



WASHINGTON TAX BRIEF

February 24, 2022



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



Today's Speakers

AICPA Tax Staff



Melanie Lauridsen
Senior Manager
Tax Policy & Advocacy



Elizabeth Young
Senior Manager
Tax Policy & Advocacy



Alexander Scott
Senior Manager
Tax Policy & Advocacy



Topics for Today



01

LEGISLATIVE
DEVELOPMENTS



02

ADVOCATING
FOR AICPA
PRIORITIES



03

HOT
TOPICS



LEGISLATIVE
DEVELOPMENTS

RECONCILIATION OUTLOOK

- Status of Build Back Better
- Spring 2021
- Individual, business, and tax practitioner implications





Senator
Kyrsten Sinema
(D-AZ)



Senator
Joe Manchin
(D-WV)

NEARING THE RECONCILIATION AND INFRASTRUCTURE ENDGAME

Reconciliation bill negotiations are very fluid with both drama & compromises occurring and passing is currently delayed.



WHAT DID AICPA COMMENT ON?





LINKS TO RECONCILIATION DOCUMENTS

House Ways and Means Committee (HWMC)
(released 9/13/21, passed 9/15/21)

[Legislative language](#)

[Section by section summary](#)

[List of the revenue provisions](#)

Joint Committee on Taxation (JCT)

[Distributional analysis](#)

[Revenue estimates](#)

[Description of the revenue provisions](#)

Journal of Accountancy (summary)

[Article on tax provisions in HWMC legislation](#)

LINKS TO AICPA COMMENT LETTERS

[AICPA Comments on Tax Provisions in Senate Finance Committee Reconciliation Legislation](#) (Dec. 14, 2021)

[AICPA Comments on House Manager's Amendment to Rules Committee Reconciliation Legislation](#)
(Nov. 10, 2021)

[AICPA Comments Further Analyzing Proposed Reform\(s\) to Subchapter K](#) (Nov. 2, 2021)

[AICPA Comments on Tax Provisions in House Reconciliation Legislation or Being Considered](#)
(Oct. 1, 2021)



ADVOCATING
FOR AICPA
PRIORITIES



THE PROBLEM

“Treasury, IRS Prepare for the Worst as Filing Season Looms”

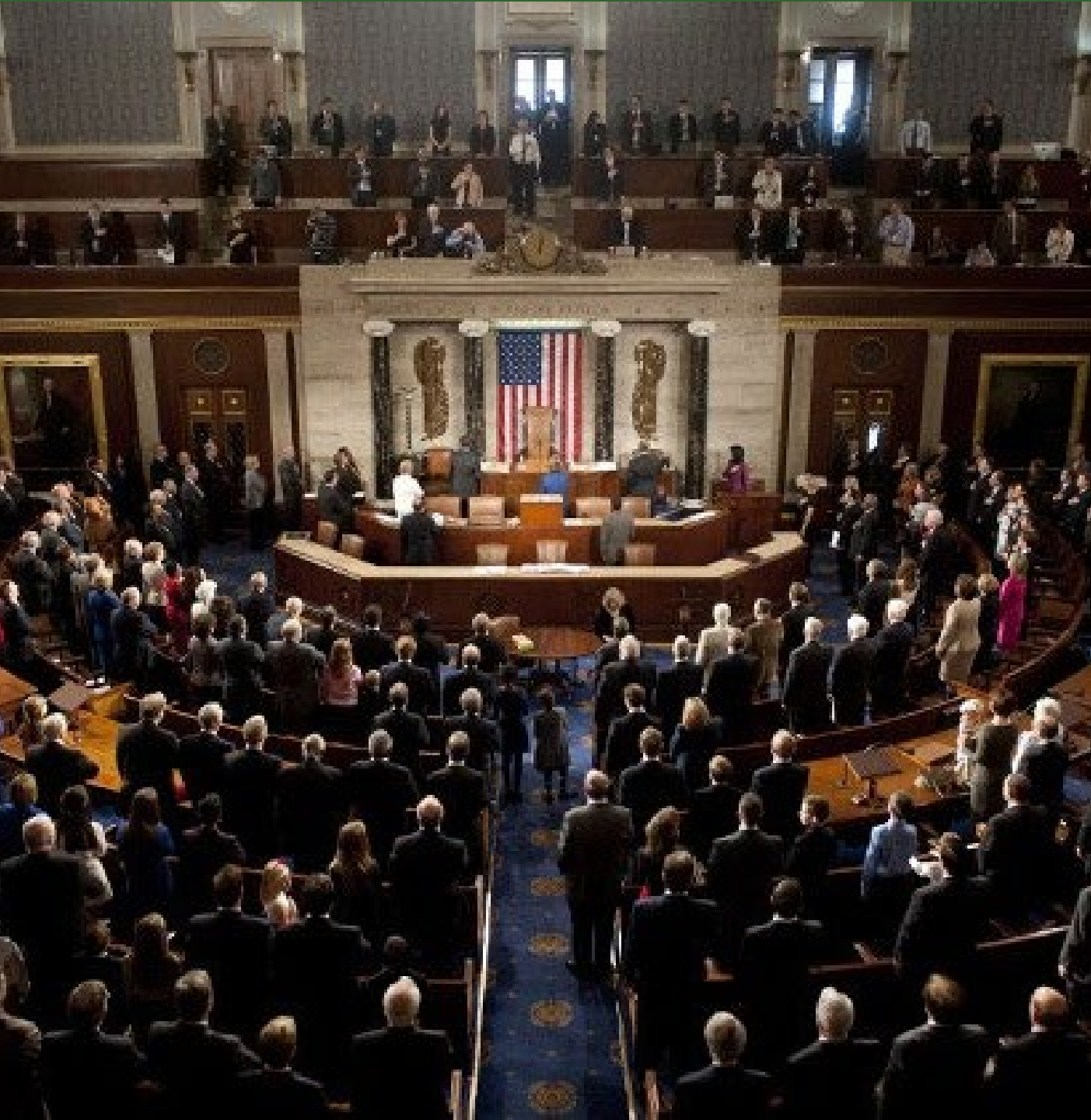
— Tax Notes

“Treasury Warns of ‘Enormous Challenges’ this Tax Filing Season that Could Delay Refunds”

— The Washington Post

“There is no way to sugarcoat the year 2021 in tax administration: From the perspective of tens of millions of taxpayers, tax administration did not work for them.”

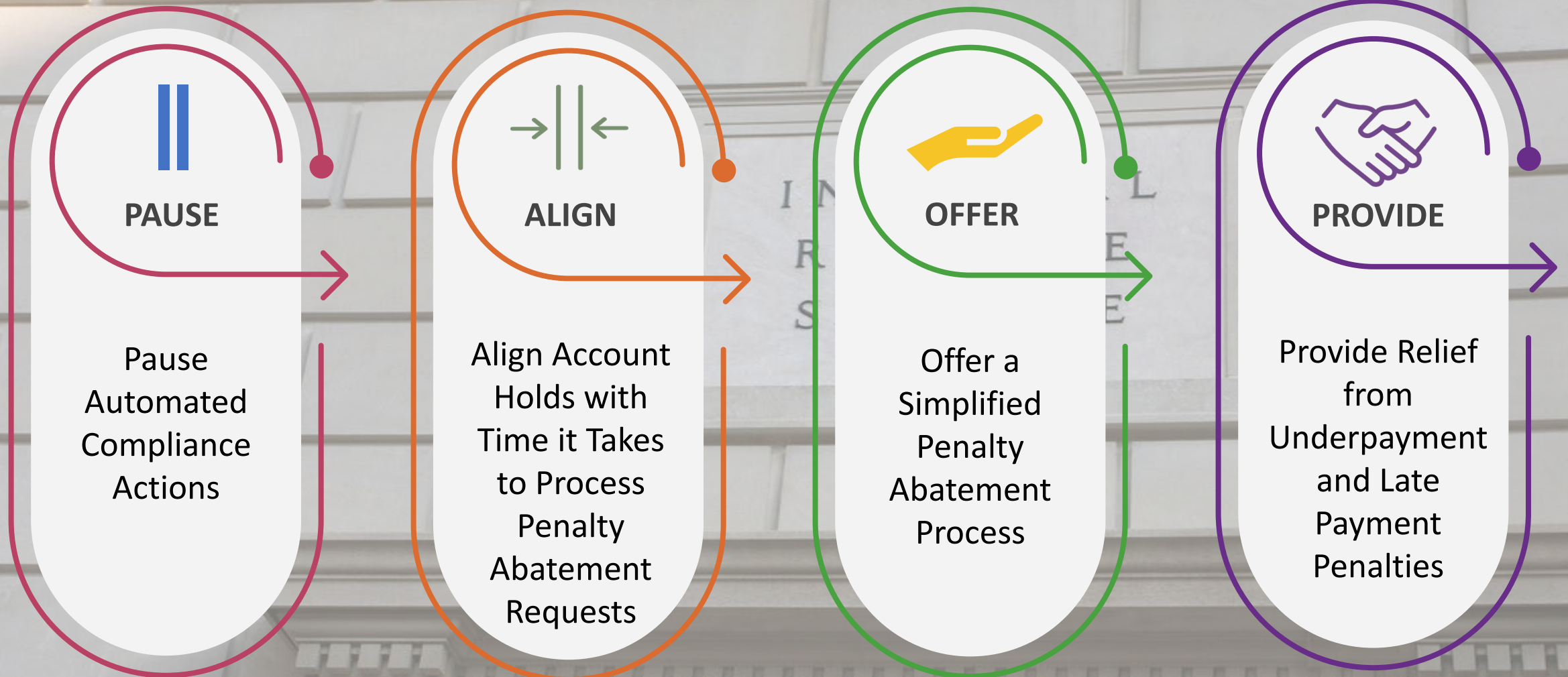
— Erin M. Collins, National Taxpayer Advocate




HOW DID WE GET HERE?

- Taxpayer First Act and COVID
- Penalty Relief
- Tax Professionals United for Taxpayer Relief Coalition

RECOMMENDATIONS TO IRS



A close-up photograph of a stone wall with the words "INTERNAL REVENUE SERVICE" carved in large, bold, serif capital letters. The wall is made of light-colored stone blocks, and the text is arranged in three lines. Below the text, there are several steps leading up to the wall.

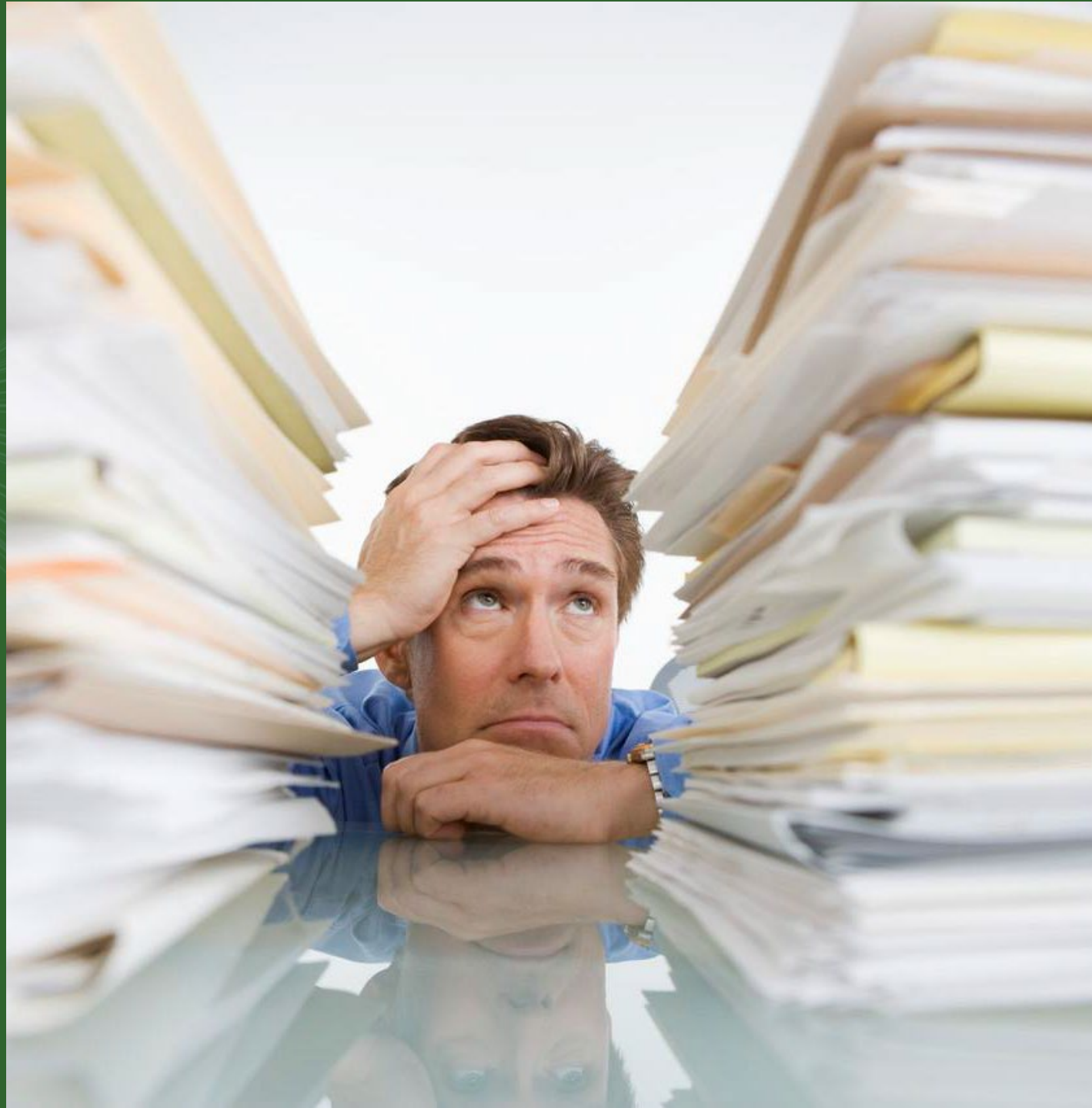
INTERNAL
REVENUE
SERVICE

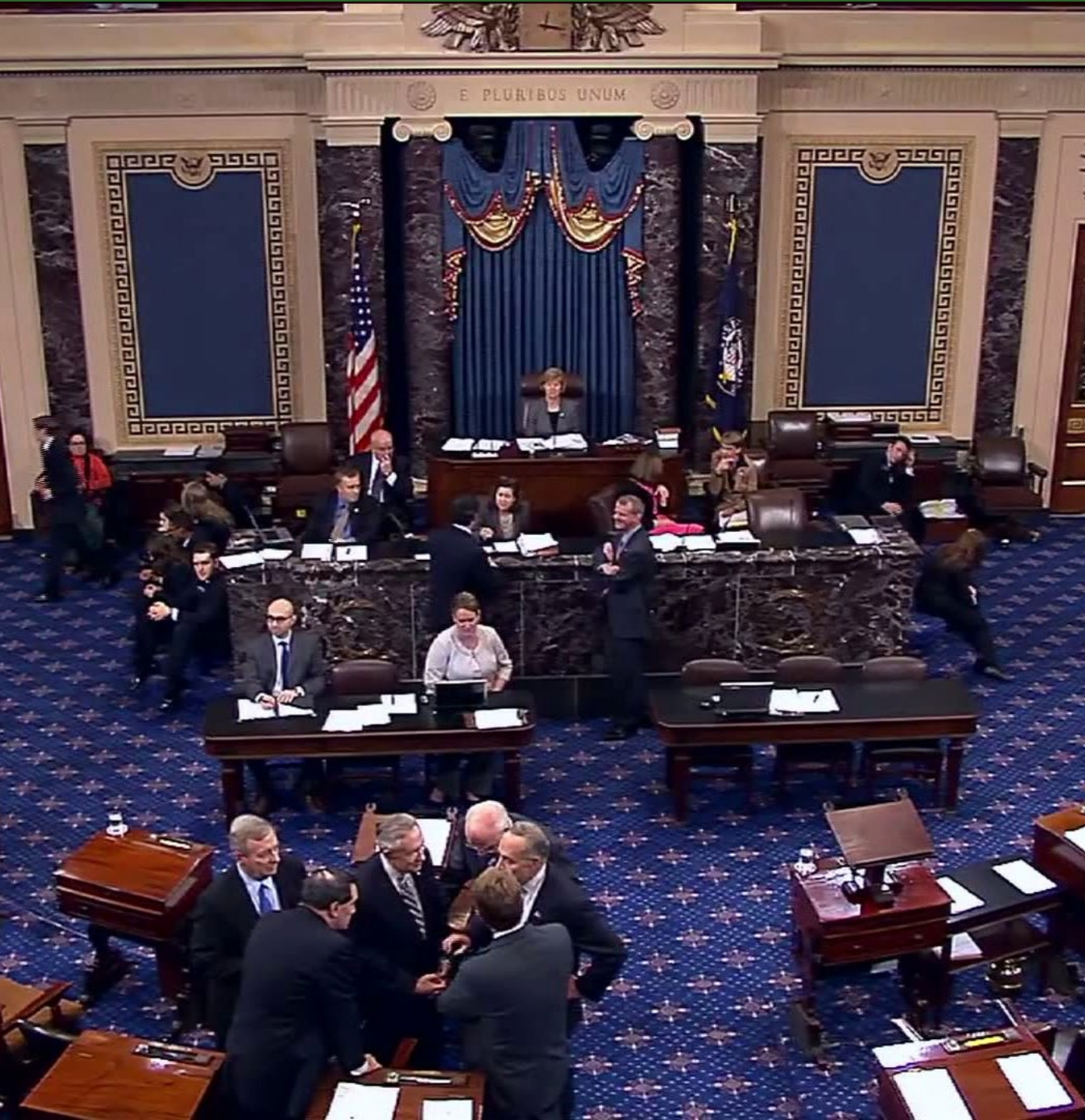
IRS TEMPORARILY SUSPENDS SOME NOTICES

- IRS has legal authority to stop automated collection notices
- IRS offering piecemeal relief
- Creates confusion

MORE CAN AND MUST BE DONE

- Stop more automated notices
- Provide longer account holds
- Easier reasonable cause relief
- Expand the safe harbor for underpayment and late payment penalties
- IRS Surge team





AICPA TESTIMONY AT SENATE FINANCE COMMITTEE HEARING

- Pushes for immediate action
- Provides long term solutions
- Requests enhancing IRS resources with a proper balance

HOT IRS SERVICE ISSUES

- Filing due date
- Robot “jump the line” call services
- Id.me
- E-signature relief
- IRS filing season alerts: <https://www.irs.gov/newsroom/help-for-taxpayers-and-tax-professionals-special-filing-season-alerts>



RESEARCH CREDIT REFUND CLAIMS

- On October 15, 2021, the IRS released field attorney advice ([FAA 20214101F](#)) dated September 17, along with a news release ([IR-2021-203](#)) requiring compliance with the memo.
- The AICPA commented in a November 18th [letter](#), requesting a delay of the implementation of the new requirements
- On January 3rd, 2022, the IRS released [interim guidance](#) and a set of [FAQs](#)
- The new requirements took effect on January 10th. Specifically, an R&D credit refund claim on an amended return must contain certain specified items of information by containing sufficient information concerning the grounds and facts upon which the claim is based.
- The AICPA is advocating for formal guidance with a proper notice and comment period
- The AICPA is concerned in particular that the new requirements are very burdensome and voluminous and the AICPA will be commenting further on the review process and insights and the essential pieces of information required to determine the validity of refund claims.

CONGRESS SHOULD CLOSE THE BOOK ON THE FAILED BOOK MINIMUM TAX

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JOSHUA SHEINKMAN, STAFF DIRECTOR
GREGG RICHARD, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON FINANCE
WASHINGTON, DC 20510-6200

February 2, 2022

Dear Colleague:

We urge you to reconsider the proposed tax on financial statement income of U.S. companies (the book minimum tax) included in the Build Back Better Act (H.R. 5376). This fundamentally flawed proposal, which has not been properly vetted by either Congressional tax-writing committee, risks severely harming American manufacturers, exacerbating supply-chain disruptions, and ultimately costing U.S. jobs and investment. While Republicans and Democrats may disagree on the best tax policy to create high-paying U.S. jobs and facilitate lasting economic growth, both parties rejected a previously enacted book minimum tax due to its numerous flaws and negative effects. Now is not the time to resurrect a harmful policy that would overwhelmingly hit American manufacturers and supply chains, as well as undercut critical research and development and investment in renewable energy and other emerging technologies.

As currently proposed, the book minimum tax would impose a 15 percent minimum tax on American businesses, though not on the income they are required to report to the IRS—so-called taxable income. Rather, the tax would be levied on income they report for financial statement purposes, known as book income. In doing so, the proposal would forgo taxation based on the tax code in favor of accounting standards, which are determined without Congressional oversight and do not reflect current realities of the business cycle.

When capital investments are treated differently for book and tax purposes, the proposal imposes a particularly burdensome tax on capital investment made by American manufacturers, service providers, and other major job-creators. This would eliminate or significantly reduce

“Income tax provisions should not influence company decisions as to the adoption of accounting methods. These types of distortions could potentially harm shareholders and creditors who depend on financial statements for important information. Public policy taxation goals should not have a role in influencing accounting standards or the resulting financial reporting. Independence and objectivity of accounting standards are the backbone of our capital markets system.” - AICPA

SECTION 473 LIFO RELIEF

- Due to COVID, the supply chain for many U.S. companies was disrupted and inventory levels have been reduced. Therefore, many companies using LIFO will have additional taxable income due to this decrease in their inventory.
- The AICPA has put forth several efforts to help advance this relief:
 - On April 28th, the AICPA submitted a comment letter requesting general relief
 - On August 17th, the AICPA submitted a second comment letter with detailed examples
 - On November 9th, the AICPA endorsed a bipartisan Congressional letter to Treasury
 - On November 29th, the AICPA along with the National Automobile Dealer's Association (NADA) sent a specific request letter to meet with Treasury
 - On December 16th, the AICPA and NADA met with Treasury to discuss the issues. Treasury is currently further analyzing the facts and scope.

03

HOT TOPICS

Hot Topics

State Tax Issues

- Sales tax on professional services
- Pass-through entity (PTE) state level tax

Corporate Transparency Act



AICPA Foreign Partnership Reporting Task Force:

- August 18, 2020 Webcast – [AICPA & IRS Joint Webcast on K-2 and K-3 Filing](#)
- September 14, 2020 Letter to IRS & Treasury: [Comments on Proposed International Changes to Form 1065, Schedule K-2, and Schedule K-3](#)
- November 9, 2021: Meeting with IRS & Treasury
- November 18, 2021 Podcast: [K-2/K-3 — Making sense of new international passthrough reporting | Tax Section Odyssey](#)
- Continued Advocacy Efforts & Comment Letter Submissions, latest submission Friday, 2/18/22

Latest Guidance:

- IRS communications, [FAQs](#), and IR-2022-38
- IRS Special 2022 Filing Season [Alerts](#)

- What's included?
- What's unknown?
- <https://www.irs.gov/businesses/schedules-k-2-and-k-3-frequently-asked-questions-forms-1065-1120s-and-8865>

➔ **15. Is the IRS providing any additional exceptions for tax year 2021? (added February 16, 2022)**

The IRS is providing an additional exception for tax year 2021 to filing the Schedules K-2 and K-3 for certain domestic partnerships and S corporations. To qualify for this exception, the following must be met:

- In tax year 2021, the direct partners in the domestic partnership are not foreign partnerships, foreign corporations, foreign individuals, foreign estates, or foreign trusts.
- In tax year 2021, the domestic partnership or S corporation has no foreign activity, including foreign taxes paid or accrued or ownership of assets that generate, have generated, or may reasonably be expected to generate foreign source income (see section 1.861-9(g)(3)).
- In tax year 2020, the domestic partnership or S corporation did not provide to its partners or shareholders nor did the partners or shareholders request the information regarding (on the form or attachments thereto):
 - Line 16, Form 1065, Schedules K and K-1 (line 14 for Form 1120-S), and
 - Line 20c, Form 1065, Schedules K and K-1 (Controlled Foreign Corporations, Passive Foreign Investment Companies, 1120-F, section 250, section 864(c)(8), section 721(c) partnerships, and section 7874) (line 17d for Form 1120-S).
- The domestic partnership or S corporation has no knowledge that the partners or shareholders are requesting such information for tax year 2021.

If a partnership or S corporation qualifies for this exception, the domestic partnership or S corporation does not need to file Schedules K-2 and K-3 with the IRS or with its partners or shareholders. However, if the partnership or S corporation is subsequently notified by a partner or shareholder that all or part of the information contained on Schedule K-3 is needed to complete their tax return, then the partnership or S corporation must provide the information to the partner or shareholder. If a partner or shareholder notifies the partnership or S corporation before the partnership or S corporation files its return, the conditions for the exception are not met and the partnership or S corporation must provide the Schedule K-3 to the partner or shareholder and file the Schedules K-2 and K-3 with the IRS.

New Resource Hub

- Schedules K-2 and K-3 Client Information Letter: downloadable word file to help with client communication – **NEW for AICPA members**
- Journal of Accountancy Article – **IRS offers further K-2/K-3 relief**

Date, Firm logo

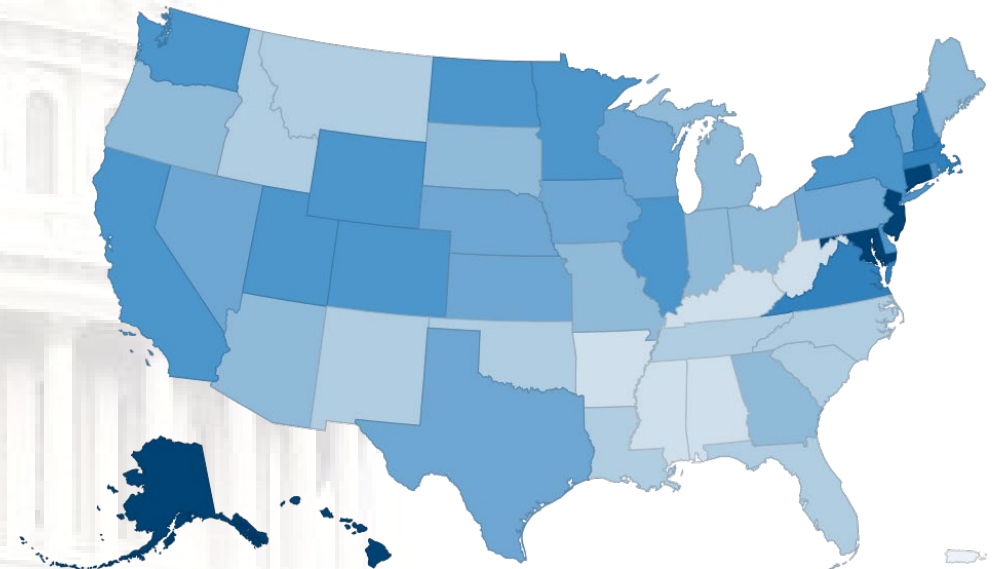
Re: Schedules K-2 and K-3 for international activity related to Forms 1065, 1120-S and 8865

Dear [valued client],

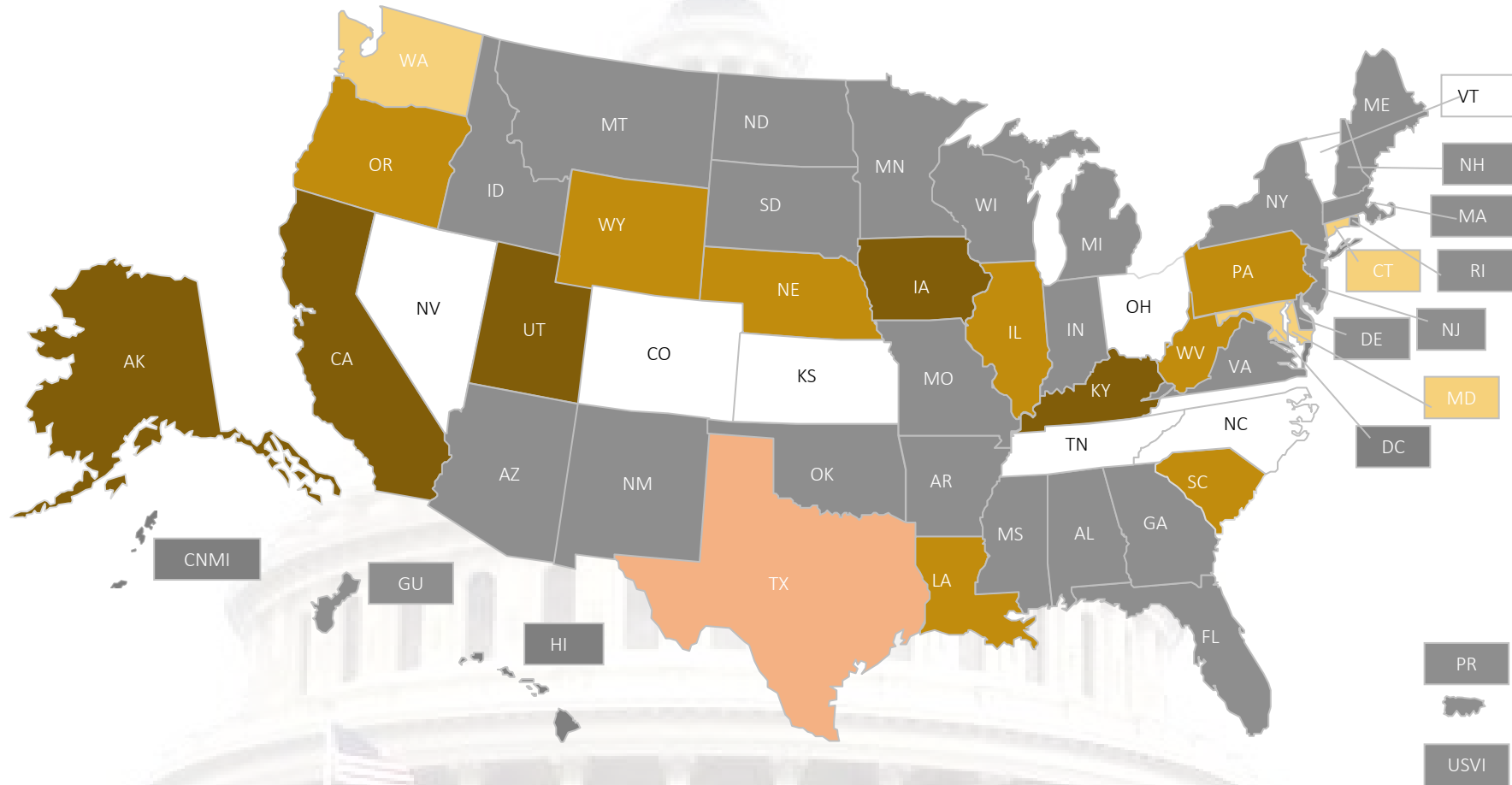
New for this filing season, IRS Schedules K-2 and K-3 will need to be completed to include items of international tax relevance from the operations of a pass-through entity.

If the entity has international financial activity — which could be as simple as a partner or shareholder having a foreign tax credit — the entity will be required to report on these new schedules if it files:

- Eight states in 2021 are proposing or have proposed varying levels of legislation – Alaska, Louisiana, Nebraska, Oregon, Pennsylvania, South Carolina, and Wyoming
- Trend expected to continue into 2022
- May consider: CA, CT, IL, KS, KY, MD, PA, RI, VA, WA
- Prior attempts: MD, UT, MN, MA, MI, FL, WV
- State budgets will continue to play key role



2022 Taxes on services legislation heatmap



States with current legislation or it is highly likely there will be future legislation

States that have introduced legislation in the past but remain a threat

States that are a low threat, but have had legislation in the past

- **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
 - IRS [Notice 2020-75](#)
- AICPA [The Tax Adviser article](#) on issues to consider with PTE-level taxes – June 2021
- [AICPA issue paper on state pass-through entity-level tax implementation issues](#)
- [AICPA state pass-through entity-level tax implementation issues one pager](#)
- [MTC project on state taxation of partnerships](#)



- **State pass-through entity level taxes**
 - ***Issues to consider before making decision on the PTE election in any states***
 - Election issues such as election due date, forms, election tax rate
 - Federal Issues such as timing of payments when deduction for federal purposes, Section 162 and 212, etc.
 - State Issues such as exempt owners, full or partial credit to owners for taxes paid
 - S corporation second class of stock issues – AICPA Comment Letter (Oct. 26, 2021)
 - ***What taxpayers and tax practitioners should be aware of?***
 - Compliance costs
 - Partnership agreement details
 - Conflict of interest and malpractice risks
 - Amended returns and audits





EMPLOYEE RETENTION CREDIT

CORPORATE TRANSPARENCY ACT –NEW REPORTING REQUIREMENTS

- On December 7, 2021, Treasury’s Financial Crimes Enforcement Network (FinCEN) issued proposed regulations interpreting the Corporate Transparency Act (CTA), which was enacted in January of 2021 by the National Defense Authorization Act.
- The purpose of the CTA is to help combat corruption, money laundering, tax fraud and other illicit activity, such as the proliferation of shell companies that facilitate the flow and sheltering of illicit money in the United States.
- A reporting company will be requested to submit to FinCEN a report containing beneficial owner and company applicant information.
- The AICPA has commented on the new requirements, and in particular on the impact to small businesses.
- <https://www.regulations.gov/comment/FINCEN-2021-0005-0331>

FILING RELIEF FOR NATURAL DISASTERS ACT

A photograph of firefighters in full gear, including helmets and jackets with reflective stripes. One firefighter in the foreground has 'WVFD' on the back of their jacket. They are positioned in front of a stone wall with a large, jagged opening through which bright orange and red flames are visible. The scene is dimly lit, with the primary light source being the fire.

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

S. 2748 – Catherine Cortez Masto (D-NV),
John Kennedy (R-LA), and Chris Van Hollen (D-MD)

Trigger: Official state declared disaster declaration
Authority to issue tax deadline extensions

Q&A





The emerging view

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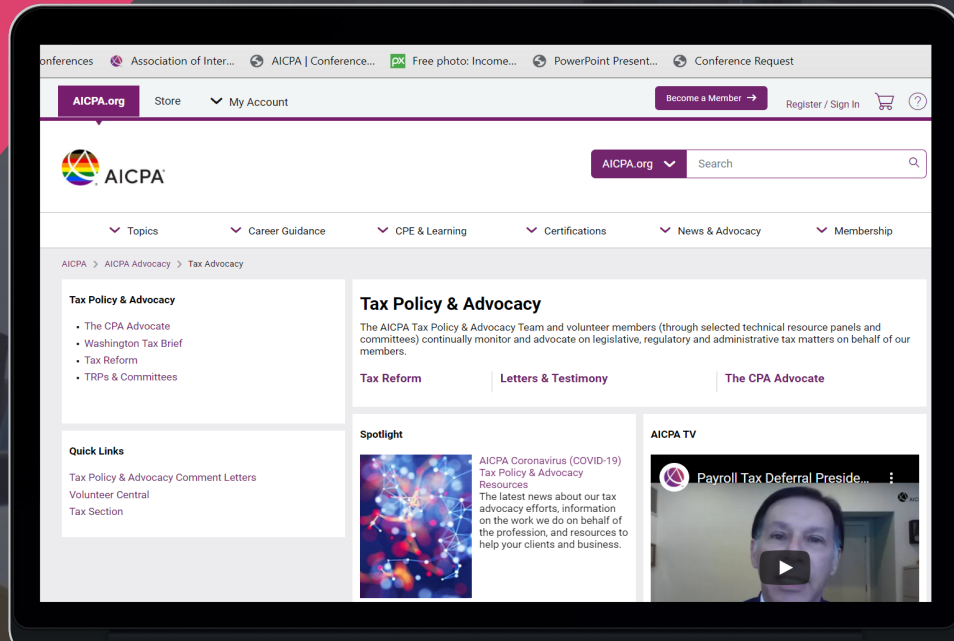
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- Led by AICPA executives Erik Asgeirsson, President & CEO, CPA.com, Lisa Simpson, VP Firm Services, and Sue Coffey, EVP Public Practice
- Free for AICPA members

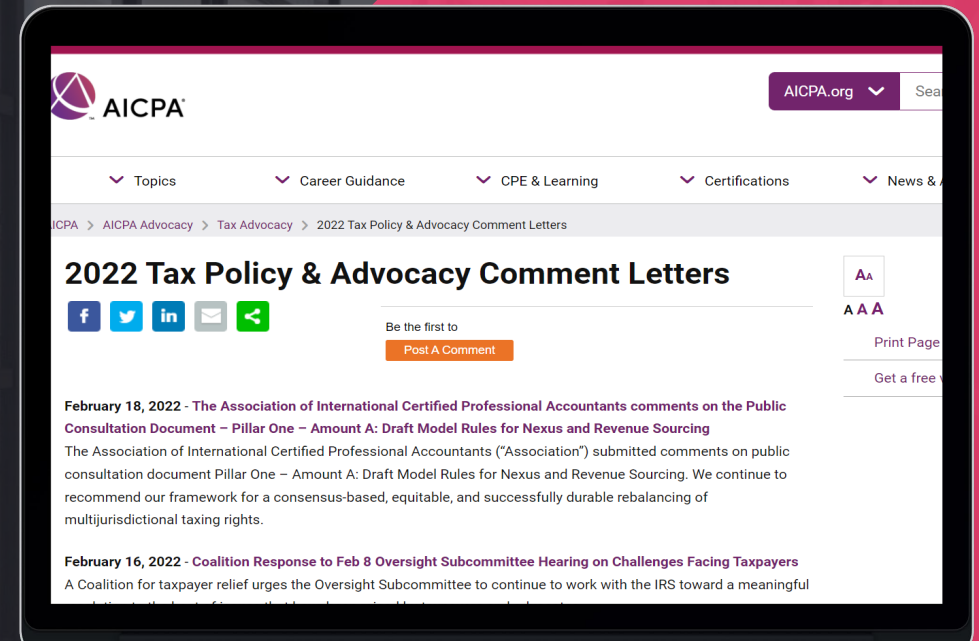
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AICPA Tax Policy & Advocacy Webpages



<https://us.aicpa.org/advocacy/tax>



<https://us.aicpa.org/advocacy/tax/2022taxadvocacycommentletters.html>



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- IRS woes and possible remedies
- Tax season déjà vu in 2022
- New year's resolutions for tax practitioners
- To amend or not to amend — that is not the only question
- Special edition: Update on recent tax legislation
- Why international tax is a big deal for every tax practitioner
- Road to recovery — Primer on disaster tax relief
- Finalizing tax returns when you don't have all the answers



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- Annual Tax Compliance Kit (engagement letters, organizers, checklists and state guides)
- Coronavirus and Tax Impacts FAQs
- Disaster tax relief guidance and resources
- Employee retention credit guidance and resources
- IRS collection guidance and resources
- IRS Schedules K-2 and K-2 guidance and resources
- SALT Roadmap – State and Local Tax Guide
- Tax Identity Theft Toolkit
- Virtual currency tax guidance and resources

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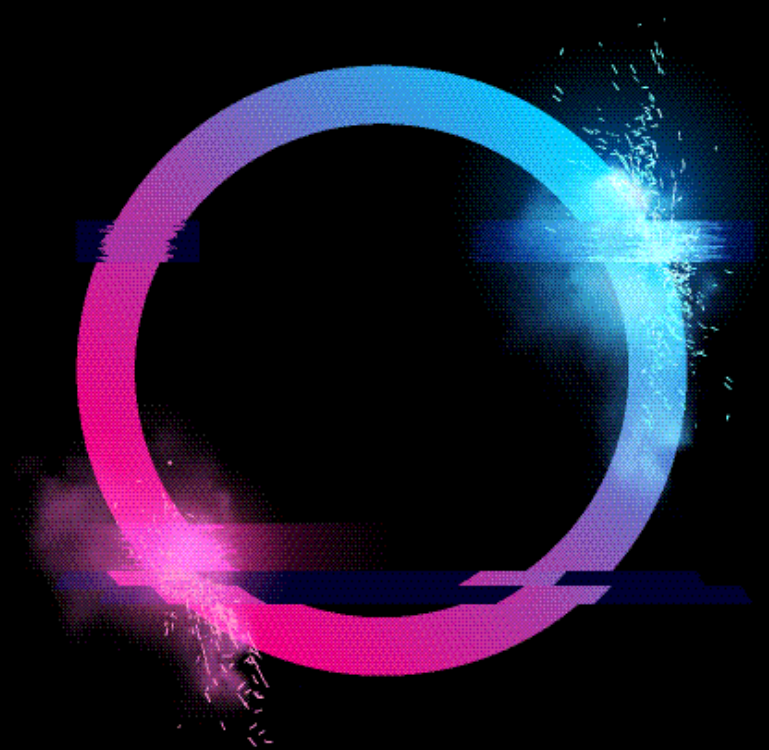
Tax Section members attend for free as part of their membership.



The 2022 Spring Tax Rewind

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AICPA Washington Tax Brief

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