Thus for 2022, the CTC is \$3,000 (\$3,600 for children under age 6), and for most taxpayers, the credit is advanceable
- However, in 2022, unlike 2021, only taxpayers with income below \$150,000 (in the case of a joint filer), \$112,500 (in the case of a head of household), and \$75,000 in the case of any other filer will receive advance CTC payments
- The eligibility for advance payments will be based on the taxpayer's prior tax return information



## BBB Act Changes Relating to the CTC

- The BBB Act increases the safe harbor amount to \$3,000 (\$3,600 for a child under the age of 6) for certain taxpayers in cases where repayment of excess advance payments may otherwise be required
- The BBB Act eliminates the Social Security Number requirement for qualifying children, which was added by the Tax Cuts and Jobs Act (TCJA)
- The CTC begins to phase out for households with income above \$150,000 for joint filers, \$112,500 for heads of household, and \$75,000 for all other filers



## BBB Act Changes Relating to the CTC

- A “look-back rule” for the phaseout threshold allows taxpayers to use prior-year income for purposes of determining the phaseout of the CTC
- This rule will allow taxpayers who may have received an excess advance CTC to remain eligible for the full value of the CTC even when their income rises above the phaseout range in the next year



## CTC Advance Payments

- First payment of the CTC was made on July 15, 2021
- Made to 35 million families and covered 60 million children:
  - Up to \$3,600 per child under age 6 in 2021 rather than \$2,000 normally (\$1,600 difference from normal credit of \$2,000)
  - Up to \$3,000 for each child ages 6 through 17 as of December 31, 2021 (\$1,000 difference from \$2,000 credit)



## CTC Advance Payments

- A taxpayer who receives monthly payments for one child of about \$167 (or multiples of that number if more than one child) is probably receiving payments only for the permanent CTC but not the expanded version of the CTC
- Expanded version of the CTC currently applies only for 2021
- The BBB Act proposes to extend it through 2022
- Parents who did not receive monthly payments in 2021 can claim the full CTC on their 2021 tax returns



## Dates CTC Advance Payments Were Made in 2021

- July 15, 2021
- August 13, 2021
- September 15, 2021
- October 15, 2021
- November 15, 2021
- December 15, 2021



## Opting Out of the CTC Monthly Advances

- CTC payments were sent out automatically
- Parents could opt out by indicating they did not want to receive monthly payments
- To opt out, go to [www.irs.gov/credits-deductions/child-tax-credit-update-portal](https://www.irs.gov/credits-deductions/child-tax-credit-update-portal)
- If married, both parents must opt out or half of the CTC payments will be advanced until both opt out
- The last day to opt out for the last payment date, December 15, 2021, was November 29, 2021



## Why Opt Out of Monthly CTC Payments?

- Taxpayers are uncertain as to whether they are eligible for CTC payments
- Change in filing status
- Taxpayers expect to owe tax when they file their 2021(2022) tax return
- Prefer to receive the lump sum payment when the tax return is filed rather than monthly payments
- There is no provision for advance payments after 2022



## Child Tax Credit (CTC)

- Regarding the CTC, the BBB Act provides a safe harbor exception for fraud and intentional disregard of rules and regulations
- An individual shall not be treated as taken into account in determining the annual advance amount of such taxpayer if the IRS determines that such individual was so taken into account due to fraud by the taxpayer or intentional disregard of rules and regulations by the taxpayer
- In such a case, recapture is allowed
- In the case of an advance payment of CTC, with respect to a joint return, half of such payment shall be treated as having been made to each individual filing such return



## CTC Accidental Overpayments and Letter 6419

- The total amount of advance CTC payments that are received during 2021 is based on the IRS's estimate of the parent's 2021 CTC
- If the total is greater than the CTC amount allowed on the 2021 tax return, a taxpayer may have to repay the excess amount when they file their 2021 tax return
- In January 2022, the IRS will send Letter 6419 to provide the total amount of advance CTC payments that were disbursed during 2021 so parents can reconcile the advances against what they are entitled to
- Tax practitioners should remember to request Letter 6419 from their clients



## CTC Phase-out

- The application of the initial phaseout to the increased CTC amount at the following applicable threshold amounts:
  - Joint returns or surviving spouse                      \$150,000
  - Head of household taxpayers                                \$112,500
  - All other taxpayers    \$75,000



## When Repayment of a CTC for Which the Taxpayer Is Ineligible Is Not Required

- To qualify for 100% repayment protection, the main home must be in the U.S for more than half of 2021 and modified AGI must be at or below:
  - \$60,000 MFJ or QW;
  - \$50,000 HOH; and
  - \$40,000 MFS or S
- Required to repay 100% of the advance when modified AGI exceeds:
  - \$120,000 MFJ, QW;
  - \$100,000 HOH; or
  - \$80,000 S or MFS
- Partial phase out when modified AGI is between:
  - \$60,000 - \$120,000 MFJ or QW
  - \$50,000 - \$100,000 HOH; or
  - \$40,000 - \$80,000 MFS or S



## Three IRS Portals Relating to the CTC

- The first portal: launched in June 2021, is an updated version of the non-filer tool used in 2020 to help people claim stimulus payments
- Provides a way for eligible people who do not file tax returns to give the IRS the basic information required to issue the payments
- Eligible families who already filed or plan to file 2019 or 2020 federal returns, or who used the non-filer tool in 2020, should not use this tool
- Do not use the tool if 2020 gross income exceeded \$12,400 (\$24,800 MFJ)
- Do not use this portal if not required to file a tax return because income is too low or do not meet the tax-filing requirements
- Portal allows individual to provide the IRS with direct-deposit bank information so payments can be made electronically



## Second and Third Portals

- Second portal: the Advance CTC Eligibility Assistant, was rolled out in June 2021
- Helps families quickly determine whether they qualify for the advance CTC
- Third portal: the CTC Update Portal, allows families to elect out of receiving the monthly payments
- The CTC Update Portal will allow individuals to check on the status of their payments and update their information, including adding their bank account information





## How To Return an Improper CTC Advance

- The IRS has indicated how taxpayers who receive an advance CTC that they did not qualify for or, who, for other reasons, wish to return the CTC payment, should return the advance CTC they have received
- The same procedures apply for returning the CTC advance payments as applied to the return of the Economic Impact Payments that were provided by the CARES Act
- Assume the payment takes the form of a paper check:
  1. Write "Void" in the endorsement section on the back of the check
  2. Mail the voided Treasury check immediately to the appropriate IRS location listed below
  3. Do not staple, bend, or paper clip the check
  4. Include a brief explanation stating the reason for returning the check



## How To Return an Improper CTC Advance

- Assume the payment was a paper check and the recipient cashed it or if the payment was a direct deposit:
  1. Submit a personal check, money order, etc., immediately to the appropriate IRS location\*
  2. Write on the check/money order made payable to "U.S. Treasury" and write Advance CTC and the taxpayer identification number (Social Security number, or individual taxpayer identification number) of the recipient of the check
  3. Include a brief explanation of the reason for returning the EIP
- \*The Economic Impact Payment Information Center webpage has a list, by taxpayer's state of residence, of where to mail returned paper checks



## Treatment of Federal Pell grants

- Any amount received by an individual after December 31, 2021, and before January 1, 2026, as a Federal Pell Grant under Section 401 of the Higher Education Act of 1965 is excluded from gross income
- Exclusion now includes amounts from a Pell grant paid for room and board
- In addition, the amount of expenses eligible for the American Opportunity Tax Credit (AOTC) or the Lifetime Learning Credit, is not reduced by any amount paid for the benefit of an individual as a Federal Pell grant
- Effective date is for tax years beginning after December 31, 2021



## Certain Improvements to the Earned Income Tax Credit Extended Through 2022

- The BBB Act extends, through 2022, the reduction in the minimum age to claim the childless earned income tax credit (childless EITC) from 25 to 19 except for full-time students and eliminates the upper age limit for childless EITC
- The BBB Act would increase the childless EITC amount by increasing the credit percentage and phaseout percentage from 7.65 to 15.3 percent, increasing the income at which the maximum credit amount is reached to \$9,820, and increasing the income at which phaseout begins to \$11,610 for non-joint filers
- Under these parameters, in 2021, the maximum EITC amount increases from \$543 to \$1,502
- The BBB Act contains special rules regarding the application of the EITC for former foster youth and homeless youth



## Certain Improvements to the Earned Income Tax Credit Extended Through 2022

- As with all other parameters of the EITC, these amounts are indexed for inflation and will be indexed for 2022
- For 2022, the BBB Act includes the American Rescue Plan provision allowing a taxpayer to use their prior year earned income for purposes of computing the EITC, if a taxpayer's earned income in the current year has fallen
- This change applies to tax years beginning after December 31, 2021



## Apply NIIT to Trade or Business Income of High-income Individuals

- The BBB Act expands the net investment income tax (NIIT) to cover net investment income derived in the ordinary course of a trade or business for taxpayers with MAGI greater than:
  - \$400,000 Single filer
  - \$500,000 Joint return, trusts, and estates
  - \$250,000 Married filing single



## Apply NIIT to Trade or Business Income of High-Income Individuals

- Net investment income shall not include
  - (A) Any item taken into account in determining self-employment income for such taxable year on which a tax is imposed by Section 1401(b),
  - (B) Wages received with respect to employment on which a tax is imposed under Section 3101(b) or 3201(a) (including amounts taken into account under Section 3121(v)(2)), and
  - (C) Wages received from the performance of services earned outside the United States for a foreign employer



## Apply NIIT to Trade or Business Income of High-Income Individuals

- Net operating losses are not taken into account
- The amendments apply to taxable years beginning after December 31, 2021



## Limitations on Excess Business Losses of Noncorporate Taxpayers

- In the case of any taxpayer other than a corporation, any excess business loss of the taxpayer for the taxable year shall not be allowed
- Married taxpayers filing jointly may deduct no more than \$500,000 per year in total business losses
- Individual taxpayers may deduct no more than \$250,000
- Any loss which is disallowed for any taxable year is treated as a deduction for the next taxable year
- Any unutilized business losses carried forward would continue to be subject to the excess business loss limitation, rather than being carried forward as a net operating loss
- This change applied to tax years beginning after December 31, 2020



## Change Employer-sponsored Coverage Affordability Test

- Individuals generally do not qualify for premium tax credits if they are eligible for another source of minimum essential coverage, including employer-sponsored plans
- An exception applies if an employer-sponsored health insurance plan is not “affordable” or of “minimum value”
- An employer’s health insurance plan is not affordable if the employee must contribute more than 9.83 percent of their household income toward health insurance premiums
- This percentage was initially set at 9.5 percent and is adjusted annually for inflation
- If an employer’s plan is not “affordable,” an employee may qualify for premium tax credits through the marketplace and the employer may face penalties under the employer mandate
- Those whose income is 150 percent or less of the Federal Poverty Level (FPL) would, regardless of age, pay no premiums



## BBB Act Changes Relating to Affordable Health Insurance

- The BBB Act would extend the temporary percentages for calculating the ACA PTC amounts for 2021 and 2022 until the end of 2025
- The BBB Act would temporarily eliminate the general 400% of federal poverty line income ceiling for PTC eligibility through 2025
- The BBB Act would also temporarily lower the threshold for calculating whether a taxpayer has access to affordable coverage through an employer-sponsored plan from 9.5% to 8.5% of household income for 2022 through 2025 and provide that the affordability thresholds would not be subject to the normal indexing until 2027
- The BBB Act would temporarily amend the ACA employer rules through 2025 so that the PTC would be available to individuals whose income generally does not exceed 138% of the federal poverty line, regardless of whether the individual is offered affordable, minimum value employer-sponsored coverage
- An employer would not be subject to an employer “shared responsibility” penalty with respect to such an individual during this time



## BBB Act Changes Relating to Affordable Health Insurance

- The BBB Act would permanently exclude lump-sum Social Security benefit payments from household income for purposes of determining PTC eligibility
- The BBB Act would provide the federal government with authority to negotiate the prices of a limited number of high-cost drugs lacking generic or biosimilar competitors covered under Medicare Parts B and D
- The BBB Act would expand Medicare Part B to cover certain hearing services and hearing aids beginning in 2023
- Required coverage would include rehabilitation and treatment services by qualified audiologists and hearing aids once per ear every 5 years for individuals diagnosed with moderately severe, severe, or profound hearing loss



## Federal Paid Family Leave Program

- The BBB Act would create a new federal paid family and medical leave program providing for up to 4 weeks of paid leave per year to all workers in the U.S. who need time off work to welcome a new child, recover from a serious illness, or care for a seriously ill family member
- A prior version of the legislation would have provided for up to 12 weeks of paid leave
- The BBB Act retains federal grants to legacy states – i.e., the 9 states and the District of Columbia that already have passed paid leave laws – and to “eligible employers” that provide paid leave programs that meet certain requirements



## Surcharge on High Income Individuals, Estates, and Trusts

- In the case of a taxpayer other than a corporation, a tax is imposed equal to the sum of 5 percent of so much of the modified adjusted gross income (MAGI) of the taxpayer as exceeds:
  - (A) \$10 million in the case of any taxpayer not described in subparagraph (B) or (C), below,
  - (B) \$5 million in the case of a married individual filing a separate return, and
  - (C) \$200,000, in the case of an estate or trust, plus



## Surcharge on High Income Individuals, Estates, and Trusts

- 3 percent of so much of the MAGI of the taxpayer as exceeds
  - (A) \$25 million in the case of any taxpayer not described in subparagraph (B) or (C), below
  - (B) \$12.5 million in the case of a married individual filing a separate return, and
  - (C) \$500,000, in the case of an estate or trust



## Surcharge on High Income Individuals, Estates, and Trusts

- MAGI means adjusted gross income (AGI) reduced by any deduction not taken into account in determining AGI allowed for investment interest or business interest
- In the case of an estate or trust, AGI is determined as provided in Section 67(e), and reduced by the amount allowed as a deduction under Section 642(c)
- This section applies to tax years beginning after December 31, 2021





## Limitations on High-Income Taxpayers With Large Balances in IRAs and Qualified Plans

- The BBB Act limits contributions to Roth or traditional IRAs for years in which a taxpayer's income is over —
  - \$400,000 per year
  - \$450,000 for MFJ
  - \$425,000 for HH— if that individual has more than \$10 million combined in aggregate IRA and defined contribution retirement accounts.
- Any IRA contributions exceeding the limit would be subject to an annual 6% excise tax



## New Required Minimum Distribution (RMD) Rules

- When an individual meets the taxable income threshold(s) and has IRA and qualified plan balances exceeding \$10 million, the BBB Act would create a new RMD of 50% of the amount in excess of \$10 million
- If an individual's aggregate account balances exceed \$20 million, the BBB Act would require the individual to first withdraw Roth account balances in either the amount necessary to reach \$20 million or the balance of the Roth accounts, whichever is less
- After the Roth withdrawals, the individual could choose how to reduce their balances to \$10 million
- Special increased withholding rules also apply
- These amounts would be eligible for distribution
- Distributions of excess amounts are not taxable (e.g., are treated as a "qualified distribution" under the Roth rules)
- The BBB Act also requires plan administrators to report to the IRS and the employee information on such vested accounts with balances in excess of \$2.5 million
- These provisions would be effective for tax years (plan years for the reporting provision) beginning after December 31, 2028



## Elimination of “Back-Door” Roth IRA Conversions and In-Plan Roth Conversions of After-Tax Amounts

- The BBB Act would prohibit taxpayers with taxable income above \$400,000 (\$450,000 MFJ, \$425,000 HH) from executing a Roth conversion from a traditional IRA or employer-sponsored plan, effective after December 31, 2031
- The BBB Act would also prohibit all Roth conversions of after-tax contributions within qualified plans or IRAs, effective after December 31, 2021
- Regardless of income level —
  - In-plan Roth conversions of after-tax contributions, and
  - Roth IRA conversions of any non-taxable amounts— would not be allowed



## Deduction for Certain Employee Trade or Business Expenses

- In the case of any taxable year beginning after December 31, 2021, and before January 1, 2026, the deductions allowed by Section 162 which are both
  - (A) Not in excess of \$250, and
  - (B) Attributable to a trade or business consisting of the performance of services by the taxpayer as an employee if such deductions are for dues paid to a labor organization described in Section 501(c)(5) and with respect to which such taxpayer remained a member through the end of the taxable year
- The amendments made by this section shall apply to taxable years beginning after December 31, 2021



## Permanent Expansion of the Earned Income Tax Credit (EITC) for Workers Without Qualifying Children

- The proposal would make permanent the increase in the EITC parameters for workers without children that was enacted in the ARPA
- The end of the phase-in and the end of the plateau income ranges would be indexed for inflation in the same manner as other EITC parameters (by the CCPI-U)
- The proposal would also make permanent the ARPA expansion of age-eligibility
- As under ARPA law, taxpayers who could be claimed as a qualifying child or a dependent would not be eligible for the EITC for childless workers
- Thus, full-time students who are dependent on their parents would not be allowed to claim the EITC for workers without qualifying children, despite meeting the new age requirements, even if their parents did not claim a dependent exemption or an EITC on their behalf
- This proposal would be effective for taxable years beginning after December 31, 2021



## Make the American Rescue Plan Changes to the Child and Dependent Care Credit Permanent

- Eligible taxpayers may claim a refundable credit for up to 50 percent of up to \$8,000 in eligible expenses for one child or disabled dependent and up to \$16,000 in eligible expenses for more than one child and/or disabled dependent
- The percentage of expenses for which a credit may be taken (the match rate) is reduced by 1 percentage point for each \$2,000 or part thereof by which the taxpayer's adjusted gross income (AGI) exceeds \$125,000 until the match rate reaches 20 percent (at an AGI of \$183,000) after which point the match rate plateaus
- The match rate begins decreasing again by 1 percentage point for each \$2,000 or part thereof by which the taxpayer's AGI exceeds \$400,000, reaching zero at AGI in excess of \$438,000



## Make the American Rescue Plan Changes to the Child and Dependent Care Credit Permanent

- Up to \$10,500 in employer assistance or employee contributions for dependent care may be excluded from employee wages for both income and payroll tax purposes
- As under pre-ARPA law, the maximum amount of expenses that may be used to claim the CDCTC must be reduced by any amount of employer assistance that is excluded from wages
- The proposal would make permanent the changes to the CDCTC enacted in the ARPA for taxable year 2021
- In addition, the proposal would establish reporting requirements appropriate for an expanded refundable tax credit



## Section 1202 Gains

- This BBB Act amended Section 1202(a) to provide that the special 75% and 100% exclusion rates for gains realized from certain qualified small business stock will not apply to taxpayers with an AGI equal to or exceeding \$400,000 or if the taxpayer is a trust or estate
- The baseline 50% exclusion in 1202(a)(1) remains available for all taxpayers
- The amendment made by this section shall not apply to any sale or exchange which is made pursuant to a written binding contract which was in effect on September 13, 2021 and is not modified in any material respect thereafter



## \$250 Educator Expense Deduction Broadened

- Personal protective equipment, disinfectant, and other supplies used for prevention of COVID-19 spread now included as supplies used in the classroom



## BBB Act Provides Coverage for Hearing Care Through Medicare

- The BBB Act provides that Medicare will cover, beginning January 1, 2024, the delivery of aural rehabilitation and treatment services in addition to the hearing and balance assessment services provided currently under Medicare
- The BBB Act also allows for qualified hearing aid professionals to deliver hearing assessment services, beginning January 1, 2024
- The BBB Act defines qualified hearing aid professionals as state licensed hearing aid dispensers, hearing aid specialists, hearing instrument dispensers, or related professionals who meet other requirements, as determined appropriate by the Secretary



## BBB Act Provides Coverage for Hearing Care Through Medicare

- The BBB Act provides for coverage of hearing aids under Medicare Part B for individuals with severe or profound hearing loss in one or both ears, once every 5 years
- Hearing aids must be furnished through a written order by a physician, qualified audiologist, hearing aid professional, physician assistant, nurse practitioner, or clinical nurse specialist, qualified to write such order by the state



## BBB Act Provides Coverage for Hearing Care Through Medicare

- Payment for a hearing aid may be made with respect to hearing aids furnished on or after January 1, 2024, not more than once per year during a 5-year period;
- Only for types of such hearing aids that are not over-the-counter hearing aids, as defined in Section 520(q)(1) of the Federal Food, Drug, and Cosmetic Act and that are determined appropriate by the IRS



## BBB Act Changes to Section 25C

- Section 25C allows a credit in an amount equal to the sum of:
  - (1) 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during the year, and
  - (2) The amount of the residential energy property expenditures paid or incurred during the taxable year
- The term “residential energy property expenditures” means expenditures made by the taxpayer for qualified energy property which is —
  - (A) Installed on or in connection with a dwelling unit located in the United States and owned and used by the taxpayer as the taxpayer’s principal residence (within the meaning of Section 121), and
  - (B) Originally placed in service by the taxpayer



## BBB Act Changes to Section 25C

- Residential energy property expenditures included expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property
- A taxpayer can claim the Section 25C credit only for qualifying expenditures incurred for an existing home or for an addition or renovation to an existing home and not for a newly constructed home
- The BBB Act extends Section 25C credit to December 31, 2031, and raises it to 30%
- \$1,200 per year with no lifetime limit



## BBB Act Changes to Section 25C

- Windows — The Section 25C credit allowed with respect to any taxpayer for any taxable year shall not exceed, in the aggregate with respect to all exterior windows and skylights, \$600
- Doors — The Section 25C credit allowed with respect to any taxpayer for any taxable year shall not exceed
  - (A) \$250 in the case of any exterior door, and
  - (B) \$500 in the aggregate with respect to all exterior doors
- A taxpayer can claim the Section 25C credit only for qualifying expenditures incurred for an existing home or for an addition or renovation to an existing home, and not for a newly constructed home



## BBB Act Changes to Section 25C

- The term 'qualified energy property' means any of the following which meet or exceed the highest efficiency tier (not including)
  - Any advanced tier established by the Consortium for Energy Efficiency which is in effect as of the beginning of the calendar year in which the property is placed in service:
    - An electric heat pump water heater
    - An electric heat pump
    - A central air conditioner
    - A natural gas, propane, or oil water heater
    - A natural gas, propane, or oil furnace or hot water boiler





## BBB Act Changes to Section 25C

- A geothermal heat pump which meets such requirements of the Energy Star program as are in effect at the time that the expenditure for such equipment is made
- A biomass stove which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and which has a thermal efficiency rating of at least 75 percent (measured by the higher heating value of the fuel)



## BBB Act Changes to Section 25C

- Any oil furnace or hot water boiler which is placed in service after December 31, 2021, and before January 1, 2027, and meets or exceeds 2021 Energy Star efficiency criteria and is rated by the manufacturer for use with eligible fuel blends of 20 percent or more, or is placed in service after December 31, 2026, and achieves an annual fuel utilization efficiency rate of not less than 90 and is rated by the manufacturer for use with eligible fuel blends of 50 percent or more
- 30 percent of the amount paid or incurred by the taxpayer during the taxable year for home energy audits, not to exceed \$150



## BBB Act Changes to Section 25C

- The term ‘home energy audit’ means an inspection and written report with respect to a dwelling unit located in the United States and owned or used by the taxpayer as the taxpayer’s principal residence (within the meaning of Section 121) which identifies the most significant and cost-effective energy efficiency improvements with respect to such dwelling unit, including an estimate of the energy and cost savings with respect to each such improvement, and is conducted and prepared by a home energy auditor that meets the certification or other requirements specified by the IRS (not later than 365 days after the date of the enactment of this subsection) in regulations or other guidance



## Q&A

We will now answer viewer questions that have come in during the webinar

# Thank You!

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