



WASHINGTON TAX BRIEF

June 30, 2021



About the Washington Tax Brief

Webcast series to update you on:

- The regulatory and political environment for tax issues
- AICPA's advocacy efforts to:
 - protect your professional interests
 - support sound tax policy
 - promote effective tax administration
- Open to all AICPA members
- Open to all state society staff and committee members





Melanie Lauridsen

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Today's Speakers

AICPA Tax Staff

A photograph of the United States Capitol building in Washington, D.C., featuring its iconic white dome and neoclassical architecture. In the foreground, there are large, vibrant pink cherry blossom trees in full bloom. The sky is a clear, bright blue with a few wispy white clouds. The entire scene is set against a background that transitions from purple on the left to blue on the right.

Topics for
Today

1.

**Legislative
Outlook**

2.

**Advocating for
AICPA Priorities**

3.

Hot Topics

4.

Questions



Legislative Outlook



117th Congress – Slim Majority for Democrats in House

- Democrats have **220** seats to Republican's **211** – 218 needed for majority control
- Speaker Pelosi will only have a few votes to spare, so the party will have to show strong cohesion to pass Biden's agenda, as well as succeed on procedural votes

Committee Outlook: House Ways and Means and Senate Finance

- HWM Chairman Richard **Neal**, D-MA
 - Ranking Member Kevin Brady, R-TX
- SFC Chairman Ron **Wyden**, D-OR
 - Ranking Member Mike Crapo, R-ID
- Actions & Possible Plans:
 - **COVID Relief/Stimulus - American Rescue Plan**
 - Biden tax plan for addressing expiring TCJA provisions
 - Modifications to SECURE Act, other retirement issues
 - Infrastructure





Outlook

President Biden's American Rescue Plan (\$1.9 trillion)

**Child
Dependent
Care credit
(\$4,000/child,
\$8,000 max
family)**

**Child tax
credit
(\$3,000/child,
\$3,600 under
age 6)**

**Advance Child
Tax Credit
Payments**

**EITC (\$1,502
childless,
under \$27,380
AGI)**

American Families Plan



Total \$1.8 Trillion Plan

Tax Benefits: (\$800 B)

- Expand Advanced Premium Tax Credits
- Expand Child Tax Credit
- Expand Child and Dependent Care tax Credit
- Expand EITC

Tax Administration:

- Allow IRS authority to regulate paid tax preparers
- Require financial institutions to report information on account flows so investment earnings are subject to the same reporting as wages
- Increase budget for IRS Tax enforcement targeted at those with incomes above \$400,000 a year

American Families Plan



Total \$1.8 Trillion Plan

- Fully paid for over 15 years (with offsets)

Offsets:

- Increase top income tax rate from 37% to 39.6%
- End the preferential rate for capital gains for households making over \$1 million a year (making the rate to 39.6%)
- Eliminate Step-up-in-basis (for gains in excess of \$1 million/\$2.5 married couples), unless gains donated to charity
- Eliminate carried interest tax expenditure
- Address Like Kind Exchanges (Section 1031) for gains greater than \$500,000
- Address gaps in the 3.8% Medicare tax on earnings

Made in America Tax Plan



U.S. DEPARTMENT OF THE TREASURY
**THE MADE IN AMERICA
TAX PLAN**

Over \$2 Trillion Infrastructure Plan; \$600 Billion Bi-partisan “Handshake” Agreement


1. **Corporate Rate** – Increased to 28% rate from 21%
2. **GILTI** – Increased to 21% –Biden wants to raise the minimum tax on foreign profits to 21%, pushing the U.S. closer to the pre-2017 system.
3. **QBAI** – Eliminated - This is a 10% deduction some companies get for having tangible assets overseas. Biden would require companies to calculate the tax on a country-by-country basis instead of averaging across their global operations, which would tend to increase their bills.
4. **FDII** – Eliminated – Biden wants to eliminate the deduction for foreign-derived intangible income, which amounts to a tax cut for certain intellectual property, for what his proposal calls “more effective” investments for research and development. Democrats and administration officials say that this break provides an incentive to build factories abroad.

Made in America Tax Plan



U.S. DEPARTMENT OF THE TREASURY
**THE MADE IN AMERICA
TAX PLAN**

5. **Book Income** – 15% minimum tax established - In a response to complaints that some companies find legal ways to pay little or no tax, Biden wants to add a 15% minimum tax on the financial-statement income of large corporations.
6. **Fossil Fuels Tax Credits** –Biden says he would like to “eliminate all these special preferences” but is not specific in which ones.
7. **Onshoring Tax Credit / Anti-Inversions** –Biden wants to provide a tax credit for certain onshoring activity and deny expense deductions on jobs that were offshored.
8. **Global Minimum Tax** – “President Biden is also proposing to encourage other countries to adopt strong minimum taxes on corporations, just like the United States, so that foreign corporations aren’t advantaged and foreign countries can’t try to get a competitive edge by serving as tax havens.”
9. **More Tax Enforcement** – Provide more funding and resources to the IRS to increase corporate tax audits and compliance.



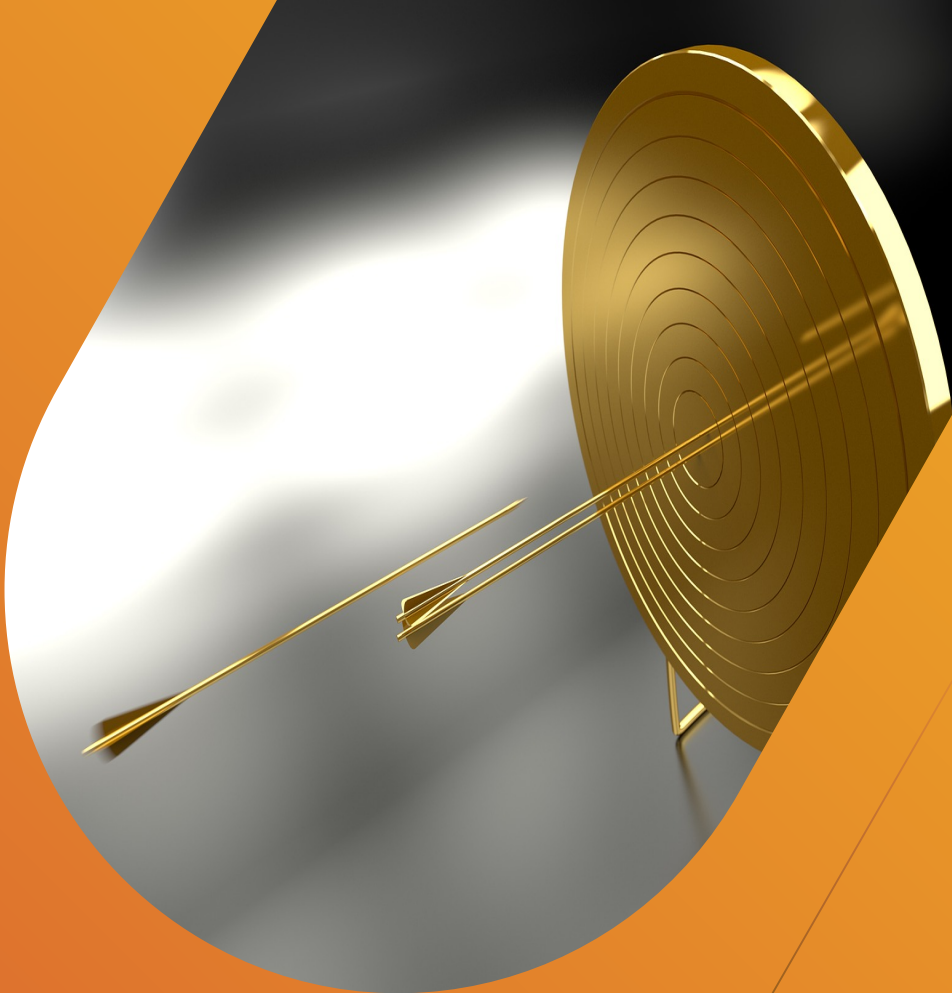
Mobile Workforce & COVID-19

- Long history of pushing legislation on workforce mobility
- Remote work and volunteer arrangements due to COVID-19 have re-energized issue
- [Amendment no. 52](#) to the Fiscal Year 2021 Budget Resolution [passed Senate by unanimous positive voice vote on 2/4/21](#)
- Senators Thune and Brown to introduce updated mobile workforce bill to address remote worker tax issues

A photograph of Joe Biden sitting at a desk in the Oval Office. He is wearing a dark blue suit, a light blue shirt, and a red and black striped tie. He has a small American flag pin on his lapel. The background shows the Oval Office setting with a large American flag and framed pictures on the wall.

Possible Biden Administration Changes:

-
- SALT limitation repeal
 - Retirement / pension enhancements
 - Addressing IRS funding shortfalls



Advocating for AICPA Priorities

A woman with glasses and a braid is smiling while looking at a laptop in a home office. The image is split into a blue-tinted left half and a yellow-tinted right half. The text 'IRS Services' is overlaid on the blue side.

IRS Services

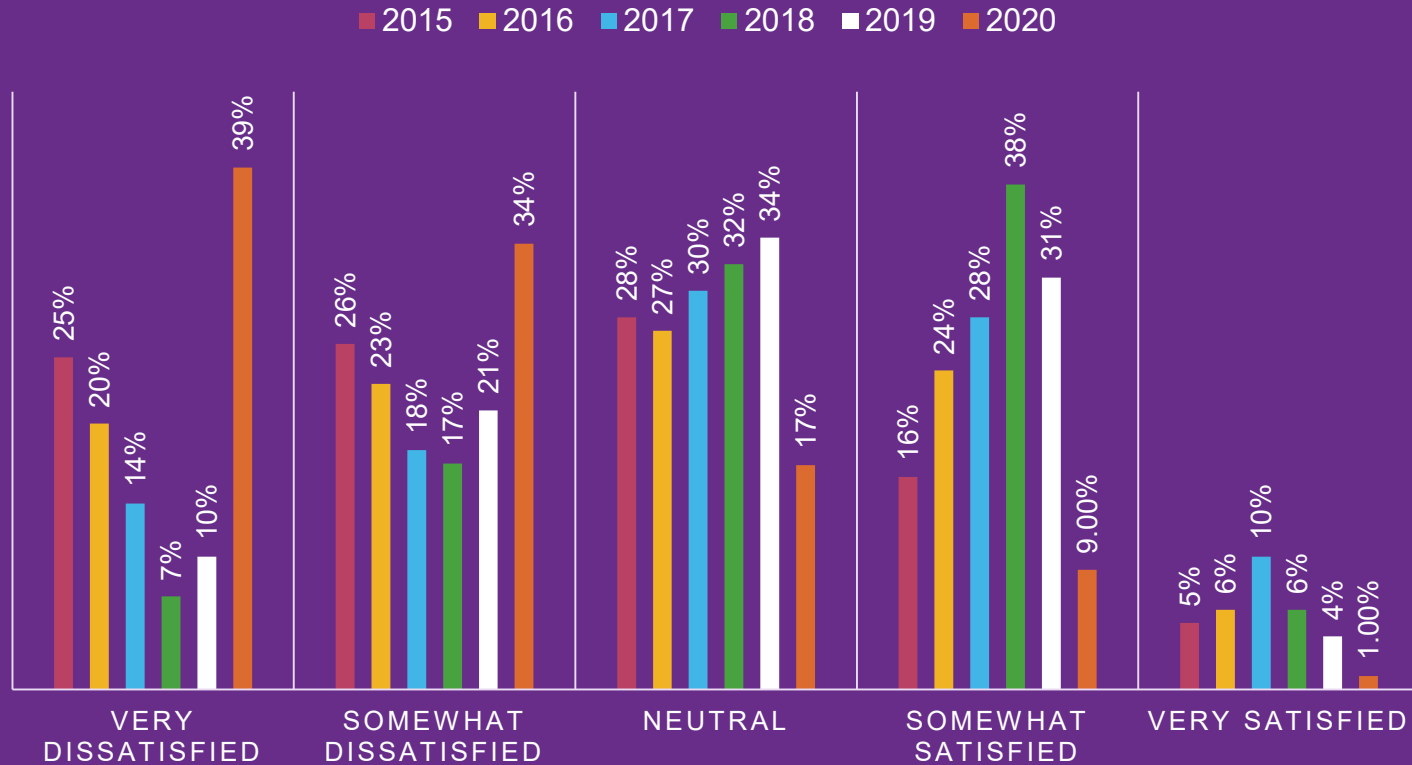


Taxpayer Services

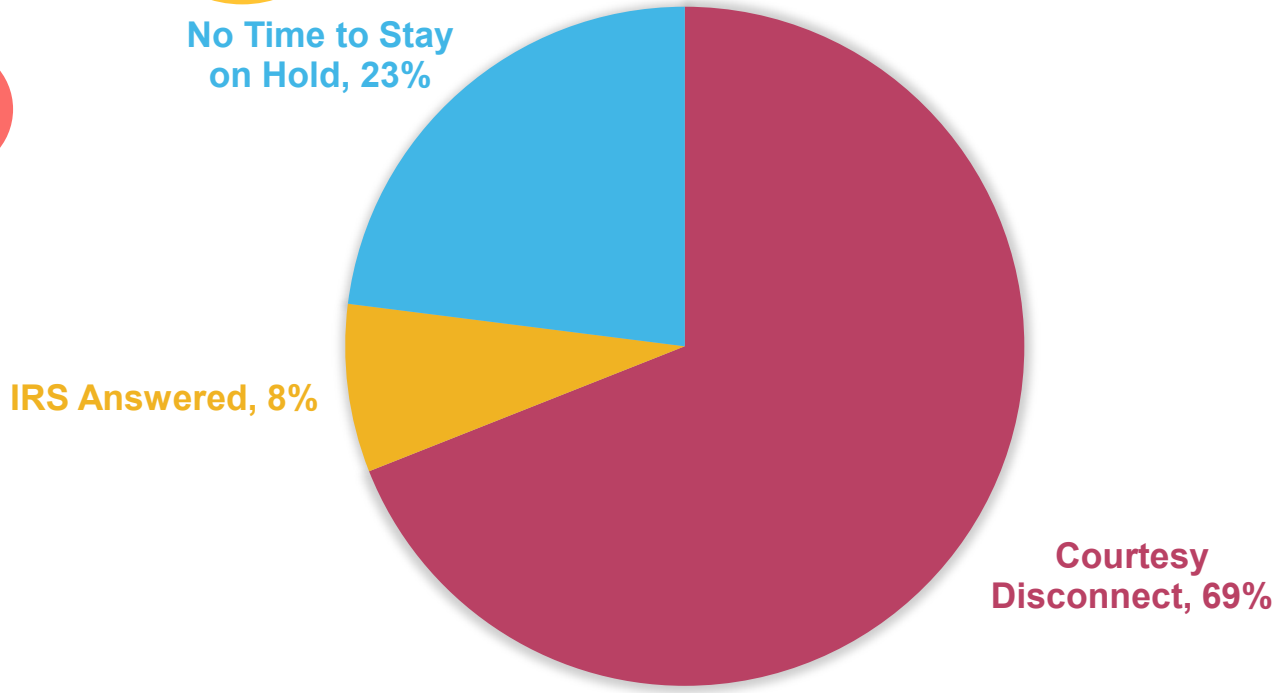
2020 Tax Year: A Survey on
Tax Practitioners' Experience
with the IRS



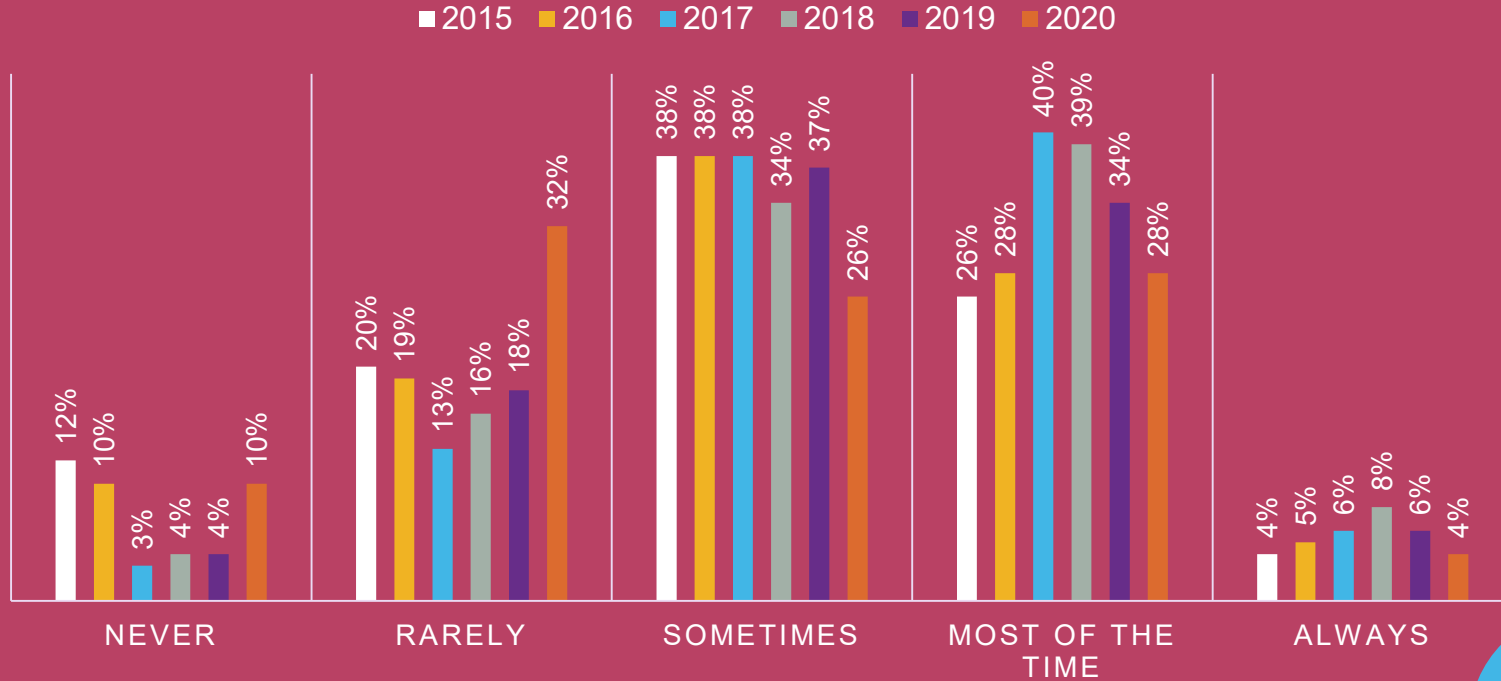
Overall satisfaction with the quality of taxpayer services from the IRS



Practitioners experiencing an IRS “courtesy disconnect” during 2020 filing season

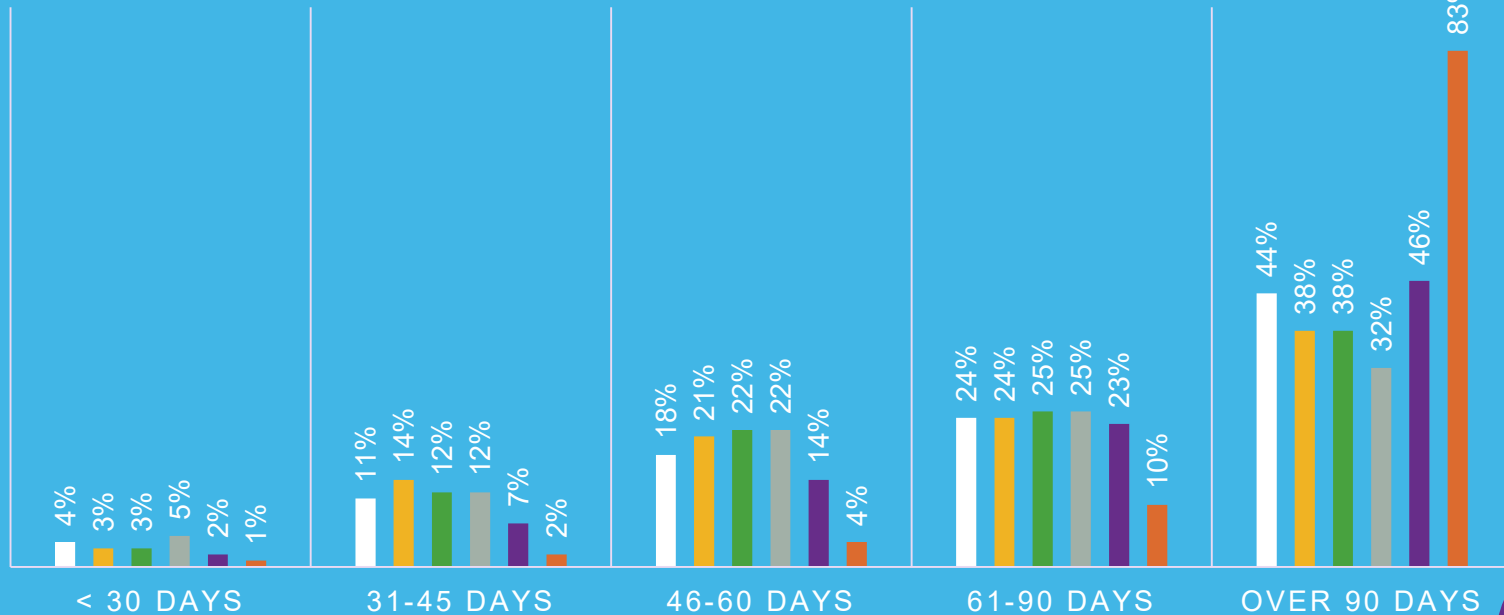


On the practitioner priority hotline, how often was the IRS able to answer the questions without transferring to another agent or identifying the question as “out of scope”?

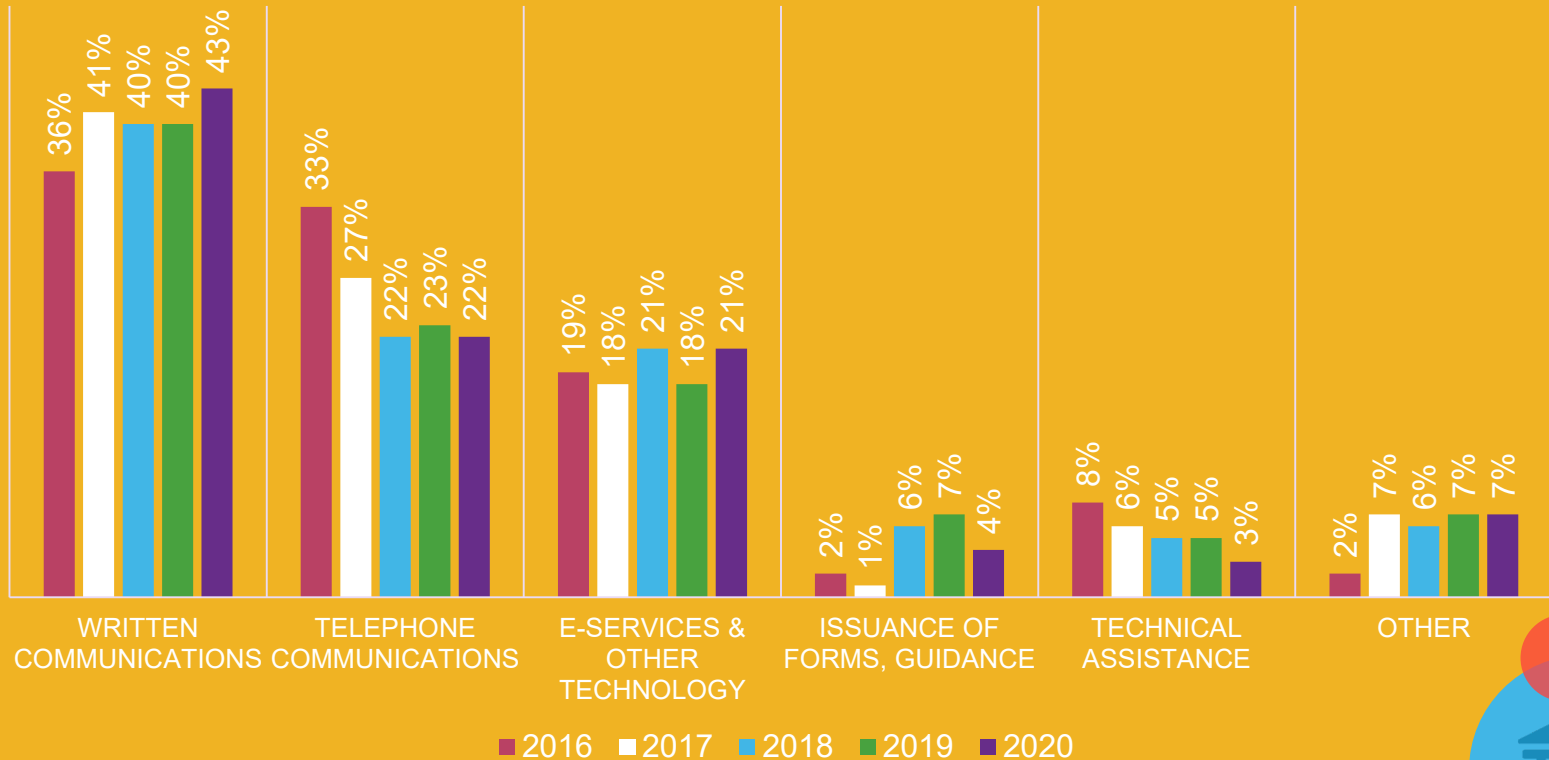


How long did it take for the IRS to provide a “substantive response” to correspondence (as opposed to a computer-generated letter acknowledgement letter)?

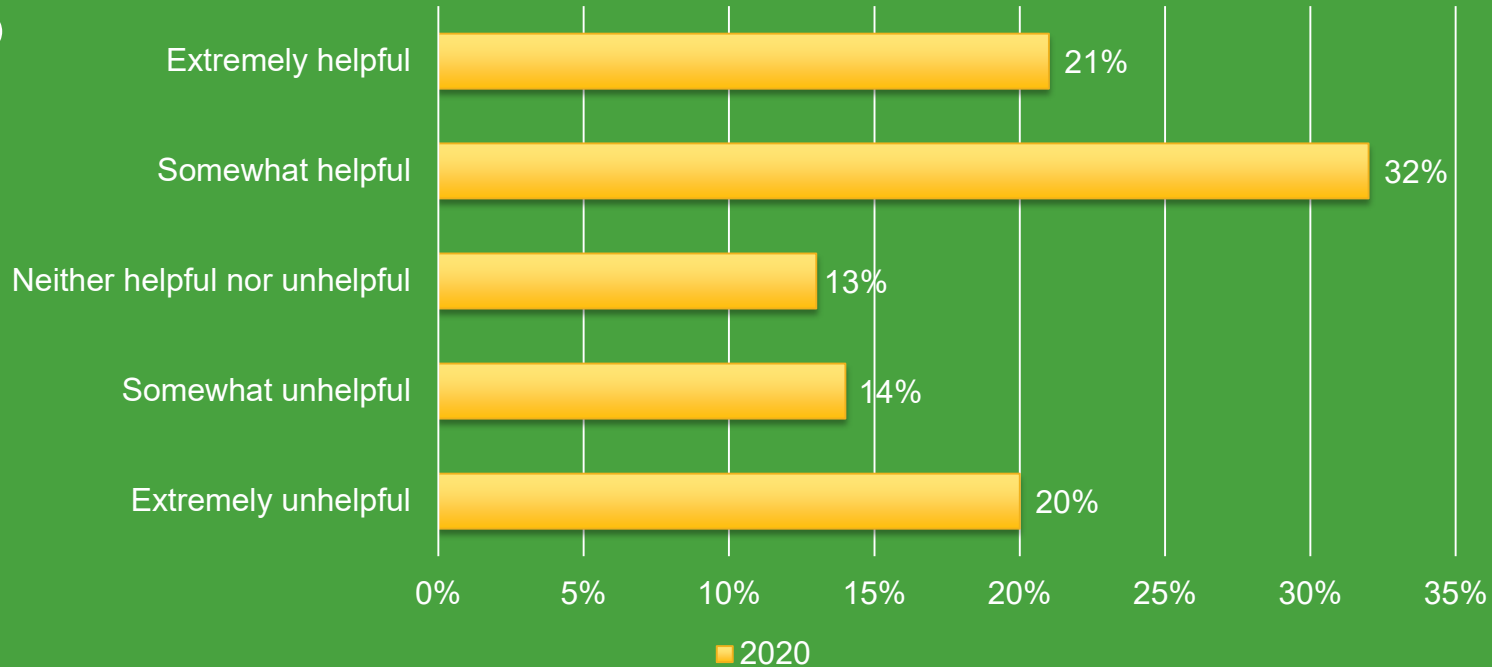
■ 2015 ■ 2016 ■ 2017 ■ 2018 ■ 2019 ■ 2020



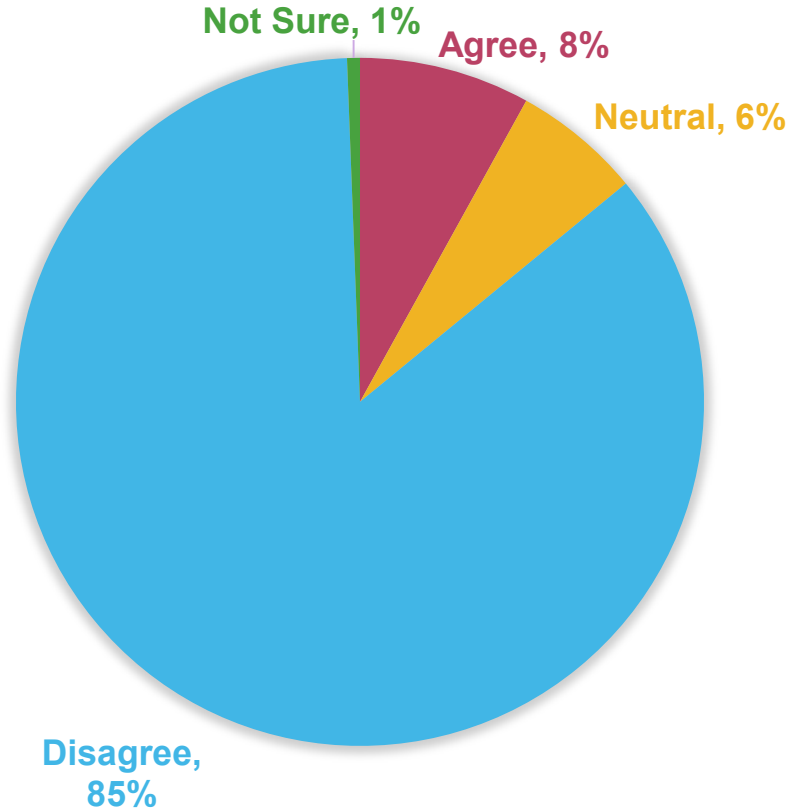
What changes at the IRS would make the biggest impact on your practice?



Due to COVID-19 crisis, how helpful was the May 17 postponement for the federal income tax filing and payment?



Do you agree that the IRS is currently a “modern-functioning, evolutionary and respected federal agency for the 21st century”?



Overall Impressions of Survey

The satisfaction with the quality of the service dropped to the lowest level in over 6 years.

The biggest concerns involve:

- Inability to connect with the IRS
- The lack of IRS's response to written communications
- Workload compression due to COVID, laws and regulations
- The IRS is not on the right path to becoming a modern-functioning, evolutionary and respected federal agency



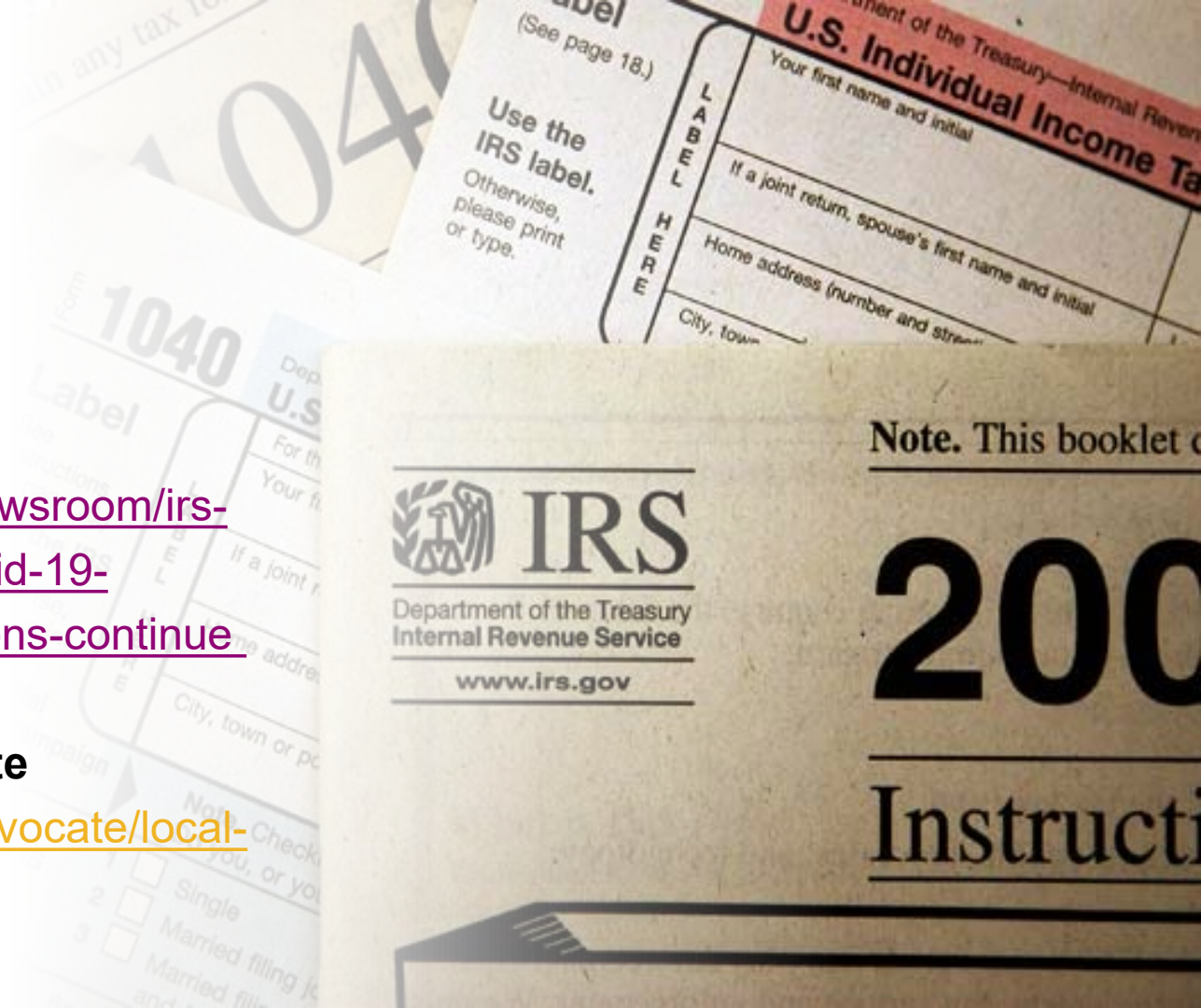
IRS Resources

IRS Operations

- <https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue>

Local Taxpayer Advocate

- <https://www.irs.gov/advocate/local-taxpayer-advocate>



A woman with glasses is smiling while looking at a laptop. The image is overlaid with a blue gradient on the left side and a yellow gradient on the right side. The text is white and positioned on the left side of the image.

Penalty Relief – Short Term Solution to IRS Services

IRS Service Levels and Penalty Relief

- 8.3 million returns unprocessed at the end of 2020
- 1200% increase in paper filed returns carryover to the 2021 filing season
- As of March 5th:
 - 46 million total attempts to contact IRS by phone
 - 7.6 million answered with automation
 - 4.4 million answered by human



Penalty Relief: Reducing the Need to Contact IRS

- Underpayment and late payment penalty relief for 2020
- Reasonable cause and First Time Abate adjustments
- Delay compliance actions
- Align account holds with mail delays



May 17, 2021

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Mr. Mark J. Mazur
Acting Assistant Secretary for Tax Policy
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: Additional Penalty Relief Measures

Dear Commissioner Rettig and Acting Assistant Secretary Mazur:

The American Institute of CPAs (AICPA) recognizes and appreciates the efforts the Department of the Treasury ("Treasury") and the Internal Revenue Service (IRS) have made to provide various forms of relief to taxpayers affected by the Coronavirus Disease 2019 pandemic (commonly known as "Coronavirus"). However, many taxpayers and their tax advisors continue to face pandemic-related challenges and are unable to voluntarily comply with their tax obligations, despite making good faith efforts to do so. Furthermore, the IRS continues to be stretched thin by the Coronavirus pandemic and has a staggering 29 million returns on hold that need manual processing on top of their ability to only answer 2% of all phone calls.¹

All taxpayers, regardless of their economic standing, deserve a tax administration system that provides support to help them meet their tax obligations. With this in mind, penalty relief measures that are fair, reasonable and practical, would not only mitigate the negative effect of the Coronavirus on taxpayers but also require fewer contacts with the IRS, thereby alleviating the current struggles that taxpayers, their advisors and the IRS face on a daily basis. Specifically, we urge Treasury and the IRS to:

- Provide taxpayers with targeted relief from both the underpayment of estimated tax penalty and the late payment penalty for the 2020 tax year.
- Offer a reasonable cause penalty waiver, *similar to* the procedures of first time abate (FTA) administrative waiver, without affecting the taxpayer's eligibility for FTA in future tax years. Furthermore, the IRS should honor reasonable cause penalty waiver requests when a taxpayer qualifies for reasonable cause relief. Additionally, the IRS should publicly make it well known that an e-fax alternative to written reasonable cause requests over a certain threshold is available.
- Discontinue compliance actions until the IRS is prepared to devote the necessary resources for a proper and timely resolution of the matter. At a minimum, halt automatic collections activities of liens and levies for at least 90 days after the May 17 filing deadline.
- Align requests for account holds with the time it takes the IRS to process any penalty abatement requests.

¹ National Taxpayer Advocate Blog, "[2021 Filing Season Bumps in the Road: Part I](#)," April 22, 2021.
1455 Pennsylvania Ave. NW, Washington, DC 20004-1081
T: +1 202.737.6600 F: +1 202.638.4512
aicpaglobal.com | aicpa.org | cgna.org

A woman with glasses is smiling while working on a laptop in an office setting. The image is overlaid with a blue gradient on the left side and a yellow gradient on the right side. The text is white and positioned on the left side of the image.

Taxpayer First Act – Long Term Solution to IRS Services

Taxpayer First Act Report to Congress

- **3 Main components:**
 - Taxpayer experience strategy
 - Expanded digital services
 - Training strategy
 - IRS university
 - Organizational redesign strategy
 - Third-party relationships office
- **Phased approach for implementation**
- **Cost: \$2.18B + \$1.9B for IT Infrastructure = \$4.08B**



A woman with glasses and a braid is smiling while working on a laptop in an office. The image is overlaid with a blue gradient on the left and a yellow gradient on the right. The text 'Tax Preparer Regulation' is written in white on the blue background.

Tax Preparer Regulation

AICPA Applauds Panetta & Rice Proposal

PANETTA –RICE BILL

- **Maintains PTIN Requirement**
 - Has exception for supervised non-signing preparers
- **Grants IRS authority to revoke PTIN**
- **Reinstate Registered Tax Return Preparer (RTRP) Program**
 - Exception for CPAs, EAs, Attorneys and supervised non-signing preparers
 - Basic Form 1040 test
 - 15 hours of annual CE
 - Limited practice rights before the IRS
 - Compliance and background check
 - Compliance with ethical standards of Circular 230
- **GAO Study on IRS Exchange of Information with State Taxing Authorities**



Mitigation of Market Place Confusion

RTRPs subject to advertising requirements to mitigate marketplace confusion



Unlicensed or non-credentialed preparers advertising the RTRP program should display or broadcast a statement that:



Employee Retention Credit

- Created by Coronavirus Aid, Relief, and Economic Security Act in March 2020
 - Set to expire December 31, 2020
 - [IRS Notice 2021-20](#): authoritative guidance on wages paid March 13 – December 31, 2020
 - Interplay of qualified wages with wages reported on PPP loan forgiveness applications
 - Form 941 / Form 941-X filing rules for PPP loan borrowers
- Taxpayer Certainty and Disaster Relief Act in December 2020
 - Enhanced rules and extended credit to June 30, 2021
 - [IRS Notice 2021-23](#): authoritative guidance on wages paid January 1, 2021 – June 30, 2021
 - Rules on the election to use alternative quarter to calculate gross receipts
- American Rescue Plan Act in March 2021
 - Enhanced rules and extended credit to December 31, 2021
 - Guidance pending on wages paid July 1, 2021 – December 31, 2021

Employee Retention Credit: Guidance Pending

- Clarification on wages paid July 1, 2021 – December 31, 2021
- Clarification on whether qualified wages include wages paid to S corporation owners and their actively employed spouses if all other requirements of the credit are met
- Clarification on if PPP loan forgiveness proceeds are included in the gross receipts test





Hot Topics

Hot Topics

Virtual Currency
Task Force

Disaster Relief

Passthrough SALT
Workaround Allowed,
IRS Notice 2020-75

Tax Capital
Reporting

Passthrough PPP
Loan
Forgiveness/Basis



Hot Topics

Passthroughs – PPP Deductibility/Loan Forgiveness Basis Impact

- Significant uncertainty regarding:
 - Basis & at-risk implications of deducting PPP expenses
 - Loan forgiveness timing and the accrual of tax-exempt income, which impacts basis for partners and S corporation shareholders
 - PPP expense deductibility and whether that impacts AAA or OAA, and the interaction of the accrued tax-exempt income, for S corporations
 - Reporting of these items on the returns themselves
 - 2020 Partnership Form 1065, Page 2, Schedule B, Question 6
 - 2020 S Corporation Form 1120-S, Page 3 Schedule B, Question 12
- The IRS and Treasury Department are keenly aware of these issues as well, and are working through the mechanics and impending future guidance
- [AICPA advocacy has raised these issues](#) to IRS and Treasury Department (March 15, 2021)
- We do not have answers on how to address these uncertainties, nor a timeline on IRS / Treasury guidance which we are awaiting, as are all taxpayers and practitioners → definitive guidance will be needed in order to answer these difficult questions

- IRS issued [Notice 2020-43](#) describing proposed Tax Capital Reporting requirement
- [AICPA commented](#) on proposed rules, and had major successes in modifying the proposals contained in [Notice 2020-43](#)
- [Form 1065](#) instructions contain rules on complying and calculating the initial partner(s)' Tax Capital accounts
 - Must use Transactional Method (Tax Basis Method) going forwards
 - 4 methods to compute opening balances for 2020
 - Transactional Method (Tax Basis Method)
 - Modified Outside Basis (MOB method)
 - Modified Previously Taxed Capital (MPTC method)
 - Section 704(b) (Section 704(b) method)
- IRS granted penalty leniency in [Notice 2021-13](#) regarding the new reporting requirement, and taxpayers (and practitioners) must use “ordinary and prudent business care” in calculating and reporting the opening balances

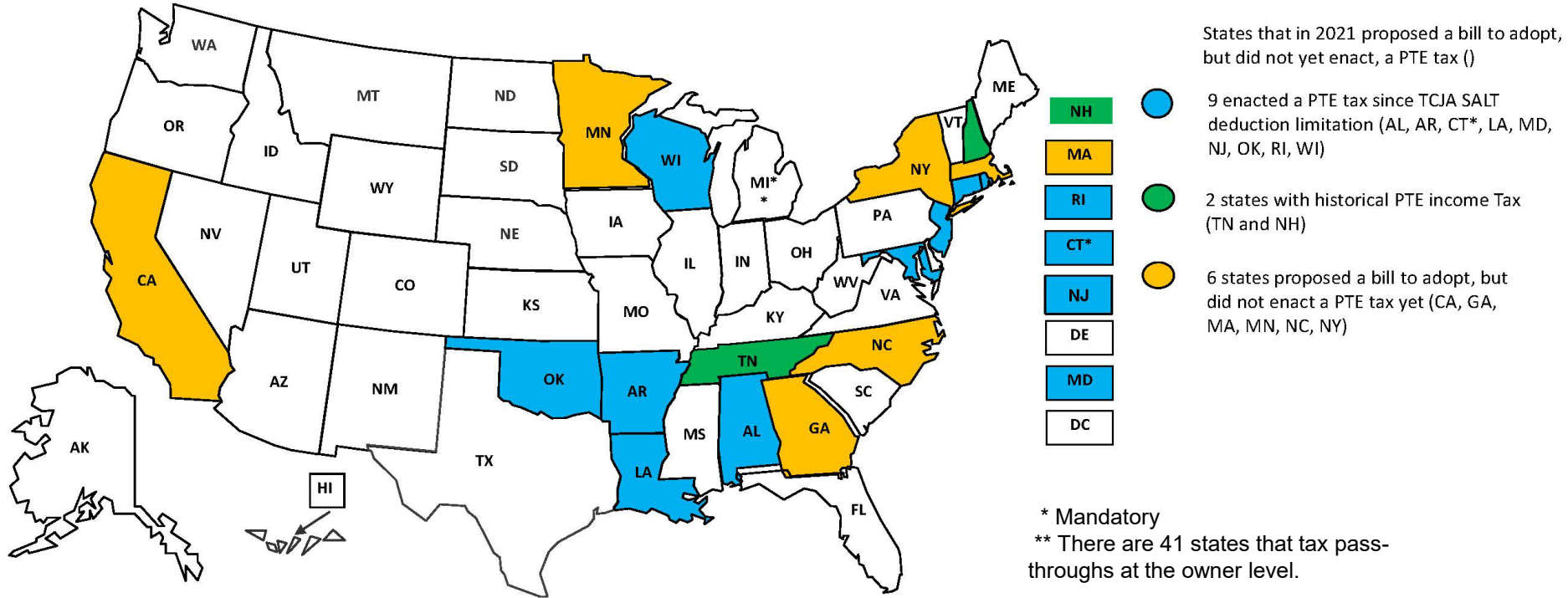
- **State pass-through entity level taxes**

- Applies to **S corporations, partnerships, and limited liability companies** taxed federally as partnerships or S corporations
- Shifts state tax on business income from **owners to entity**
- Allows entity to federally deduct as an **expense from business income** the entity's state income taxes paid in carrying on a trade or business
- **Owners receive a credit** against state personal income tax for their distributive or pro rata share of the state entity tax paid at entity level
- **IRS [Notice 2020-75](#) provides federal deduction for state PTE-level taxes paid, deducted** in computing its non-separately stated taxable income or loss, not in owners' SALT cap limit, even if state provides a corresponding or offsetting, owner-level tax benefit, such as a full or partial credit, deduction, or exclusion. **(11/9/20 issued, retroactive to enacted or 2018)**
- [Main Street Employers Coalition](#)
- [Model act](#)
- [EY study](#) on TCJA tax impact on business income of C and S corporations
- [AICPA position paper on state pass-through entity-level tax implementation issues](#)
- [AICPA state pass-through entity-level tax implementation issues one pager](#)
- [MTC potential project on state taxation of passthrough income](#)



State Pass-Through Entity (PTE) Level Approach

States Adopting, Proposing, or Considering a PTE Tax



IRS Disaster Relief



IRS Tax Extension



FEMA



Limitation to
"Federally- Declared"
Disasters

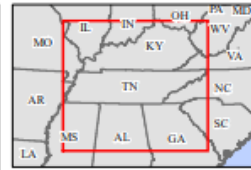
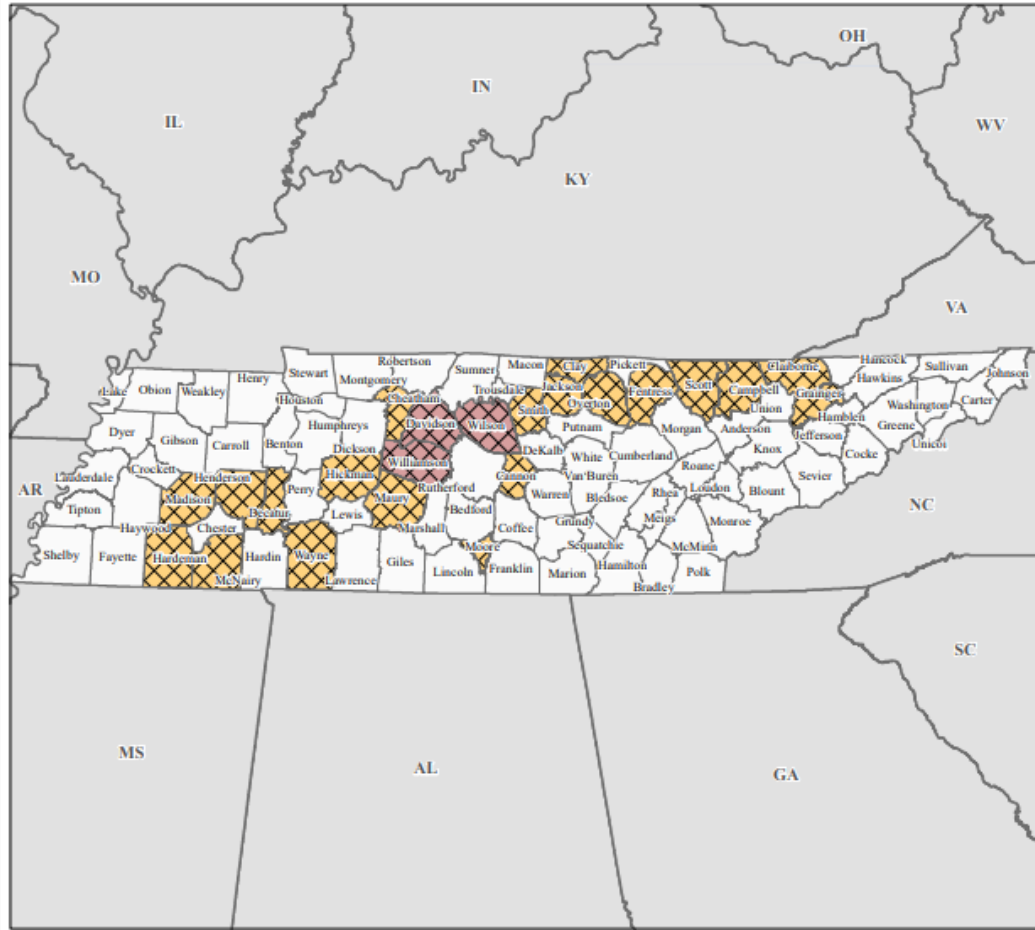


Penalty Waivers

INTERNAL
REVENUE
SERVICE



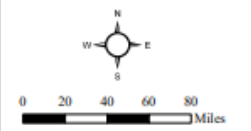
FEMA-4601-DR, Tennessee Disaster Declaration as of 05/08/2021



Data Layer/Map Description:
The types of assistance that have been designated for selected areas in the State of Tennessee.

All areas in the State of Tennessee are eligible for assistance under the Hazard Mitigation Grant Program.

- Designated Counties**
- No Designation
 - Individual Assistance and Public Assistance (Categories A - G)
 - Public Assistance (Categories A - G)



Data Sources:
FEMA, ESRI;
Initial Declaration: 05/08/2021
Disaster Federal Registry Notice: 05/08/2021
Datum: North American 1983
Projection: Lambert Conformal Conic

Tax Disaster Relief

Filing Relief for Natural Disasters Act

H.R. 3574 – Judy Chu (D-CA) & John Katko (R-NY)

Trigger: Official state
declared disaster declaration

Authority to issue tax deadline extensions



- AICPA Virtual Currency Tax Task Force submitted February 2020 [comment letter](#) on Form 1040 question; Drafting new letter to reiterate unaddressed items and include concerns on 2020 Form 1040 instructions.
- “Regardless of the label applied, if a particular asset has the **characteristics** of virtual currency, it will be treated as virtual currency for Federal income tax purposes.”
- According to the [2020 Form 1040 instructions](#), a transaction involving virtual currency includes (but is not limited to):
 - The receipt or transfer of virtual currency for free (without providing any consideration), including from an airdrop or hard fork;
 - An exchange of virtual currency for goods or services;
 - A sale of virtual currency;
 - An exchange of virtual currency for other property, including for another virtual currency; and
 - A disposition of a financial interest in virtual currency.

Q&A





AICPA National Tax Online Conference

Nov 15 - Nov 16, 2021

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Join our Town Halls for latest news and updates on pressing issues facing the accounting profession.

- Hear the latest updates on the Economic Aid Act and progress of the Paycheck Protection Program (PPP)
- Led by AICPA executives Erik Asgeirsson, President & CEO, CPA.com, Lisa Simpson, VP Firm Services, and Sue Coffey, EVP Public Practice
- Free for AICPA members

Register now

aicpastore.com/townhallseries

Upcoming learning opportunities



[Reviewing S Corporation Tax Returns: What Are You Missing?](#)

Level: Intermediate

Jun 25,2021 + 2 more



[Tax Research II - Tax Staff Essentials Webcast](#)

Level: Basic

Jul 15,2021 + 1 more



[Tax Practice Quarterly: Latest Trends in Tax Technology](#)

Level: Update

Jul 15,2021 + 1 more

Upcoming learning opportunities



CPE Credit: 8

[Individual Tax Fundamentals](#)

Level: Intermediate

Jun 24,2021 + 2 more



CPE Credit: 8

[Tax Fundamentals of LLCs and Partnerships](#)

Level: Basic

Jul 09,2021 + 1 more



CPE Credit: 4

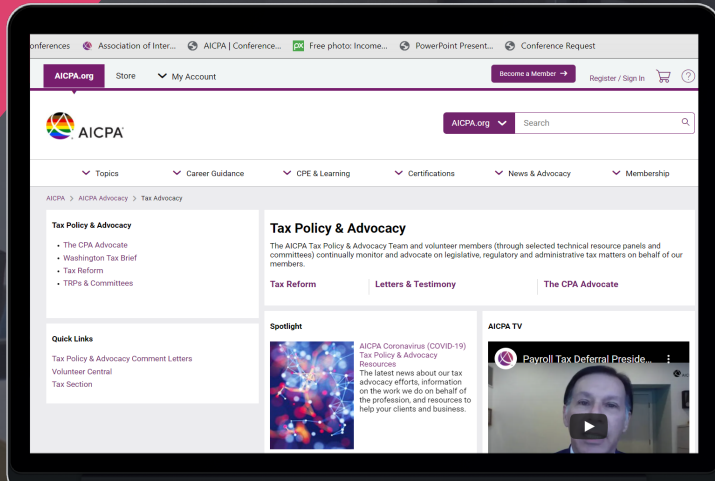
[Tax Planning for Small Businesses](#)

Level: Intermediate

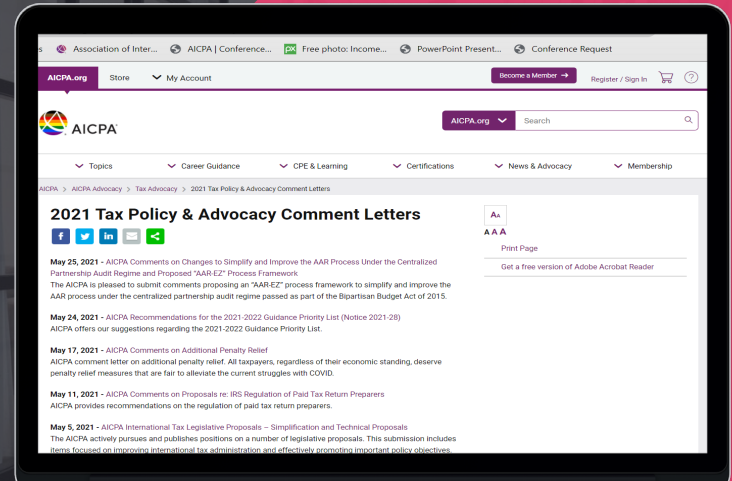
Jul 23,2021 + 1 more

Navigating uncharted waters together

AICPA Tax Policy & Advocacy Webpages



www.aicpa.org/advocacy/tax



www.aicpa.org/advocacy/tax/2019taxadvocacycommentletters.html



Tax Section

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AICPA Washington Tax Brief

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October 6, 2021

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