

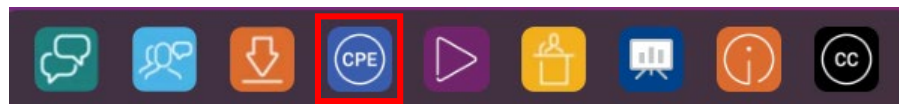
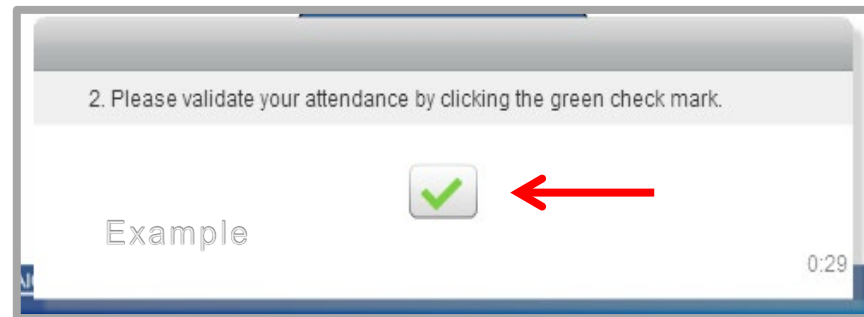


WASHINGTON TAX BRIEF

November 12, 2020

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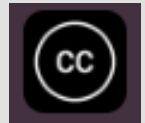
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About the Washington Tax Brief

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



Edward Karl
VP - TAXATION



Kristin Esposito
DIRECTOR – TAX
POLICY & ADVOCACY



Amy Wang Miller
SENIOR MANAGER – TAX
POLICY & ADVOCACY



Jeaneen Zanovello
LEAD SPECIALIST – TAX
POLICY & ADVOCACY



Topics of
Today

01.

**Election Update
& Lame Duck**

02.

**Legislative &
Political Outlook**

03.

**Advocating for
AICPA Priorities**

04.

Hot Topics

05.

Questions



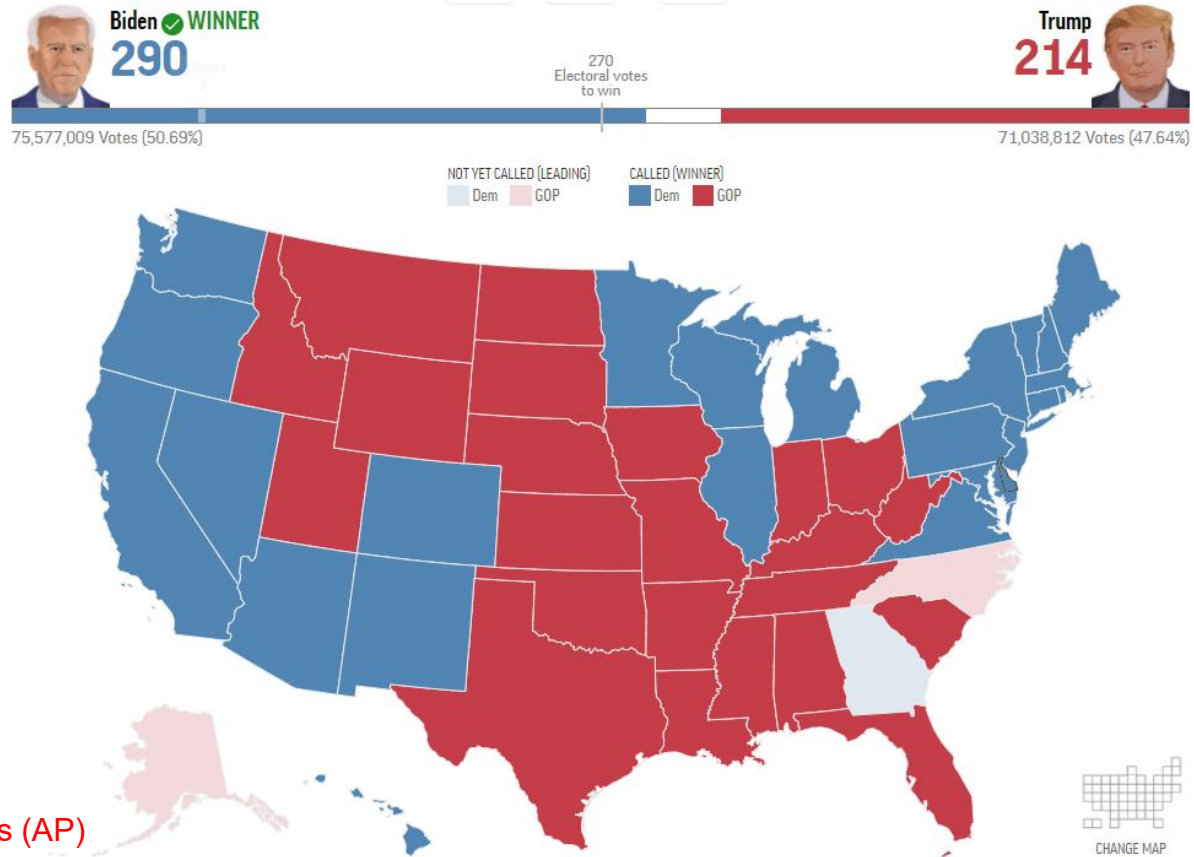
Election Update

2020 Election Results: Topline

Chamber/Office	Control before election	Control in 2021
House of Representatives	Democrats	Not yet called
Senate	Republicans	Not yet called
President	Republicans (Trump)	Democrats (Biden)

Media Calls Election for Biden; Trump has Yet to Concede

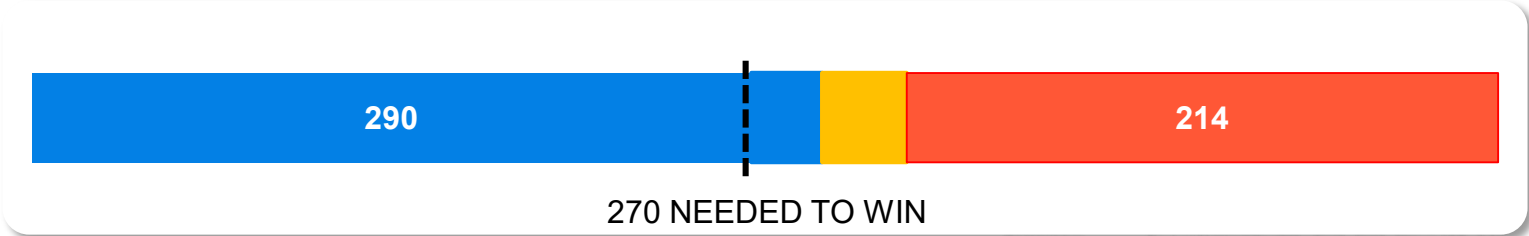
- According to the AP and other media, Biden has won the election – with two states yet to be called
- States will certify final counts this month, with the Electors formally voting on December 14, 2020
- Trump has yet to concede and is taking legal action



Electoral College map per Associated Press (AP)



2020 Electoral College Results



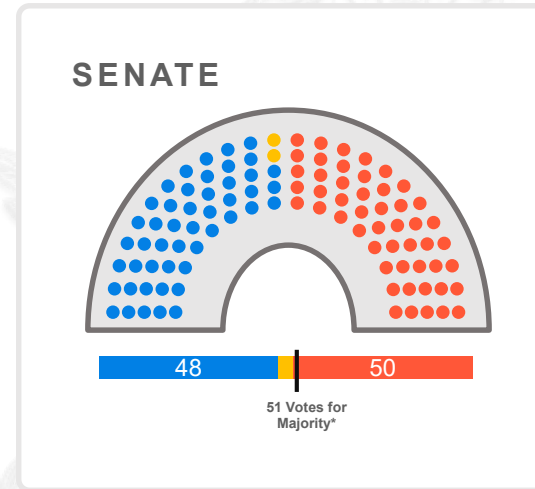
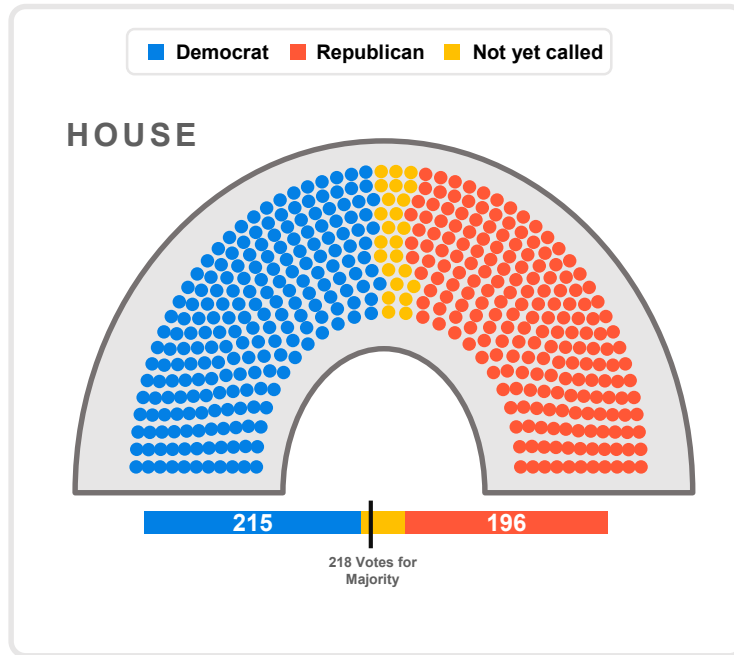
NOT YET CALLED 31



***Outline reflects 2016 winner**

SOURCE: Associated Press and Cook Political Report as of 11/9/2020

Current 117th Congress Makeup



*Independent Senators Sanders (I-VT) and King (I-ME) counted as Democrats

Lame Duck Session of Congress

- **Public health, Medicare and Medicaid**
- **Government Funding- December 11**
- **Relief / Stimulus Negotiations**
- **Tax Extenders**
- **National Defense Authorization Act**
- **Nominations**
- **Foreign Intelligence Surveillance Act**
- **Water Resources Development Act**



Legislative and Political Outlook:



117th Congress: 2021-2022

House of
Representatives
Controlled by
Democrats

U.S. Senate
Controlled by
Republicans

Relief/stimulus
Healthcare
Infrastructure
Immigration
Climate
Social Justice
Tax

Relief/stimulus
Healthcare
Infrastructure
Immigration
Trade
Nominations
FISA Reform


2021





Revenue

Options: Will Tax Rates Increase?

- Record government debt risks
 - Highest deficit in decades
 - Congress and future Administration will have to mitigate
 - Tax increases?
 - Spending cuts?
 - Corporate tax rate
 - Many small businesses operate as passthroughs – taxed up to the highest individual rate
 - Most TCJA individual provisions expire 12/31/25
- 

A man with glasses is looking at a financial chart. The chart features a glowing white line graph that trends upwards from left to right. The background is dark with a grid pattern and some faint numbers like '3.5', '50.17', '43.00', '79.09', '99.10', '49.03', '77.00', '02.75', '35.67', and '96.33'.

Possible Biden Revenue Raisers:

- Increase corporate tax rate to 28%
- 21 % minimum tax on all foreign earnings of US companies
- Tax penalty for companies who ship jobs overseas
- 15% minimum tax on Book Income
- Increase the top personal income tax rate to 39.6% (earning over \$400,000 a year)
- Individuals capital gains rate increase (earning over \$1 M)



Possible Biden Tax Cuts:

- Increased tax credits to afford health insurance
- Increased childcare tax credit
- \$15,000 First Time Home Buyer's credit
- Plused-up child tax credit

Securing a Strong Retirement Act of 2020

Bipartisan Bill Designed to Enhance Retirement Savings

Key Provisions:

- Provide automatic enrollment in 401(k) plan, when a new plan created
- Create financial incentive for small businesses to offer retirement plans
- Allow groups of non-profits to join together to offer retirement plans to employees
- Offer individuals 60 and older more flexibility to set aside savings
- Increase required minimum distribution age to 75
- Allow individuals to pay down a student loan instead of contributing to a 401(k) plan and still receive an employer match in their retirement plan


Advocating for AICPA Priorities

COVID-Specific Relief

PPP Expense Deductibility

Current Status:

- Notice 2020-32: expenses related to forgivable loans ineligible for tax deductions
- Treasury will soon issue direct guidance on overlapping years
 - Their Position: If reasonable expectation of forgiveness, no deduction
- Supreme Court in *Bliss Dairy* could provide authority for deduction
- **AICPA continuing to advocate for legislative action to make PPP expense deductible**



Bottom Line:

- **Whatever position a CPA takes, the CPA should have a conversation with the client to explain the risks / rewards and let the client make the decision**

501(c)(6) Organization Inclusion in PPP

**Bipartisan,
bicameral support
for inclusion of
501(c)(6)
organizations in
PPP**



**Multiple legislative
vehicles open PPP
to more non-
profits**



**Deal to include in
future stimulus
would likely cap
the size**



More Guidance, Simpler Process: PPP Loan Forgiveness

Months-long push for necessary guidance

Similar push for simplification of loan forgiveness process (ex: SBA should certify third-party calculators)

Hill atmosphere: broad support for “automatic” forgiveness for low-dollar loans (example: \$150,000)

Treasury seems supportive of streamlined forgiveness

- Noted need for fraud protection
- House Committees holding hearings on fraud in PPP



Mobile Workforce and COVID-19

- Long history of pushing legislation on workforce mobility
- Remote work and volunteer arrangements due to COVID-19 have re-energized issue
- Senators Thune and Brown introduced updated mobile workforce bill to address remote worker tax issues





COVID Liability Protections

- Concerns with coronavirus-related lawsuits
- Senate Majority Leader McConnell “Redline”
- Democrats object
- Liability protections vs. state and local funding

Tax Advocacy Issues in the COVID Era

- **July 15th Deadline**

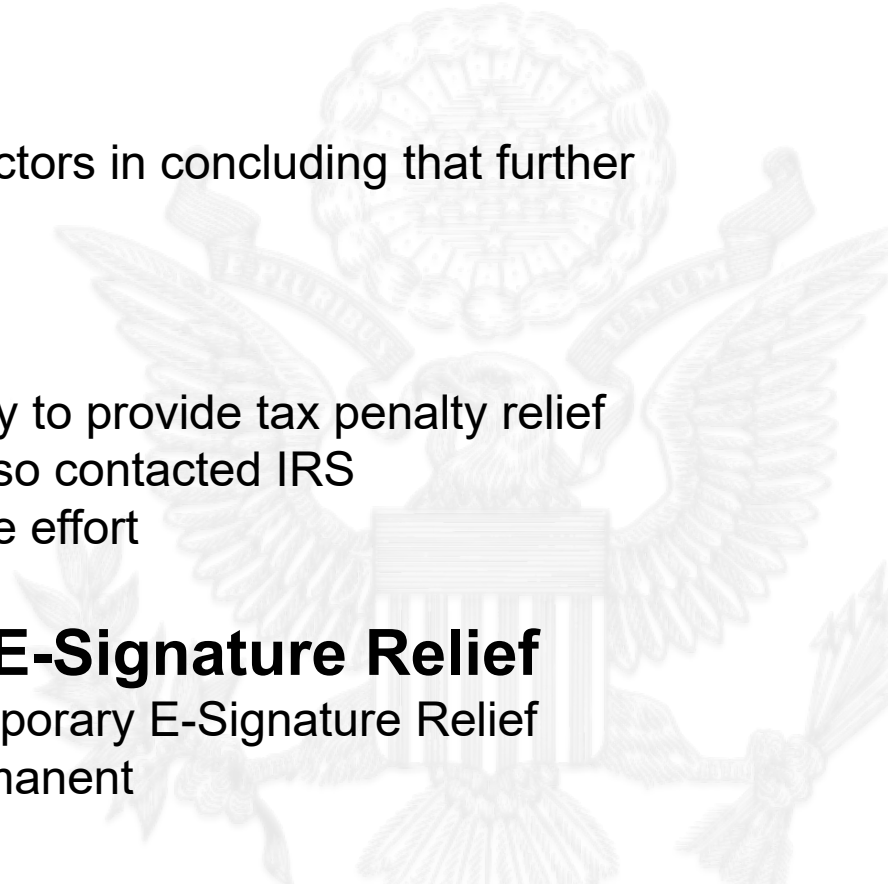
- AICPA advocacy weighed number of factors in concluding that further postponement was not necessary

- **Tax Penalty Relief**

- We requested IRS use existing authority to provide tax penalty relief
- Members of Congress took note and also contacted IRS
- IRS willing to work with those who make effort

- **Temporary and Permanent E-Signature Relief**

- IRS took key AICPA suggestion on Temporary E-Signature Relief
- New goal: making temporary relief permanent



COVID-19 Tax Filing Relief

- IRS should provide relief for uncontrollable COVID-19 impacts on CPAs & their clients
- AICPA advocating for expedited and streamlined penalty abatement process
 - ✓ Dedicated call center
 - ✓ May request abatement orally
 - ✓ Without power of attorney
 - ✓ **Similar to** first time abate (FTA) administrative waiver
 - ✓ IRS should develop examples of impacts on **both** the taxpayer and the practitioner



November 5, 2020

The Honorable David J. Kautter
Assistant Secretary (Tax Policy)
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

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

Re: Penalty Relief for 2019 Tax Year Filing Season

Dear Assistant Secretary Kautter and Commissioner Rettig:

The American Institute of CPAs (AICPA) appreciates the numerous changes the Internal Revenue Service (IRS) has made to provide payment relief to taxpayers affected by the Coronavirus Disease 2019 pandemic (commonly known as "Coronavirus") through [IR-2020-248](#). However, many taxpayers and tax preparers faced insurmountable challenges as a result of the Coronavirus and were unable to pay taxes or timely file tax returns by the extended due date, despite making good faith efforts to do so. Penalty relief should be a priority as part of the IRS's efforts to mitigate the negative impact of the Coronavirus.


Specifically, the IRS should offer an expedited and streamlined reasonable cause penalty abatement process to taxpayers affected by the Coronavirus. Additionally, the IRS should develop specific Coronavirus examples that qualify for reasonable cause abatement and share these examples with all telephone assistors through an Interim Guidance. Furthermore, the IRS should develop a dedicated telephone number, or a dedicated prompt, for taxpayers or their advisors to call to request Coronavirus-related penalty relief.

IRS Services during Coronavirus

- IRS operation centers open since July 15 with limited staff and operations. Updates can be found here: <https://www.irs.gov/newsroom/irs-operations-during-covid-19-mission-critical-functions-continue>
- Backlog of paper mail
 - As of Oct 27 there were 5M items
 - Incoming weekly mail: 300K-500K items
- Penalty Notices
- E-signatures
 - Temporary relief through December 31, 2020
 - Still working on permanent relief

Payment of Employer Payroll Tax Deferral

Reporting payments made:

- **On due dates:** record deferral on Form 941, Line 13(b)
 - **In same quarter as deferral and before the due dates:**
 - Do not fill out Form 941, Line 13(b)
 - Do not include deferred amount as part of tax liability on Form 941
 - **Include deferred amount as part of liability on date of deposit (HOW TO PAY)**
 - **In a quarter after the deferral but before the due dates:**
 - Record deferral by filling out Form 941, Line 13(b)
 - Make a payment separate from regular payroll EFTPS: reflect Form 941, calendar quarter of the deferral, payment due on an IRS Notice
- 

Employee Retention Credit: PPP loan & ERC in Acquisition

- Employer is a small health clinic
- Increased costs for telehealth technology, personal protective gear
- Reduced revenue due to decreased patient care
- Acquired by health care entity to stay afloat
- Health care entity claimed ERC prior to acquisition
- Small health clinic received PPP loan prior to acquisition
- IRS FAQ: Small health care entity must repay ERC
- AICPA Recommended to IRS: No repayment of ERC

Employee Retention Credit: Suspension of Operations

- Middle Co Manufacturer (closed due to government order) sells supplies to Essential Business
- Essential Business (open) assembles the supplies into parts
- Unrelated Co receives the parts from Essential Business to sell to customer
- IRS FAQ: If customers (*individuals*) of essential business are subject to stay-at-home order and do not patronize business, business not considered to have suspension of operations.
- AICPA Recommended to IRS: Consider intermediate entities partially suspended due to a shutdown if *business* customers (suppliers) closed due to governmental order.

Advocating for AICPA Priorities

- Non-COVID Related

IRS Disaster Relief

IRS Tax
Extensions



FEMA

Limited to
"Federally-
Declared"
Disasters



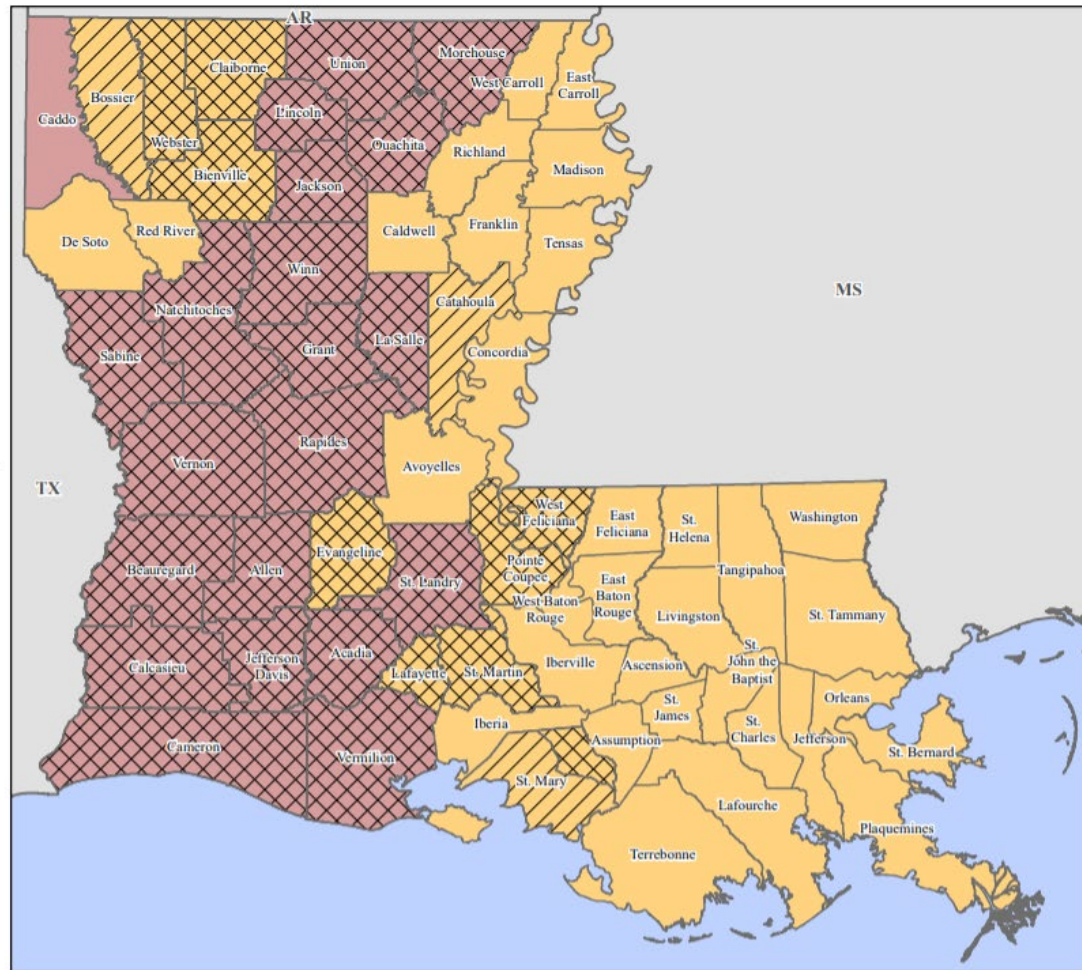
Penalties



FEMA-4559-DR, Louisiana Disaster Declaration as of 10/15/2020



FEMA



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

All areas within the State of Louisiana are eligible for assistance under the Hazard Mitigation Grant Program.

Designated Counties

- Public Assistance (Category B)
- Public Assistance (Categories A and B)
- Individual Assistance and Public Assistance (Category B)
- Individual Assistance and Public Assistance (Categories A - G)
- Public Assistance (Categories A - G)



Data Sources:
FEMA, ESRI;
Initial Declaration: 08/28/2020
Disaster Federal Registry Notice:
Amendment #12: 10/15/2020
Datum: North American 1983
Projection: Lambert Conformal Conic

Tax Disaster Relief

Filing Relief for Natural Disasters Act

H.R. 2976 – Judy Chu (D-CA) & John Katko (R-NY)

S. 1677 – David Purdue (R-GA) & Catherine Cortez Masto (D-NV)

Trigger: Official state
declared disaster declaration

Authority to issue tax deadline extensions





Hot Topics

01



Taxation of Digital Economy

Research & Experimentation



02

03



GAO Calls on Coronavirus Issues

Passthrough GILTI Taxpayer First Act



04

05



Business Interest Expense Limitation

Tax Capital Reporting



06

07



Carried Interest

Draft K-2 & K-3 forms



08

09



Passthrough SALT workaround accepted by Treasury/IRS



AICPA National Tax Online Conference

Nov 16 - Nov 17, 2020

[Register now](#)

Q&A



Upcoming learning opportunities



Postelection year-end planning

The election has immense implications given the wide and growing gap in tax policy between the two parties. This year, more than any in recent memory, provides an opportunity to capture savings via year-end planning. This webcast will cover the most relevant planning topics based on the results of the November election.

Nov 23rd
3pm-5pm ET
CPE: 2

Last Minute Planning for 2020

As we all know, advice you give clients in December will depend on the election results and the possibility of tax law changes in 2021. By the time we present this webcast, the 2020 election results should be known. What should you be telling your clients about planning in the last month of 2020?

Dec 1st
1pm-3pm ET
CPE: 2

Tax Practice Quarterly: 2021 Busy Season Readiness

The 2021 busy season is just around the corner. In this webcast, we'll discuss topics such as the FFCRA, CARES Act, the PPP and HCEA and various other filing and payment due date changes implemented amid the COVID-19 pandemic to make sure you hit the ground running this busy season.

Dec 17th
1pm-3pm ET
CPE: 2

Navigating unchartered waters together

AICPA Town Hall Series

Join our Town Halls on CARES and PPP

- Hear insights on the latest Treasury and SBA guidance and discuss hot topics
- Led by AICPA executive leads Mark Koziel, EVP Firms Services, and Erik Asgeirsson, President & CEO, CPA.com
- Free for AICPA members

Register now

aicpastore.com/townhallseries

- Nov 19, 2020
3pm – 4pm EST
- Dec 03, 2020
3pm – 4pm EST
- Dec 17, 2020
3pm – 4pm EST
- Jan 07, 2021
3pm – 4pm EST



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SBA Paycheck Protection Program resources for CPAs

- Summary of **Paycheck Protection Program Flexibility Act**
- **Main Street Lending Program Summary**
- **Loan forgiveness calculator**
- PPP Loan Forgiveness Services Matrix
 - Agreed-Upon Procedures **Engagement Letter**
 - Agreed-Upon Procedures **Report**
 - Attachment to the Engagement Letter with **procedures performed**
- Explore other funding resources
 - Co-brandable **SBA Loan Snapshot** to explore other SBA options with clients
 - **Overview of SBA Loans**
- **Payroll calculators** to help clients with the loan application



Standards for Tax Services (SSTSs)

Keeping up with the tax evolution

aicpa.org/tax

- Current standards based on “best practices” developed in 1960s & 1970s
- Last revision to existing standards effective January 1, 2010
- Updates needed to reflect the current tax practice landscape
- Reorganized in a more logical and topical way
- Considerations for data security, reliance on tools, tax representation, tax consulting and quality control
- Exposure tentatively slated for Q3 2021
- Jan. 1, 2022 (or earlier) – effective date

AICPA Tax Policy & Advocacy Webpages

Tax Policy & Advocacy

- The CPA Advocate
- Washington Tax Brief
- Tax Reform
- TRPs & Committees

Quick Links

- Comment Letters
- Volunteer Central
- Tax Section

Tax Policy & Advocacy

The AICPA Tax Policy & Advocacy Team and volunteer members (through selected technical resource panels and committees) continually monitor and advocate on legislative, regulatory and administrative tax matters on behalf of our members.

Tax Reform | **Letters & Testimony** | **The CPA Advocate**

Spotlight

AICPA TV

Section 163(j) Business Interest Expense Limitation

AICPA Comments on Section 163(j) Proposed Regs

[More on AICPA TV](#)

www.aicpa.org/advocacy/tax

2019 Tax Advocacy Comment Letters

January 8, 2019
Modified: May 14, 2019

[f](#) [t](#) [in](#) [✉](#) [↻](#)

May 23, 2019 - AICPA Comments on the United States Senate Approval of Pending Income Tax Treaties and Protocols

The AICPA urges the Senate to approve the bilateral income tax treaties and protocols currently pending before them. The AICPA believes income tax treaties are vital to United States economic growth as well as U.S. trade and tax policy. Tax treaties are also important tools used to promote a competitive environment to attract foreign investment into the U.S. In order to serve their intended purpose, tax treaties must be kept up to date with developments in the global economy.

May 14, 2019 - AICPA Comment Letter On Notice 2018-99 - Parking Expenses for Qualified Transportation Fringes

The AICPA has provided comments and recommendations on the changes to section 274(a)(4) and the enactment of section 512(a)(7) in response to Notice 2018-99- Parking Expenses for Qualified Transportation Fringes. This letter is in response to the request by the IRS and Treasury for comments on the rules described in the Notice.

May 8, 2019 - AICPA Comments on Rev. Proc. 2018-31, List of Automatic Accounting Method Changes

The AICPA has submitted recommendations with respect to Rev. Proc. 2018-31, which provides a list of accounting

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



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February 2021



Thank you