



**AICPA® & CIMA®**

Together as the Association of International  
Certified Professional Accountants

# WASHINGTON TAX BRIEF

February 22, 2023





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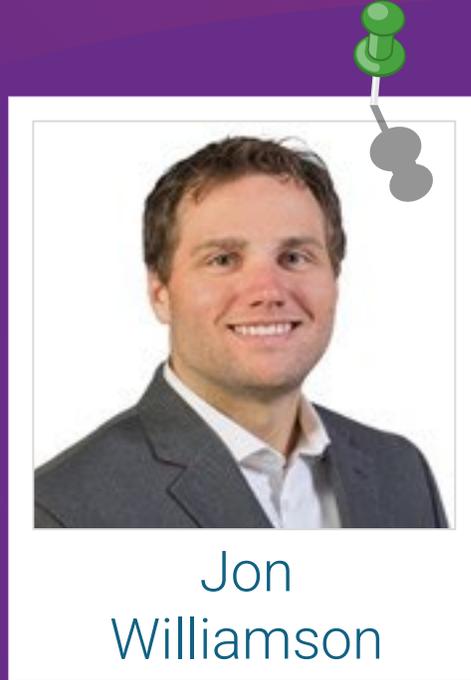
# Meet the Team

Tax Policy & Advocacy



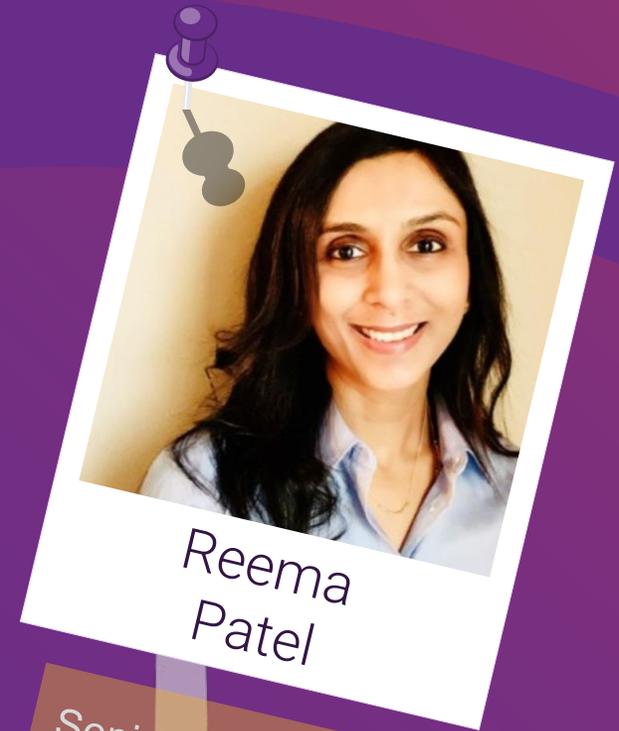
Eileen Sherr

Director



Jon  
Williamson

Senior Manager



Reema  
Patel

Senior Manager





Together as the Association of International  
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# Topics for Today



## 1 | LEGISLATIVE UPDATE AND OUTLOOK



## 2 | IRS ADVOCACY ISSUES UPDATE



## 3 | K-2/K-3 UPDATE



## 4 | ENERGY TAX CREDIT UPDATE



## 5 | CAMT & STOCK BUYBACK EXCISE TAX UPDATE

# 1 LEGISLATIVE UPDATE AND OUTLOOK



H. R. 5376

One Hundred Seventeenth Congress  
of the  
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday,  
the third day of January, two thousand and twenty-two*

An Act

To provide for reconciliation pursuant to title II of S. Con. Res. 14.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**TITLE I—COMMITTEE ON FINANCE**

Inflation  
Reduction Act  
of 2022  
Enacted 8/16/22



August 4, 2022

The Honorable Ron Wyden  
Chairman  
U.S. Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Mike Crapo  
Ranking Member  
U.S. Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Richard Neal  
Chairman  
U.S. House Committee on Ways and Means  
1102 Longworth House Office Building  
Washington, DC 20515

The Honorable Kevin Brady  
Ranking Member  
U.S. House Committee on Ways and Means  
1139 Longworth House Office Building  
Washington, DC 20515

**Re: Tax Provisions in Senate Reconciliation Legislation Released on July 27, 2022**

Dear Chairmen Wyden and Neal, and Ranking Members Crapo and Brady:

The American Institute of CPAs (AICPA) provides comments regarding important profession and tax policy issues that are in the [Senate reconciliation legislation released on July 27, 2022](#). These comments are in addition to our letters previously submitted to Congress on October 1, 2021<sup>1</sup>, November 10, 2021<sup>2</sup>, December 14, 2021<sup>3</sup>, and January 28, 2022<sup>4</sup>, regarding important profession and tax policy issues in earlier versions of reconciliation considered over the past year.

The AICPA is a long-time advocate for a tax system based on principles of good tax policy.<sup>5</sup> We look forward to working with Congress as the reconciliation package moves forward to ensure that the proposed changes are administrable, equitable, and meet the needs of both taxpayers and tax practitioners. In this regard, we highlight some of the key issues we have identified for your consideration. We note that the items listed are not in any priority order, and we may have additional comments and insights as we further analyze the reconciliation legislation. In addition, as Congress moves forward with reconciliation legislation, it is important that special care is given to transition rules and to provide sufficient time and flexibility to implement the transition rules and offer penalty relief as needed.

<sup>1</sup> See AICPA letter, "[Tax Provisions in House Reconciliation Legislation or Being Considered](#)," October 1, 2021.

<sup>2</sup> See AICPA letter, "[Tax Provisions in House Manager's Amendment to Rules Committee Reconciliation Legislation or Being Considered](#)," November 10, 2021.

<sup>3</sup> See AICPA letter, "[Tax Provisions in Senate Finance Committee Reconciliation Legislation Released on December 11, 2021](#)," December 14, 2021.

<sup>4</sup> See AICPA letter, "[Additional Comments Regarding Effective Dates in Build Back Better \(BBB\) Act](#)," January 28, 2022.

<sup>5</sup> See [AICPA Principles of Good Tax Policy \(12 principles providing objective framework to evaluate policy proposals\)](#).

# AICPA Tax Advocacy on BBA/Inflation Reduction Act

- [Valuation issues in Green Book proposal: Aug. 24, 2021](#)
- [Partnership BBA support in Green Book: Aug. 30, 2021](#)
- [Tax provisions in House reconciliation legislation or being considered: Oct. 1, 2021](#)
- [Tax Legislative Compendium Proposals to Congress with a cover letter: Oct. 8, 2021](#)
- [Concerns with possible retroactive ERC sunset: Oct. 26, 2021](#)
- [Corporate profits minimum tax being considered in reconciliation legislation: Oct. 28, 2021](#)
- [Analysis of proposed reform\(s\) to Subchapter K \(partnership taxation\): Nov. 2, 2021](#)
- [Tax provisions in House Manager's Amendment to Rules Committee reconciliation legislation or being considered: Nov. 10, 2021](#)
- [Tax provisions important to the profession in the Senate Finance Committee introduced reconciliation legislation: Dec. 14, 2021](#)
- [Retroactive effective dates in Senate Finance Committee introduced BBBA: Jan. 28, 2022](#)
- [Corporate profits minimum tax in reconciliation legislation being considered – Jun. 21, 2022](#)
- [Tax provisions in Senate reconciliation legislation released on July 27, 2022 – Aug. 4, 2022](#)

# IRS Updates on Guidance on the Inflation Reduction act

The screenshot shows the IRS website page for the Inflation Reduction Act of 2022. The browser address bar shows the URL <https://www.irs.gov/inflation-reduction-act-of-2022>. The page header includes the IRS logo, navigation links for Help, News, English, and Charities, and a search bar. The main navigation menu includes File, Pay, Refunds, Credits & Deductions, and Forms & Instructions. The breadcrumb trail is Home / News / Inflation Reduction Act of 2022. The main heading is "Inflation Reduction Act of 2022". On the left, there is a sidebar with a list of topics: Topics in the News, News Releases, Multimedia Center, Tax Relief in Disaster Situations, Inflation Reduction Act (highlighted), and Tax Reform. The main content area contains a paragraph about the act's impact on tax filing, a "Latest Updates" section with a note to check back for updates, and a "Recent News" section with a link to "IR-2022-193, IRS seeks comments on upcoming energy guidance".

[Home](#) / [News](#) / Inflation Reduction Act of 2022

## Inflation Reduction Act of 2022

**Topics in the News**

**News Releases**

**Multimedia Center**

**Tax Relief in Disaster Situations**

**Inflation Reduction Act**

**Tax Reform**

The Inflation Reduction Act changed a wide range of tax laws and provided funds to improve our tax system and make tax filing easier for you.

Since the Inflation Reduction Act is a 10-year plan, the changes won't happen immediately. We'll share news on the latest developments here, so **check back for updates.**

### Latest Updates

We'll share news on the latest developments here, so **check back for updates.**

### Recent News

- [IR-2022-193, IRS seeks comments on upcoming energy guidance](#)

<https://www.irs.gov/inflation-reduction-act-of-2022>

# Consolidated Appropriations Act, 2023 and SECURE 2.0

- P.L. 117-328 was enacted 12/29/22 – includes SECURE 2.0
  - Includes most provisions that become effective in 2024
  - Expands coverage and increases retirement savings
  - Simplifies and clarifies retirement plan rules
  - Expands automatic enrollment in retirement plans
- Journal of Accountancy article on SECURE 2.0

## An Act

Making consolidated appropriations for the fiscal year ending September 30, 2023, and for providing emergency assistance for the situation in Ukraine, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Consolidated Appropriations Act, 2023”.

### SEC. 2. TABLE OF CONTENTS.

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. References.
- Sec. 4. Explanatory statement.
- Sec. 5. Statement of appropriations.
- Sec. 6. Adjustments to compensation.

#### DIVISION A—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2023

- Title I—Agricultural Programs
- Title II—Farm Production and Conservation Programs
- Title III—Rural Development Programs
- Title IV—Domestic Food Programs
- Title V—Foreign Assistance and Related Programs
- Title VI—Related Agency and Food and Drug Administration
- Title VII—General Provisions

#### DIVISION B—COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2023

- Title I—Department of Commerce
- Title II—Department of Justice
- Title III—Science
- Title IV—Related Agencies
- Title V—General Provisions

#### DIVISION C—DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2023

- Title I—Military Personnel
- Title II—Operation and Maintenance
- Title III—Procurement
- Title IV—Research, Development, Test and Evaluation
- Title V—Revolving and Management Funds
- Title VI—Other Department of Defense Programs
- Title VII—Related Agencies

# U.S. Federal Debt Limit

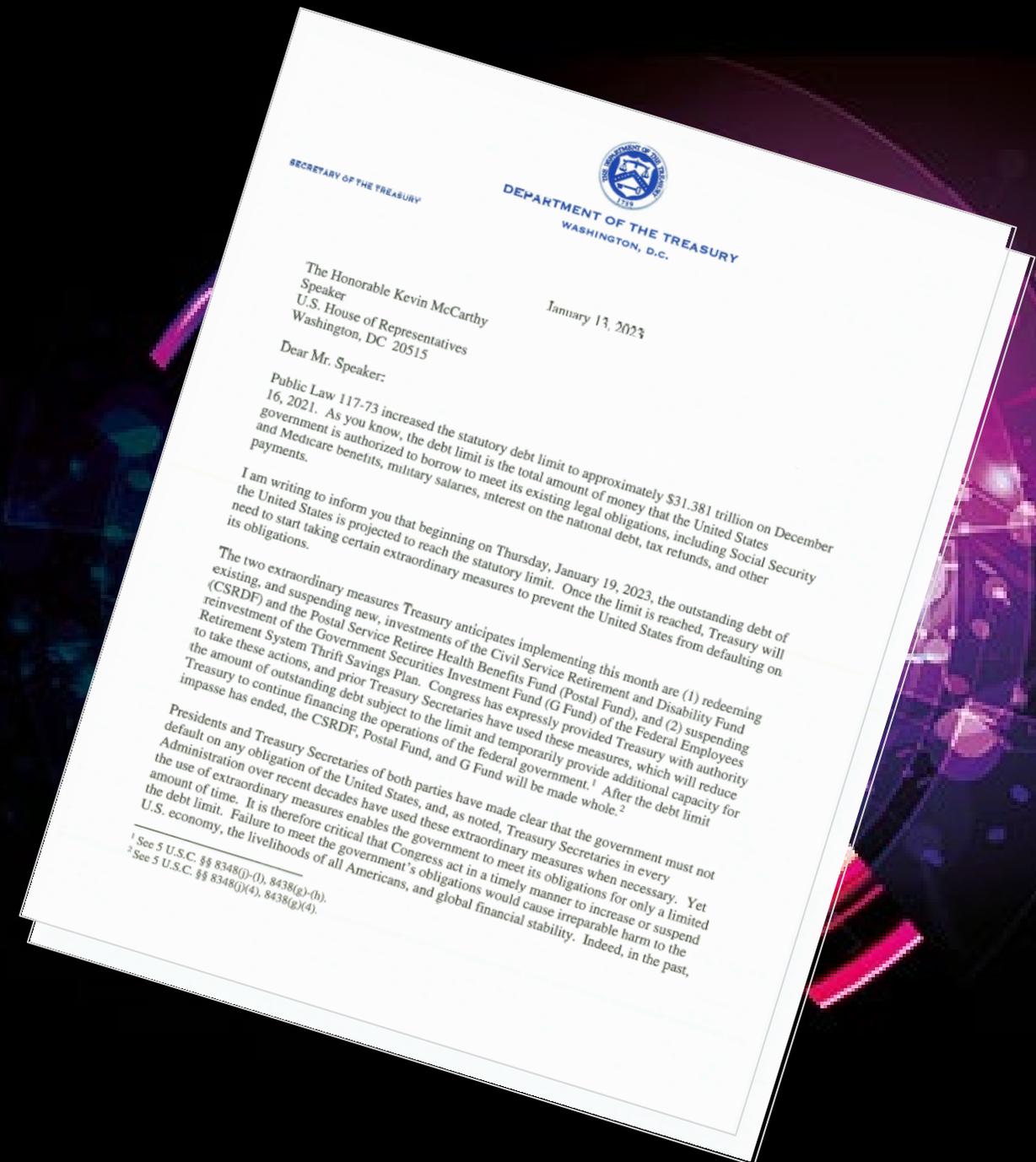
US hit federal debt limit on January 19

- \$31.381 trillion

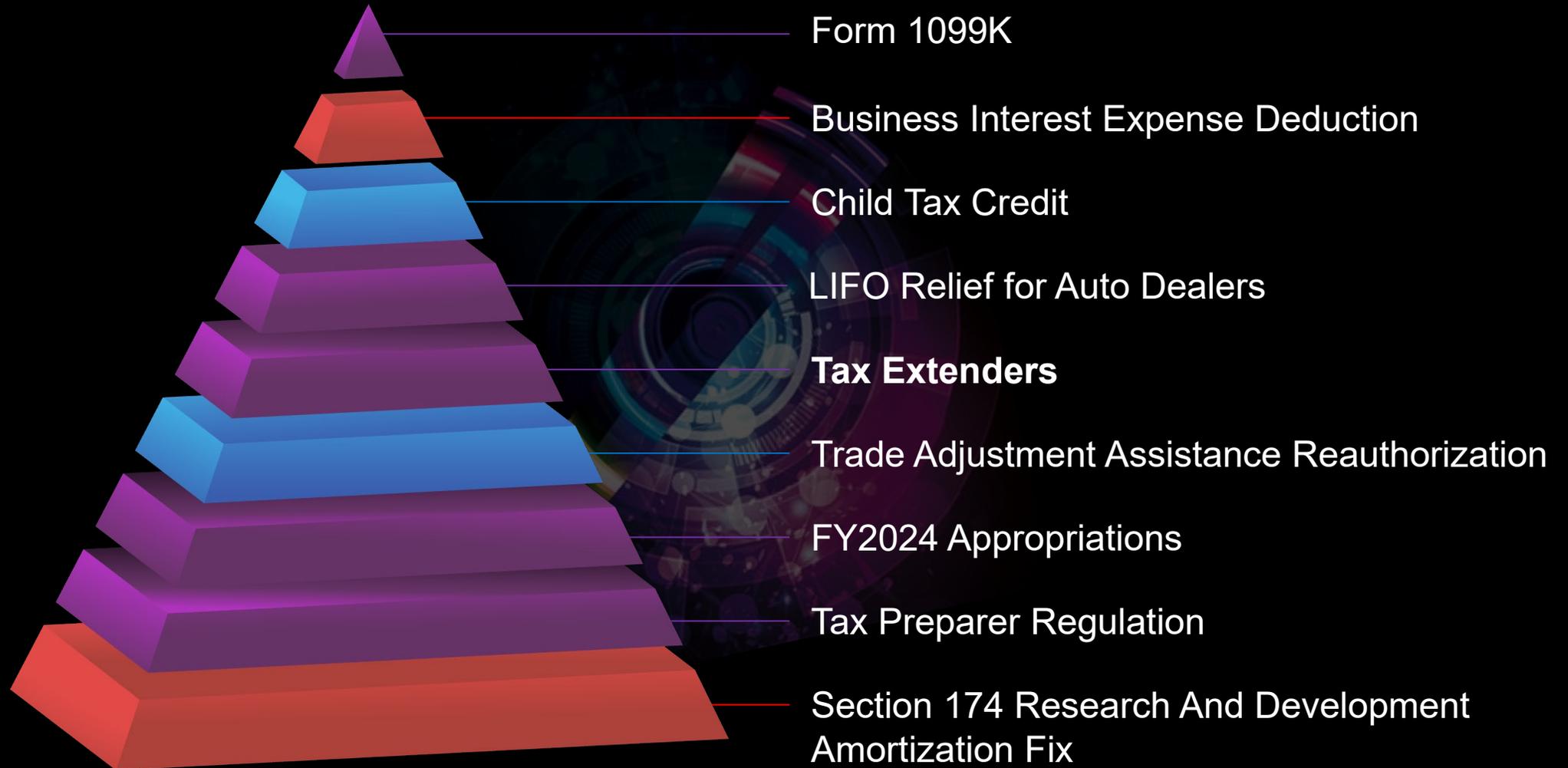
“*Extraordinary measures*” will push action until summer

- Accounting maneuver
- Treasury redeems and suspends certain payments, most involve federal employee retirement funds, to free cash to cover debt obligations

First major legislative hurdle for the new House majority and Speaker Kevin McCarthy



# Legislation to be Considered?





IRS Commissioner  
Danny Werfel

# Congress: Organizing Committees & Setting Agendas

- IRS Commissioner Confirmation
  - Senate Finance Committee hearing 2/15/23
- National Taxpayer Advocate
- House Ways and Means Committee
  - “Agenda for Working Families”
  - Whistleblower line
  - HWMC Chair 2/7/23 [letter](#) on IRS report on how spend \$80 billion
- Digital Assets, Data Privacy

# Family and Small Business Taxpayer Protection Act

- 1<sup>st</sup> bill introduced in 118<sup>th</sup> Congress
- Rescinds \$80 B authorized to IRS by IRA '22
- Passed House, 221 to 210, along party lines
- No chance of passage in the Senate



# Fair Tax Act of 2023

- Eliminates income, payroll, estate and gift taxes
- Imposes a national sales tax
- 23% on consumption of property or services
- No funding is authorized for the IRS after FY2027
- The states have the responsibility for administering, collecting, and remitting the sales tax to the Treasury

## Challenges:

- Regressive
- Government revenue collections?
- Simpler?
- Administration

CONGRESS  
SESSION

## H. R. 25

...m, fairness, and economic opportunity by repealing the income tax and other taxes, abolishing the Internal Revenue Service  
tax to be administered primarily by the States.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2023

...gia (for himself, Mr. CLYDE, Mr. DUNCAN, Mrs. CAMMACK, Mr. PERRY, Mr. GOOD of Virginia, Mr. MASSIE, Mr. NORMAN, Mr. POSEY, Mr.  
...RMILK) introduced the following bill; which was referred to the Committee on Ways and Means

## A BILL

...m, fairness, and economic opportunity by repealing the income tax and other taxes, abolishing the Internal Revenue Service  
tax to be administered primarily by the States.

...by the Senate and House of Representatives of the United States of America in Congress assembled,

**SHORT TITLE; TABLE OF CONTENTS.**

**SHORT TITLE.**—This Act may be cited as the “FairTax Act of 2023”.

**TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

# AICPA Tax Legislative Compendium

On 2/7/23, AICPA suggested over 60 simplification and technical legislative proposals that were submitted to Congress, hoping some are included in the tax legislation.

AICPA proposed legislative changes to tax provisions:

- Needing attention
- Technical in nature
- Can be readily addressed
- Correcting technical problems in the Internal Revenue Code
- Simplifying existing provisions
- Promoting simplicity
- Making the tax code fairer
- Effectively promoting important policy objectives
- Improving tax administration
- That are generally noncontroversial

# AICPA Tax Legislative Compendium

- General
    - Standardize definitions to avoid multiple meanings for the same term
  - Corporations and shareholders
  - Employee benefits
  - Individuals
    - Harmonize and simplify education related tax provisions
    - Harmonize standard mileage rates for business, medical, armed forces moving expense, and charitable contribution purposes
  - International tax
  - Partnerships
  - S corporations
  - Tax administration
  - Tax methods and periods
  - Trust, estate, and gift tax
    - Modify the deadline for estate basis reporting to 2/15 after the year of distribution
    - Allow administrative relief for late portability, inter vivos qualified terminable interest property, and qualified revocable trust elections
- 

# The Administration's Fiscal Year 2024 Green Book Revenue Proposals



## Reducing the Deficit by Ensuring the Wealthy and Large Corporations Pay their Fair Share

In the last two years, the Administration cut the deficit by more than \$1.7 trillion—the largest deficit reduction in American history. The President believes we need to continue that progress—and reward work, not wealth.

Since coming to office, the President has signed legislation to make the wealthy and large corporations pay their fair share and provide tax cuts for working families, while reducing the deficit. Under his plan, no one making under \$400,000 per year will pay more in taxes.

**Billionaire Minimum Tax.** President Biden is a capitalist and believes that anyone should be able to become a millionaire or a billionaire. He also believes that it is wrong for America to have a tax code that results in America's wealthiest households paying a lower tax rate than working families. In a typical year, billionaires pay an average tax rate of just 8%. In the State of the Union, he'll call on Congress to pass his billionaire minimum tax. This minimum tax would make sure that the wealthiest Americans no longer pay a tax rate lower than teachers and firefighters.

**Surcharge on corporate stock buybacks.** Stock buybacks enable corporations to funnel tax-advantaged payouts to wealthy and foreign

investors, instead of paying dividends that shareholders are required to pay taxes on. In addition, a number of experts have argued that CEOs—who are compensated mostly in stock—use buybacks to enrich themselves to the detriment of the long-term growth of the company. Last year, oil and gas companies made record profits and invested very little in domestic production and to keep gas prices down—instead they bought their own stock, giving all that profit to their CEOs and shareholders. President Biden signed into law a surcharge on corporate stock buyback, which reduces the differential tax treatment between buybacks and dividends and encourages businesses to invest in their growth and productivity as opposed to paying out corporate executives or funneling tax-preferred profits to foreign shareholders. In the State of the Union, the President will call for quadrupling the tax on corporate stock buybacks.

**Corporate minimum tax.** In 2020, 55 of the largest corporations that were profitable paid \$0 in federal income tax. To end that unfairness in the tax code, President Biden signed into law a 15 percent minimum tax on the profits that large corporations—those with over \$1 billion in profits—report to shareholders. This book minimum tax means that it will be harder for companies that say they're earning a billion in profits to pay tax rates in the single digits on those profits. It also levels the playing field for companies—including small businesses—that are already paying their fair share.

# 2023 AICPA Priorities and Outlook



## Extenders

R&D amortization/  
expensing



## Form 1099K

Increase \$600  
threshold



## Mobile Workforce

A 30 day  
minimum  
standard for  
states to collect  
income tax for  
work across state  
lines



## Natural Disasters

Improve IRS  
authority to  
provide federal  
tax relief after a  
natural disaster

# AICPA Comments on Extenders and Section 174 (R&D)

- Expired or expiring in 2021, 2022 and 2023
- Uncertainty breeds complexity and confusion
- Tax, cash-flow or financial planning is difficult
- Policy goals are undermined
- Future changes should presume permanency

## EXTENDERS IN GENERAL

## SECTION 174 R&D EXPENSES

- Retroactive extension until 12/31/25
- Further recommend permanent extension
- Permanency promotes simplicity, and avoids conflict and litigation
- Capitalization decreases administrability of the Code

# Sec. 174 – AICPA Advocacy

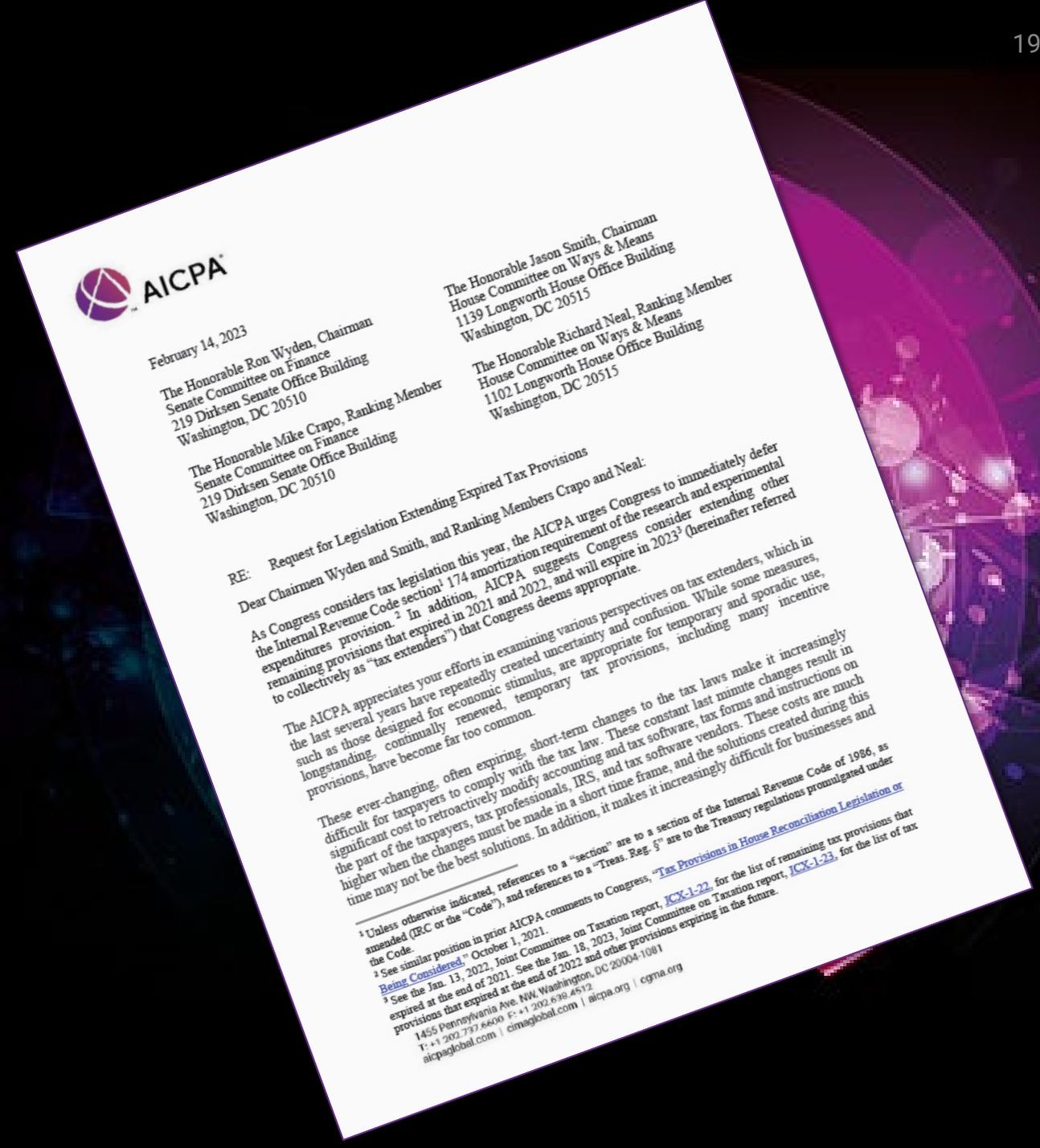
Feb. 14, 2023, AICPA letter to Congress Requesting Legislation Extending Expired Tax Provisions

Urges Congress to extend the effective date of amended IRC section 174 research and experimental expenditures amortization to amounts paid or incurred until tax years beginning after December 31, 2025

- Recommend at least a temporary four-year delay
- Allows for simplicity in tax compliance
- Minimize confusion related to identifying costs that should be capitalized versus expensed

Recommend permanent extension of deductions for Sec. 174 expenditures and reinstating other expired tax provisions

- Taxpayers need certainty to perform long-term tax, cash-flow or financial planning and reporting



February 14, 2023

The Honorable Ron Wyden, Chairman  
Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Mike Crapo, Ranking Member  
Senate Committee on Finance  
219 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Jason Smith, Chairman  
House Committee on Ways & Means  
1139 Longworth House Office Building  
Washington, DC 20515

The Honorable Richard Neal, Ranking Member  
House Committee on Ways & Means  
1102 Longworth House Office Building  
Washington, DC 20515

RE: Request for Legislation Extending Expired Tax Provisions  
Dear Chairmen Wyden and Smith, and Ranking Members Crapo and Neal:

As Congress considers tax legislation this year, the AICPA urges Congress to immediately defer the Internal Revenue Code section<sup>1</sup> 174 amortization requirement of the research and experimental expenditures provision.<sup>2</sup> In addition, AICPA suggests Congress consider extending other remaining provisions that expired in 2021 and 2022, and will expire in 2023<sup>3</sup> (hereinafter referred to collectively as "tax extenders") that Congress deems appropriate.

The AICPA appreciates your efforts in examining various perspectives on tax extenders, which the last several years have repeatedly created uncertainty and confusion. While some measures, such as those designed for economic stimulus, are appropriate for temporary and sporadic use, longstanding, continually renewed, temporary tax provisions, including many incentive provisions, have become far too common.

These ever-changing, often expiring, short-term changes to the tax laws make it increasingly difficult for taxpayers to comply with the tax law. These constant last minute changes result in significant cost to retroactively modify accounting and tax software, tax forms and instructions on the part of the taxpayers, tax professionals, IRS, and tax software vendors. These costs are much higher when the changes must be made in a short time frame, and the solutions created during this time may not be the best solutions. In addition, it makes it increasingly difficult for businesses and individuals to understand the tax law.

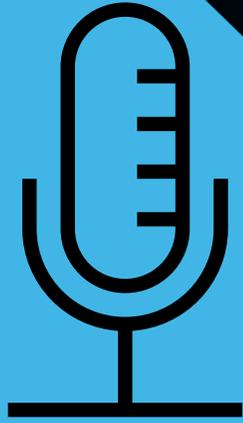
<sup>1</sup> Unless otherwise indicated, references to a "section" are to a section of the Internal Revenue Code of 1986, as amended (IRC or the "Code"), and references to a "Treas. Reg. §" are to the Treasury regulations promulgated under the Code.

<sup>2</sup> See similar position in prior AICPA comments to Congress, "Tax Provisions in House Reconciliation Legislation or Being Considered," October 1, 2021.

<sup>3</sup> See the Jan. 13, 2022, Joint Committee on Taxation report, [JCX-1-22](#), for the list of remaining tax provisions that expired at the end of 2021. See the Jan. 18, 2023, Joint Committee on Taxation report, [JCX-1-23](#), for the list of tax provisions that expired at the end of 2022 and other provisions expiring in the future.

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# Advocacy and Resources on Section 174 Research Costs Expensing



AICPA submitted comments to Congress on section 174

- [October 1, 2021](#)

AICPA resources on section 174

- [Ask the experts — How to handle section 174 research and development costs for 2022 taxes](#)
- [The Tax Adviser article outlining the changes \(July 2022\)](#)

# Form 1099K

AICPA encouraged Congress to raise the \$600 threshold in 12/16/22 letter and also reached out to Treasury on it.

Congress did not act, but Treasury provided transitional relief for the low threshold just for 2022.

We continue to have conversations about permanently raising the threshold for 2023 and going forward.

The tax treatment is the same regardless of the threshold, but a higher threshold will mitigate confusion for payors, taxpayers, and the IRS.

- 12/23/22 – IRS issued IR-2022-26 and Notice 2023-10, deferring the lowered threshold for one year (2022).
- 1/3/23 – IRS updated Fact Sheet FAQs on Form 1099K
- AICPA continuing to consider proposed legislation

Part III - Administrative, Procedural, and Miscellaneous

Revised Timeline Regarding Implementation of Amended Section 6050W(e)

Notice 2023-10

#### SECTION 1. PURPOSE

This notice announces that calendar year 2022 will be regarded as a transition period for purposes of Internal Revenue Service (IRS) enforcement and administration with respect to the implementation of the amendments made to the de minimis exception for third party settlement organizations (TPSO) under section 6050W(e) of the Internal Revenue Code (Code) by the American Rescue Plan Act of 2021 (ARP), Pub. L. 117-2, 135 Stat. 4 (March 11, 2021), for returns for calendar years beginning after

# AICPA Advocacy on Form 1099-K Threshold

- 12/16/22 - AICPA submitted a letter asking for an increase in the \$600 reporting threshold to COLA adjustment of \$6,500; or \$5,000.

Part III - Administrative, Procedural, and Miscellaneous

Revised Timeline Regarding Implementation of Amended Section 6050W(e)

Notice 2023-10

## SECTION 1. PURPOSE

This notice announces that calendar year 2022 will be regarded as a transition period for purposes of Internal Revenue Service (IRS) enforcement and administration with respect to the implementation of the amendments made to the de minimis exception for third party settlement organizations (TPSO) under section 6050W(e) of the Internal Revenue Code (Code) by the American Rescue Plan Act of 2021 (ARP), Pub. L. 117-2, 135 Stat. 4 (March 11, 2021), for returns for calendar years beginning after

- 12/23/22 – IRS issued IR-2022-26 and Notice 2023-10, deferring the lowered threshold for one year (2022).
- 1/3/23 – IRS updated Fact Sheet FAQs on Form 1099K
- AICPA continuing to consider proposed legislation

# Mobile Workforce Taxation: 118<sup>th</sup> Congress

- AICPA Endorsed Bipartisan Federal Legislation (S. 1274)
- Pandemic-Fueled Rise in Remote and Mobile Work, More Industries Impacted by State Tax Withholding Complexities
- Bill to be Reintroduced in 2023



# Permanent Disaster Relief: 118<sup>th</sup> Congress

- Bipartisan, Bicameral Stand-Alone Bills
- Flurry of Annual Disasters Brings Congressional Interest to Bills
- Congressional Bill Champions
- Building Cosponsor Lists in Balanced Fashion

## AICPA Endorsed Bills – (117<sup>th</sup> Congress)

- 1) The Filing Relief for Natural Disasters Act (H.R. 3574, S. 2748)
- 2) The Disaster Retirement Savings Act (H.R. 6241 / S. 2583)

# Filing Relief for Natural Disasters Act

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

H.R. 6241, S. 2583 - The Disaster Retirement Savings Act



# What to Watch in 2023

**Implementation guidance  
on CAMT, energy credits**  
Notices, regulations



**Changes in IRS funding**  
Proposed, not likely to pass



**New Commissioner of IRS**  
Confirmation process



**Preparer regulation**  
Remain vigilant



# 2

# IRS ADVOCACY ISSUES UPDATE



# IRS Backlog

Has there been significant progress?

When will the IRS be at a “healthy level” ?

Are surge teams and hiring efforts making a difference?

[AICPA webpage on IRS Service](#)

The screenshot shows the IRS website page titled "IRS Operations During COVID-19: Mission-Critical Functions Continue". The page includes a navigation bar with links for "File", "Pay", "Refunds", "Credits & Deductions", and "Forms & Instructions". Below the navigation bar, there is a search bar and a breadcrumb trail: "Home / News / Topics in the News / Coronavirus Tax Relief / IRS Operations During COVID-19: Mission-Critical Functions Continue". The main heading is "IRS Operations During COVID-19: Mission-Critical Functions Continue". On the right side, there are language options for "English" and "Español". Below the heading, there is a "Topics in the News" section with a link for "Coronavirus Tax Relief". To the right of this section, there is a paragraph of text: "We're processing tax returns, payments, refunds and correspondence. However, due to the lingering effects of COVID-19, we continue to experience delays. When possible, we reroute tax returns and taxpayer correspondence to locations where more staff is available, and we are taking other actions to minimize delays. We apologize and are working hard to get through the inventory." Below this paragraph, there is a section titled "Our service delays include:" with a bulleted list: "• Live phone support", "• Processing tax returns filed on paper", "• Answering mail from taxpayers", and "• Reviewing tax returns, even for returns filed electronically". At the bottom of the page, there is a link: "Check this page periodically for updates."

## Filed a Tax Return (updated February 14, 2023)

We are opening mail within normal time frames, and we've processed all paper and electronic individual returns received in 2022 or earlier in the order received if they were received prior to January 2023 and the return had no errors or did not require further review.

As of February 4, 2023, we had 1.84 million unprocessed individual returns. These include tax year 2022 returns, 2021 returns that need review or correction and late filed prior year returns. Of these, 1.73 million returns require error correction or other special handling, and 107,000 are paper returns waiting to be reviewed and processed. This work does not typically require us to correspond with taxpayers, but it does require special handling by an IRS employee so, in these instances, it is taking the IRS more than 21 days to issue any related refund.

**How long you may have to wait:** We continue to process tax returns that need to be manually reviewed due to errors. For returns received in the current year, we process individual tax returns for which refunds are due first. Tax returns reflecting tax owed are processed last, but if a payment is mailed with the tax return, the payment is separated upon receipt and deposited to ensure the taxpayer account is credited for the payment.

As the return is processed, whether it was filed electronically or on paper, it may be delayed because it has a mistake, is missing information, or there is suspected identity theft or fraud. If we can fix it without contacting you, we will. If we need more information or need you to verify you sent the tax return, we will send you a letter. The resolution of these issues could take more than 120 days depending on how quickly and accurately you respond, and how quickly we can complete the processing of your return. Taxpayers are encouraged to check [Tax Season Refund Frequently Asked Questions](#).

**What you should do:** In most instances, no further action is needed. Whether you filed electronically or by paper, we will contact you by mail if we need more information or if we made a change to your return. If you filed electronically and received an acknowledgement, you do not need to take any further action other than promptly responding to any

**As of February 4, 2023, we had 1.84 million unprocessed individual returns. These include tax year 2022 returns, 2021 returns that need review or correction and late filed prior year returns. Of these, 1.73 million returns require error correction or other special handling, and 107,000 are paper returns waiting to be reviewed and processed. This work does not typically require us to correspond with taxpayers, but it does require special handling by an IRS employee so, in these instances, it is taking the IRS more than 21 days to issue any related refund.**

# IRS Expands Secure Digital Correspondence for Taxpayers

- [IR-2023-29](#) - Feb. 16, 2023 and IRS Fact Sheet [FS-2023-05](#)
- New online option (Document Upload Tool) to **upload documents to irs.gov securely**
- **Instead of mailing to respond to 9 CP series notices** to help resolve issues faster
- Receive nearly **instant confirmation** that documents were received by the IRS
- Regardless of whether have an IRS [Online Account](#)
- Notice will provide **a url link and time-limited unique access code** to respond within 30 days of the date of the notice
- Can open link in any browser and input unique 10-digit alphanumeric code, first and last name, SSN/ITIN/EIN, and securely upload scans, photos, or digital copies of documents (max of 15MB per file, up to 40 files of JPEGs, PNGs or PDFs – each PDF limited to 120 pages)
- IRS employee assigned to the case can manage the transmitted documents
- The taxpayer's documents are available to the IRS employee assigned to the case who can manage the transmitted documents
- The documents remain available indefinitely until the employee retrieves them, at which time they are archived for 180 days and then deleted from the system
- Access originates with the IRS, and it is **NOT available for certain documents (i.e, those requiring physical signatures)**



# IRS Expands Secure Digital Correspondence for Taxpayers

## Nine notices added to project; more to come

In early 2023, the IRS began including online correspondence as an option on nine of the CP series notices, potentially affecting more than 500,000 taxpayers each year. Taxpayers who receive one of the following notices with the link and access code can choose to upload their documents:

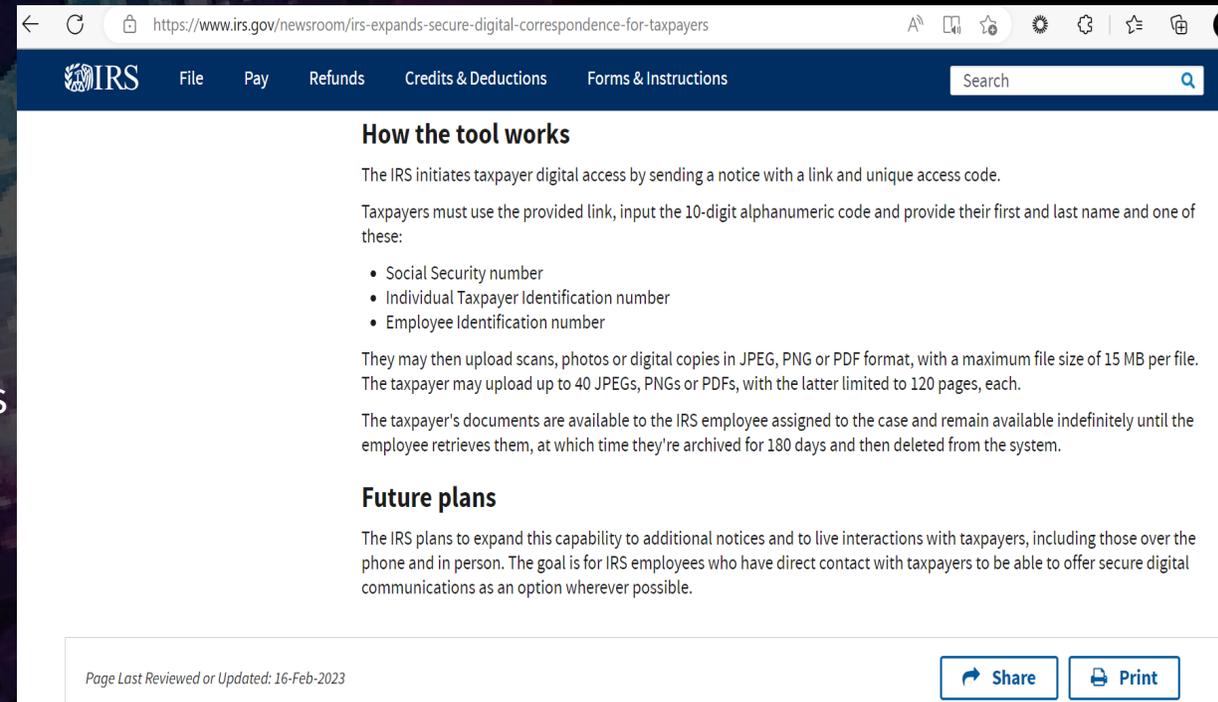
- [CP04](#), relating to combat zone status.
- [CP05A](#), information request related to a refund.
- [CP06](#) and [CP06A](#), relating to the Premium Tax Credit.
- [CP08](#), relating to the Child Tax Credit.
- [CP09](#), relating to claiming the Earned Income Tax Credit.
- [CP75](#), relating to the EITC.
- [CP75A](#), relating to the EITC.
- [CP75D](#), relating to the EITC and other credits.

In addition, the IRS has identified 53 other notices that could be appropriate for this type of secure digital communications. The IRS will be assessing the viability of including these notices as well as continuing to look for additional suitable notices to provide this online feature.

# IRS Expands Secure Digital Correspondence for Taxpayers

## Future Plans

- During 2021 testing on certain exam-related notices, 38% used document upload tool
- **IRS plans to expand this digital correspondence capability to:**
  - **Additional (at least 53 other) notices**
  - **Other taxpayer interactions** – live interactions with taxpayers, including those over the **phone and in person**
- During live interactions, such as **phone calls with taxpayers, IRS employees with direct contact with taxpayers will be able to offer secure digital communications and grant upload access** by providing the link and unique access code
- Can help 500,000 taxpayers each year - time saving initiative - more efficient way to submit requested information
- For taxpayers and tax professionals, this new capability **reduces the correspondence burden, ensures tax compliance and improves the customer experience** by providing quality service in a timely manner and enhancing a taxpayer's right to be informed throughout any IRS processes
- For IRS employees, this reduces paper correspondence, **decreases processing time and speeds case resolution**



The screenshot shows a web browser window with the URL <https://www.irs.gov/newsroom/irs-expands-secure-digital-correspondence-for-taxpayers>. The page features the IRS logo and navigation links for File, Pay, Refunds, Credits & Deductions, and Forms & Instructions. A search bar is located in the top right corner. The main content area is titled "How the tool works" and contains the following text:

The IRS initiates taxpayer digital access by sending a notice with a link and unique access code.

Taxpayers must use the provided link, input the 10-digit alphanumeric code and provide their first and last name and one of these:

- Social Security number
- Individual Taxpayer Identification number
- Employee Identification number

They may then upload scans, photos or digital copies in JPEG, PNG or PDF format, with a maximum file size of 15 MB per file. The taxpayer may upload up to 40 JPEGs, PNGs or PDFs, with the latter limited to 120 pages, each.

The taxpayer's documents are available to the IRS employee assigned to the case and remain available indefinitely until the employee retrieves them, at which time they're archived for 180 days and then deleted from the system.

**Future plans**

The IRS plans to expand this capability to additional notices and to live interactions with taxpayers, including those over the phone and in person. The goal is for IRS employees who have direct contact with taxpayers to be able to offer secure digital communications as an option wherever possible.

At the bottom of the page, there is a footer that reads "Page Last Reviewed or Updated: 16-Feb-2023" and two buttons labeled "Share" and "Print".

# IRS Services: Developments

Ramping up IRS service levels

Influencing IRS' strategic direction

- IRS report to Treasury on use of new funds
- Implementation of "IRS Next"

5,000 new customer service representatives hired

IRS pilot for PPS line

New IRS Commissioner?

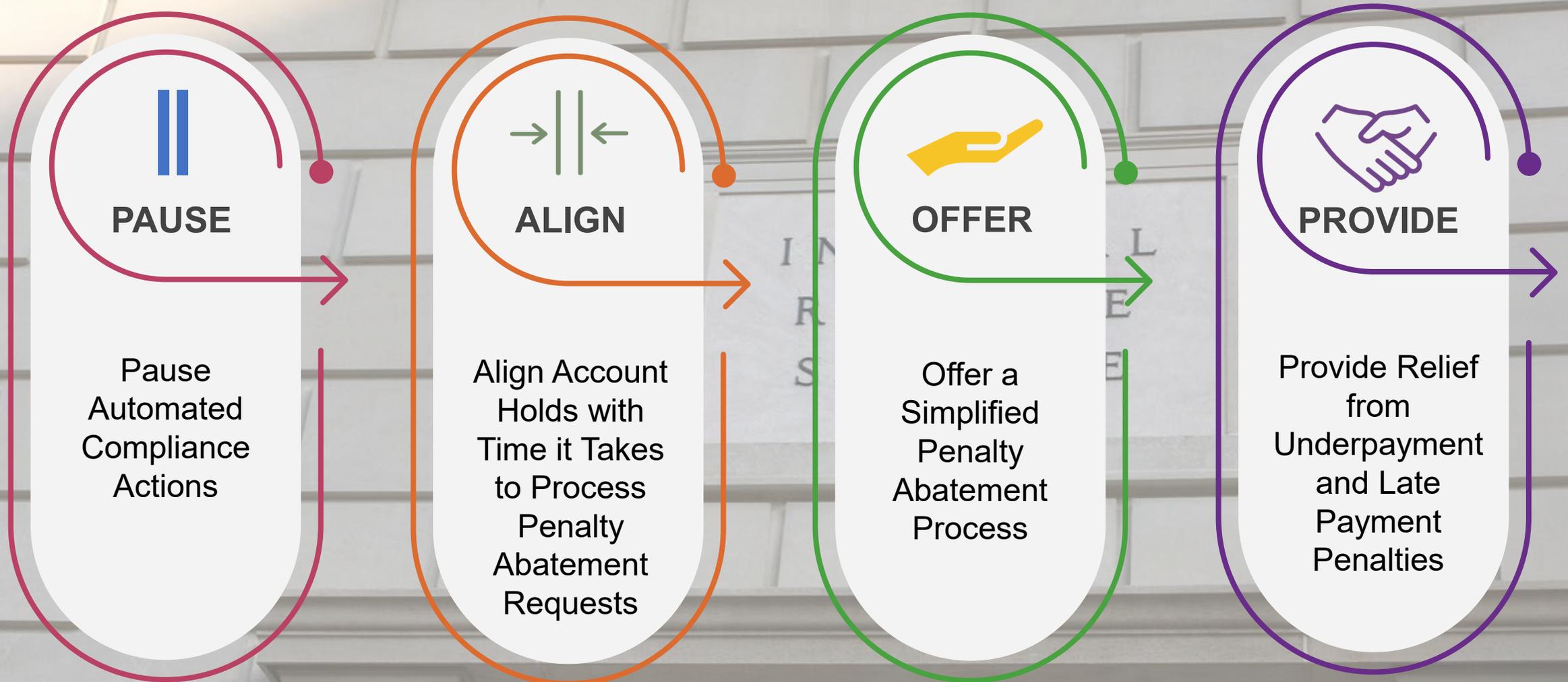




# IRS Services: Developments

- **Improving IRS Taxpayer Service**
  - Revitalize IRS Oversight Board
  - Adjust Individual Estimated Tax Payment Deadlines
  - Improve Practitioner Priority Service (PPS)
  - Create IRS Third Party Relations Office
  - Provide Limited Authority to IRS to Regulate Paid Tax Return Preparers

# Recommendations to IRS





1. IRS TEMPORARILY SUSPENDS SOME NOTICES
2. MORE CAN AND MUST BE DONE
3. AICPA TESTIMONY AT SENATE FINANCE COMMITTEE HEARING (2/17/22)
4. HOT IRS SERVICE ISSUES

# 25 IRS Notices Being Suspended

<https://www.irs.gov/newsroom/irs-continues-work-to-help-taxpayers-suspends-mailing-of-additional-letters>

15 notices  
2/9/22

<https://www.journalofaccountancy.com/news/2022/mar/various-exempt-organization-notices-paused.html>

10 EO notices  
3/25/22  
for Forms 990,  
5500, 940

The suspended notices are:

- CP214, *Reminder Notice About Your Form 5500-EZ or 5500-SF Filing Requirement*
- CP217, *Form 940 Not Required — Federal, State, and Local Government Agencies*
- CP259A, *First Taxpayer Delinquency Investigation Notice — Form 990/990EZ/990N*
- CP259B, *First Taxpayer Delinquency Investigation Notice — Form 990PF*
- CP259D, *First Taxpayer Delinquency Investigation Notice — Form 990T*
- CP259F, *First Taxpayer Delinquency Investigation Notice — Form 5227*
- CP259G, *First Taxpayer Delinquency Investigation Notice — Form 1120-POL*
- CP259H, *First Taxpayer Delinquency Investigation Notice — Form 990/990EZ*
- CP403, *First Delinquency Notice — Form 5500 or 5500-SF*
- CP406, *Second Delinquency Notice — Form 5500*

## Individual Taxpayer Notices

Notice/Letter Number	Title	Description
<a href="#">CP80</a>	Unfiled Tax Return	This notice is generally sent when the IRS credited payments and/or other credits to a taxpayer's account for the tax period shown on the notice, but the IRS hasn't received a tax return for that tax period.
<a href="#">CP59</a> and <a href="#">CP759</a> (in <a href="#">Spanish</a> )	Unfiled Tax Return(s) - 1st Notice	IRS sends this notice when there is no record of a prior year return being filed.
<a href="#">CP516</a> and <a href="#">CP616</a> (in <a href="#">Spanish</a> )	Unfiled Tax Returns – 2nd Notice	Request for information on a delinquent return as there is no record of a return filed.
<a href="#">CP518</a> and <a href="#">CP618</a> (in <a href="#">Spanish</a> )	Final Notice – Return Delinquency	This is a final reminder notice when there is no record of a prior year(s) return filed.
<a href="#">CP501</a>	Balance Due – 1st Notice	This notice is a reminder that there is an outstanding balance on a taxpayer's accounts.
<a href="#">CP503</a>	Balance Due – 2nd Notice	This notice is the second reminder that there is an outstanding balance on a taxpayer's accounts.
<a href="#">CP504</a>	Final Balance Due Notice - 3rd Notice, Intent to Levy	The IRS sends this notice when a payment has not been received for an unpaid balance. This notice is a Notice of Intent to Levy (Internal Revenue Code Section 6331 (d)).
<a href="#">2802C</a>	Withholding Compliance letter	This letter is mailed to taxpayers who have been identified as having under-withholding of Federal tax from their wages. This letter provides instructions to the taxpayer on how to properly correct their tax withholding.

## Business Notices

Notice/Letter Number	Title	Description
<a href="#">CP259</a> and <a href="#">CP959</a> (in <a href="#">Spanish</a> )	Return Delinquency	IRS sends this notice when there is no record of a prior year return being filed.
<a href="#">CP518</a> and <a href="#">CP618</a> (in <a href="#">Spanish</a> )	Final Notice – Return Delinquency	This is a final reminder notice that we still have no record of a prior year tax return(s).

# IRS Tidbits

IRS status of operations link – What is open, what to expect, etc.

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

IRS special 2023 filing season alerts –

- <https://www.irs.gov/newsroom/help-for-taxpayers-and-tax-professionals-special-filing-season-alerts>

Local Taxpayer Advocate – First line of defense when IRS can't help

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

E-signature relief through October 31, 2023

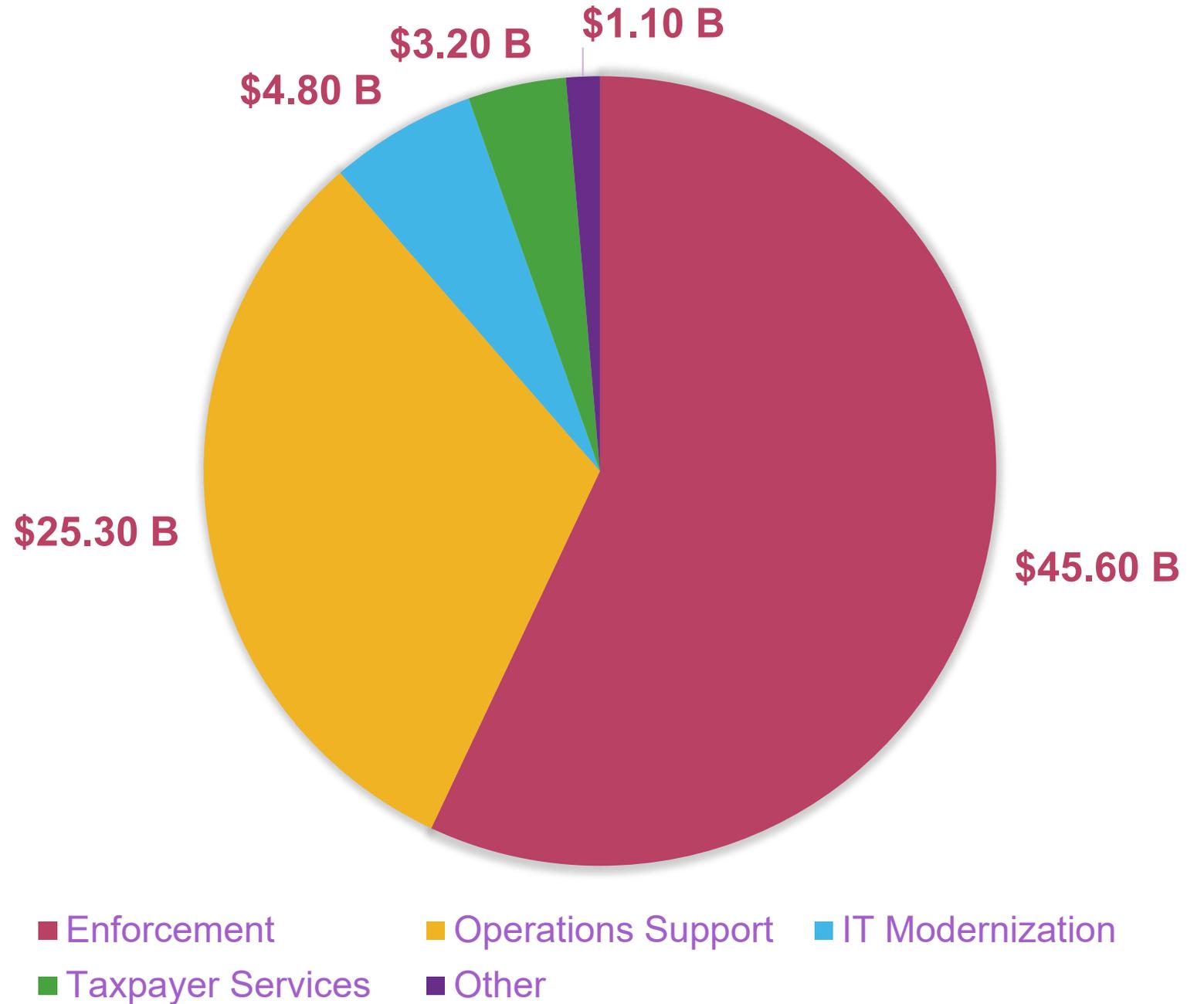
Quarterly estimated payment due dates

- [H.R. 4214, The Tax Deadline Simplification Act \(117<sup>th</sup> Congress\)](#)

[AICPA webpage on IRS Services](#)



IRA '22 \$80B  
appropriations  
to IRS



National Taxpayer Advocate  
**ANNUAL REPORT  
TO CONGRESS**

2022



**Full Report**

- [Annual report](#) released Jan. 11
- 10 most serious problems encountered by taxpayers
- Recommendations for solving those problems
- IRS efforts to improve customer service and reduce taxpayer burden
- Most litigated issues
- [2023 Purple Book](#): annual legislative recommendations

# IRS Issues Release on Taxability of State Payments

File Pay Refunds Credits & Deductions Forms & Instructions Search

Home / News / News Releases / IRS issues guidance on state tax payments to help taxpayers

## IRS issues guidance on state tax payments to help taxpayers

English | [Español](#) | [中文\(简体\)](#)

IR-2023-23, Feb. 10, 2023

WASHINGTON — The Internal Revenue Service provided details today clarifying the federal tax status involving special payments made by 21 states in 2022.

The IRS has determined that in the interest of sound tax administration and other factors, taxpayers in many states will not need to report these payments on their 2022 tax returns.

During a review, the IRS determined it will not challenge the taxability of payments related to general welfare and disaster relief. This means that people in the following states do not need to report these state payments on their 2022 tax return: California, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Indiana, Maine, New Jersey, New Mexico, New York, Oregon, Pennsylvania and Rhode Island. Alaska is in this group as well, but please see below for more nuanced information.

**Topics in the News**

**News Releases**

News Releases for Frequently Asked Questions

**Multimedia Center**

**Tax Relief in Disaster Situations**

https://www.irs.gov/newsroom/state-payments

File Pay Refunds Credits & Deductions Forms & Instructions Search

Home / News / State Payments

## State Payments

**Topics in the News**

**News Releases**

**Multimedia Center**

**Tax Relief in Disaster Situations**

**Inflation Reduction Act**

**Tax Reform**

**Taxpayer First Act**

**Tax Scams/Consumer Alerts**

State	State payment program and link to state website
Alaska	Energy Relief Payment (supplementing the Permanent Fund Dividend) <a href="#">Permanent Fund Dividend</a>   <a href="#">Alaska Department of Revenue</a>
California	Middle Class Tax Refund <a href="#">Middle Class Tax Refund</a>   <a href="#">California Franchise Tax Board</a>
Colorado	Colorado Cash Back <a href="#">TABOR Refund Mechanism For FY 2021-22 Only</a>   <a href="#">Colorado General Assembly</a>
Connecticut	Child Tax Rebate <a href="#">2022 Child Tax Rebate (ct.gov)</a>

- At least 19 states provided 2022 payments
- Characterization of payment differs by state
- IRS issued [IR-2023-23](#) on Feb. 10
- Many states not federally taxable
  - If related to general welfare and disaster relief:
  - CA, CO, CT, DE, FL, HI, ID, IL, IN, ME, NJ, NM,
  - NY, OR, PA, RI, (AK nuanced rules)
- Other states - tax benefit rule
  - Not taxable if std deduction or taxes > \$10,000 cap
  - GA, MA, SC, VA
- IRS [chart](#) of state payments
- Journal of Accountancy [article](#)

# IRS Priority Guidance Plan and AICPA Comments

- IRS plan for issuing guidance in the year
- AICPA submits comments of suggestions of needed guidance
- AICPA Technical Resource Panels discussions with IRS on needed guidance

DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

November 4, 2022  
Department of the Treasury  
2022-2023 Priority Guidance Plan

Joint Statement by:

Lily Batchelder  
Assistant Secretary for Tax Policy  
US. Department of the Treasury

Charles P. Rettig  
Commissioner  
Internal Revenue Service

William M. Paul  
Principal Deputy Chief Counsel and Deputy Chief Counsel (Technical)  
Internal Revenue Service

We are pleased to announce the release of the 2022–2023 Priority Guidance Plan.

In Notice 2022-21, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (Service) solicited recommendations for items to be included in the plan from



January 13, 2023

Mr. Douglas W. O'Donnell  
Acting Commissioner  
Internal Revenue Service  
1111 Constitution Ave, NW  
Washington, DC 20224

The Honorable Lily Batchelder  
Assistant Secretary for Tax Policy  
Department of Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

RE: Proposed Regulations to Implement Section 7803(e) Regarding IRS Independent Office of Appeals

Dear Acting Commissioner O'Donnell and Assistant Secretary Batchelder:

The American Institute of CPAs (AICPA) submits comments on proposed regulations ([REG-125693-19](#), 87 FR 55934) ("proposed regulations") issued by the Department of the Treasury ("Treasury") and Internal Revenue Service (IRS) to implement section 7803(e).<sup>1</sup> Section 7803(e) codifies the role of the administrative function of appeals as the IRS Independent Office of Appeals ("Appeals") and establishes that review by Appeals is generally available to taxpayers facing a proposed deficiency. The proposed regulations include a lengthy list of cases to be excluded from the Appeals process. While the AICPA agrees that not every case is appropriate for Appeals'

# AICPA Comments on IRS Appeals Regulations

- IRS issued proposed regulations on IRS Appeals
- AICPA comments (1/13/23)
  - Challenges to the validity of a Treasury regulation or Revenue Procedure/Notice
  - Section 9100 missed election relief and change in method of accounting

# Filing Flexibility Principles

Simplify Tax  
Administration

Embrace  
Technological  
Advancements

Streamline  
Information  
Perfection

Promote  
Efficiency

Improve  
Taxpayer  
Communication

# Filing Flexibility Advocacy Concentration

- Reimagined extension process
- Optimizing IRS/tax practitioner communication
- Easier approach to “information perfection”
- Broader penalty relief
- Simpler safe harbor choices
- Changes to information reporting (1099) processes



3

K-2/K-3  
UPDATE



# Schedules K-2 & K-3 2022 Finalized Instructions

- Domestic Filing Exception modifications
  - Additional eligible partner types
  - Changes to notification requirements
- Other available exceptions
- 2021's FAQ 15 exception eliminated
- Clarified the use of country code "XX"
- Other changes and clarifications



# Schedules K-2 & K-3 : AICPA Advocacy

- Provide broader exceptions for filing Schedules K-2 and K-3
- Make permanent the 2021 tentative exemption from filing Schedules K-2 and K-3 for certain domestic partnerships
- Reduce compliance burden required for foreign tax credit and limit to significant and relevant information
- Provide *de minimis* rule for certain information requirements

[February 24, 2022 Letter](#)

[August 31, 2022 Letter](#)

[November 30, 2022 Letter](#)





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# 4

# ENERGY TAX CREDIT UPDATE



# Energy Tax Credits – IRA Changes

- Changes from the Inflation Reduction Act
  - Extended and expanded expiring credits
  - Created new credits
  - Emphasis on:
    - Prevailing wages
    - Apprenticeship programs
    - Domestic content
  - Provided alternative credit monetization methods
    - Section 6417
    - Section 6418



# Energy Tax Credits - Developments

- Requests for comment.
- Guidance for the prevailing wage and apprenticeship requirements have been published.
- Clean vehicle credit safe harbor and forthcoming regulations.
- Recent guidance
  - Notice 2023-17 provides an overview of the program under section 48(e)
  - Notice 2023-18 provides guidance on the funding of investments in qualified energy projects under section 48C





PLANNING FOR  
**TAX**  
**CHANGE**

# INFLATION REDUCTION ACT

Get the guidance and resources you need to understand how the Inflation Reduction Act affects your tax outlook today and beyond.

- Legislative summary
- Clean energy credits chart
- Energy tax credits and ESG client letter
- Inside look at the Inflation Reduction Act | Tax Section Odyssey
- New IRS funding in the Inflation Reduction Act | Tax Section Odyssey
- Advocacy

[www.aicpa.org/topic/tax/tax-policy-and-regulatory-change](https://www.aicpa.org/topic/tax/tax-policy-and-regulatory-change)

# Environmental, social and governance (ESG) Tax Task Force

## Advocacy

- Notice 2022-50 and 2022-51
- Procedural guidance related to the Inflation Reduction Act

## Resources

- Energy Tax Credits and ESG Client Letter
- Summary of Inflation Reduction Act Energy Credits
- ESG and taxation: A necessary part of a company's strategic objectives, *The Tax Adviser*

[AICPA's Sustainability/ESG resource center](#)



5

CAMT & STOCK  
BUYBACK EXCISE  
TAX UPDATE



# Inflation Reduction Act

## Corporate Provisions



15%  
minimum tax  
on certain  
large  
corporations

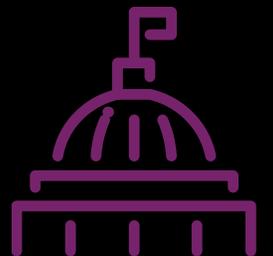


1% excise  
tax on stock  
repurchases



# Corporate Minimum Tax

- A corporate alternative minimum tax imposes 15% minimum tax on adjusted financial statement income (AFSI) of applicable corporations, if an applicable corporation's AFSI over three tax years ending with the relevant tax year exceeds \$1 billion.
- It is estimated that this provision will impact approximately 150 of the largest corporations
- Book income to which the 15% applies is after adjusting for the AMT, foreign tax credit and any depreciation taken for tax purposes that exceeds any depreciation taken for book purposes.
- S corporations, regulated investment companies or real estate investment trusts are not included
- Effective for tax years beginning after 12-31-2022.
- It may impact financial planning, as this tax may affect earnings and profits, stock pricing and dividend distributions

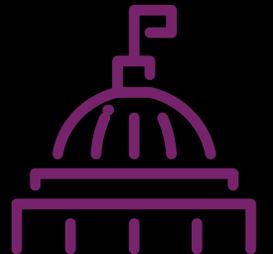


# Corporate Alternative Minimum Tax - Advocacy

- AICPA submitted comments to IRS and Treasury on Oct. 14, 2022, requesting immediate guidance
- Treasury and IRS issued Notice 2023-7 on December 27, 2022, providing interim guidance on how the CAMT applies to corporations, certain partnerships, troubled corporations, and affiliated groups of corporations that file consolidated tax returns.
- Treasury and IRS issued Notice 2023-30 on February 17, 2023, providing interim guidance on certain insurance related issues for determination of AFSI.
- The Notice addressed some of AICPA's comments from October, but many areas still need further clarification. AICPA is working on a 2nd CAMT comment letter for Notice 2023-7.

Some issues addressed in Notice 2023-7 include:

- Certain corporate transactions
- Safe Harbor Method
- Adjustments to AFSI for depreciation



# Excise tax on stock repurchases

This is an excise and not an income tax

It also applies to stock purchased by subsidiaries that are more than 50% owned by the parent

This provision would apply to tax years beginning after 2022

AICPA is working on a comment letter for Notice 2023-2

1

2

3

4

5

6

7

It is a 1% excise tax on stock repurchases by publicly traded corporations

The excise tax does not apply if repurchases are less than \$1 million or if contributed to and employee pension plan, an employee stock ownership plan or other similar type plans

Notice 2023-2 released on December 27, 2022 provides Interim Guidance for taxpayers



The background is a complex digital-themed composition. On the left, a solid orange triangle points towards the center. A diagonal black band separates this from a vibrant, multi-colored circular pattern of light trails in shades of purple, blue, green, and yellow. To the right, a dark space is filled with glowing orange and red lines forming a network or circuitry, with several bright points of light. Faint binary code (0s and 1s) is visible in the upper right quadrant.

# Advocating for AICPA Priorities

# Employee Retention Credit

While the ERC is an opportunity to consider for your business, the eligibility rules and credit calculations are complex with significant consequences if done improperly.

## ERC Resource Library

- Chart — [ERC: Fact or Fiction?](#)
- Guidance — [Notice 2021-20](#), [Notice 2021-23](#), [Notice 2021-49](#), [IR-2022-183](#), [Form 3949-A](#)
- Podcast — [Reconciling ERC claims with reality](#)



## Employee retention credit: Fact or fiction?

Given COVID-19's wide-reaching effects, many small businesses will qualify for an employee retention credit (ERC).

**FICTION.** Determining whether a business is eligible for the ERC can be pretty complex. Your business must meet the gross receipts test (50% or more reduction for 2020 or a 20% or more decline for 2021 qualifying quarters when compared to 2019 quarters) or experience a full or partial suspension of operations because of a government order. Whether a business experienced a partial suspension is a facts and circumstances determination and will vary depending on the location of the business and the government orders.

My business did not have a significant revenue decline in a calendar quarter compared to 2019 (50% or more for 2020 or 20% or more for 2021), but I can still qualify for an ERC.

**FACT.** However, as noted above, there must have been a full or partial suspension of operations BECAUSE OF A GOVERNMENT ORDER that limited commerce, travel or group meetings due to COVID-19. A partial suspension is based on the facts and circumstances of what government orders are in place for the location. The orders would need to have a more than a nominal impact on the business to qualify for the ERC.



# Proposed revisions to the Statements on Standards For Tax Services (SSTSs)

The  
latest

Exposure draft with proposed revisions  
to standards issued August 2022

30 comment letters received

Task Force has reviewed comments  
and is updating draft revisions

Open meetings of AICPA Tax Executive  
Committee scheduled – April 25 and  
May 18

[www.aicpa.org/ssts-update](http://www.aicpa.org/ssts-update)

# Virtual Currency Digital Assets Tax Issues

No clear definition of virtual currency. No clear guidance on treatment of virtual currency

AICPA [letter](#) on needed IRS FAQs on 2022 Form 1040 digital assets question

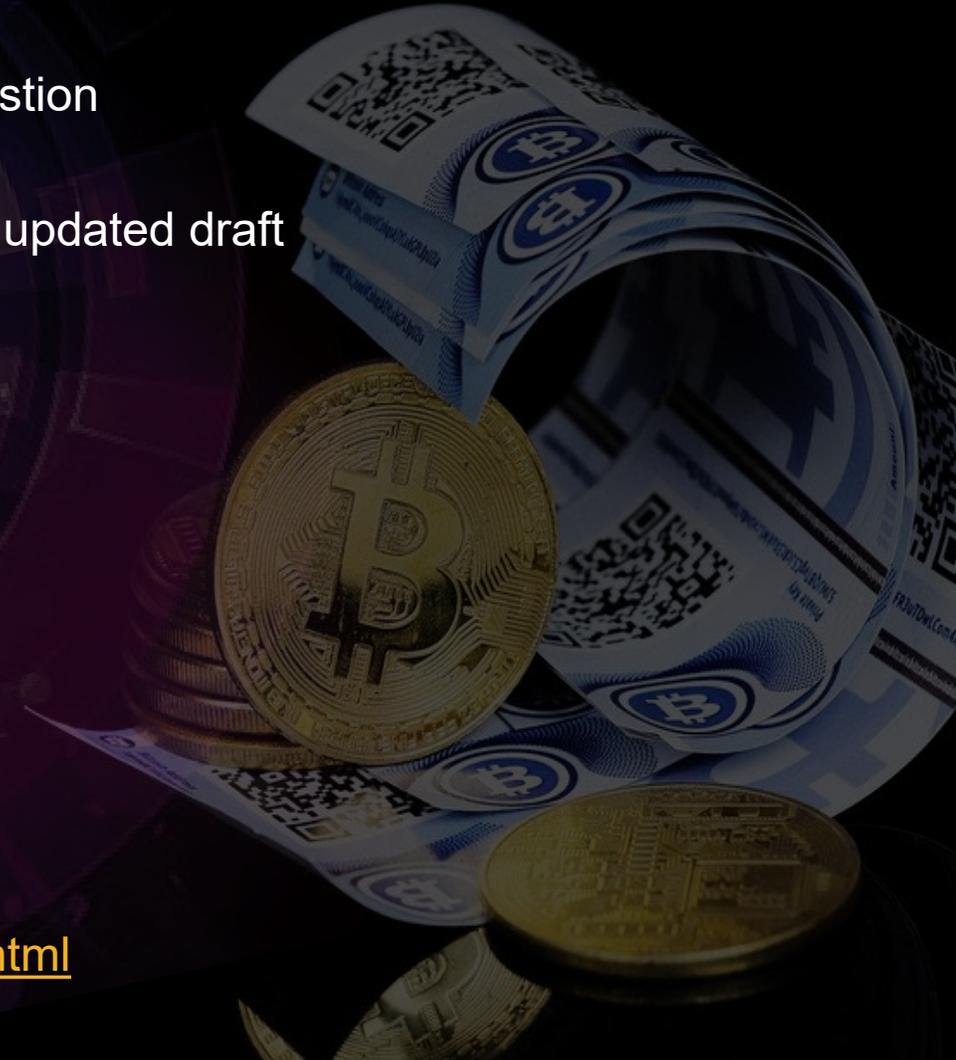
AICPA [letter](#) on Form 1040 virtual currency question and AICPA [letter](#) on updated draft instructions

- Clarify the meaning of virtual currency and define “digital assets”
- Simplify the virtual currency question
- Include additional elements into the Form 1040 instructions
- Explain if a dependent had a virtual currency event but does not have a filing requirement

AICPA [letter](#) on section 6045 and section 6050I

- Define broker
- Explain filing requirements of form 8300 (cash payment over \$10K)

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



# IRS guidance on Form 1040 digital assets question

- Reminder: IRS changed the wording of the question on 2022 Form 1040 related to digital assets.
  - “At any time during 2022, did you:
    - a) receive (as a reward, award, or payment for property or services); or
    - b) sell, exchange, gift, or otherwise dispose of a digital asset (or a financial interest in a digital asset)?”
- On Jan. 24, 2023, IRS issued [IR-2023-12](#)
  - Reminded all taxpayers to:
    - Answer the question (regardless of whether there were transactions involving digital assets)
    - Report all digital asset income
  - Updated term to “**digital assets**” (from virtual currencies”)

# Digital asset tax update

- 1/24/23, IRS issued IR-2023-12 (which refers to 2022 Form 1040 Instructions page 15)
  - Updated term to “**digital assets**” (from virtual currencies”)
    - Defined as a digital representation of value which is recorded on a cryptographically secured, distributed ledger (or any similar technology)
    - Includes: convertible virtual currency and cryptocurrency, stablecoins, and non-fungible tokens (NFTs) (and if a particular asset has the characteristics of a digital asset)
    - Updates helpful and IR-2023-12 is authority to rely on, but AICPA suggested “virtual currencies” remain until “digital assets” defined in final regs ((8/29/22 AICPA comments)
  - Expanded and clarified instructions for answering the question
    - Clarifications helpful, but AICPA suggests more clarifications (8/29/22 and 12/16/22 AICPA comments)
- 12/23/22, IRS issued IR-2022-227 and Ann-2023-02
  - Delayed additional broker reporting on dispositions of digital assets until final section 6045 regulations issued
    - Delay helpful, as AICPA requested delay in effective date until 2 years after the final regulations. (10/28/22 AICPA comments)

Form **1040** Department of the Treasury—Internal Revenue Service  
**U.S. Individual Income Tax Return** **2022** OMB No. 1545-0074 IRS Use Only—Do not write or staple in this space.

**Filing Status**  Single  Married filing jointly  Married filing separately (MFS)  Head of household (HOH)  Qualifying surviving spouse (QSS)  
Check only one box. If you checked the MFS box, enter the name of your spouse. If you checked the HOH or QSS box, enter the child's name if the qualifying person is a child but not your dependent:

Your first name and middle initial	Last name	Your social security number
If joint return, spouse's first name and middle initial	Last name	Spouse's social security number

Home address (number and street). If you have a P.O. box, see instructions. Apt. no. **Presidential Election Campaign**  
Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not change your tax or refund.  
 You  Spouse

**Digital Assets** At any time during 2022, did you: (a) receive (as a reward, award, or payment for property or services); or (b) sell, exchange, gift, or otherwise dispose of a digital asset (or a financial interest in a digital asset)? (See instructions.)  Yes  No

# Digital asset tax comments

- AICPA Virtual Currency Task Force comments to IRS
  - 12/16/22 – on draft Form 1040 instructions
  - 10/28/22 – requesting guidance and delay on section 6045 and 6050I broker reporting requirements
  - 8/29/22 – on Form 1040 and instructions
  - 2/28/20, 5/30/18, and 6/10/16 – on needed virtual currency guidance and IRS Notice 2014-21



# Virtual Currency/Digital Assets 2022

## Proposed Federal Legislation

AICPA monitoring and analyzing legislation

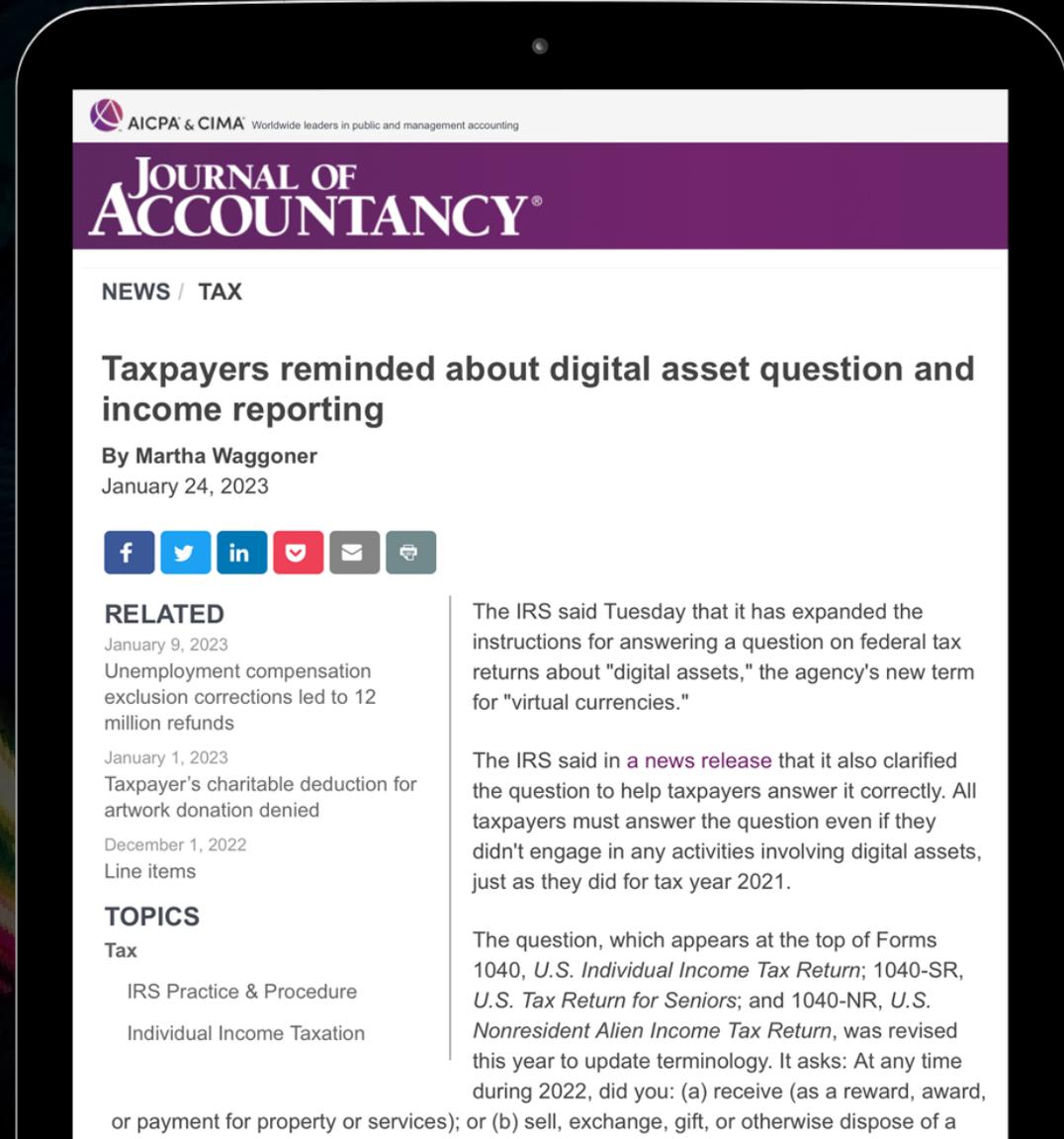
- [H.R. 7614](#), Digital Commodities Exchange Act of 2022
  - Introduced April 2022
  - [Bill summary](#)
- [S. 4356](#), Responsible Financial Innovation Act (a/k/a Lummis-Gillibrand bill)
  - Introduced June 2022,
  - [Bill overview](#)
- [S. 4760](#), Digital Commodities Consumer Protection Act of 2022
  - Introduced August 2022



# Tax Resources: digital assets

## Resources:

- [AICPA Tax Section's virtual currency and digital assets tax guidance and resources](#)
  - Includes links to comment letters, podcasts and more
- [Jan. 24, 2023 Journal of Accountancy article](#)
- IRS [Digital Assets](#) (with recent CCA 202302011 on crypto losses and CCA 202302012 on donating crypto), [FAQs](#), [Form 1040 Instructions](#) page 15.



The screenshot shows a mobile device displaying a news article from the Journal of Accountancy. The article is titled "Taxpayers reminded about digital asset question and income reporting" and is written by Martha Waggoner, dated January 24, 2023. The article discusses the IRS's expanded instructions for answering a question on federal tax returns about "digital assets," the agency's new term for "virtual currencies." It also mentions that the IRS clarified the question to help taxpayers answer it correctly, and that all taxpayers must answer the question even if they didn't engage in any activities involving digital assets, just as they did for tax year 2021. The article is categorized under "TOPICS" with sub-topics "Tax" and "Individual Income Taxation".

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## JOURNAL OF ACCOUNTANCY®

NEWS / TAX

### Taxpayers reminded about digital asset question and income reporting

By Martha Waggoner  
January 24, 2023

[f](#) [t](#) [in](#) [v](#) [e](#) [r](#)

**RELATED**

January 9, 2023  
Unemployment compensation exclusion corrections led to 12 million refunds

January 1, 2023  
Taxpayer's charitable deduction for artwork donation denied

December 1, 2022  
Line items

**TOPICS**

Tax

IRS Practice & Procedure

Individual Income Taxation

The IRS said Tuesday that it has expanded the instructions for answering a question on federal tax returns about "digital assets," the agency's new term for "virtual currencies."

The IRS said in a [news release](#) that it also clarified the question to help taxpayers answer it correctly. All taxpayers must answer the question even if they didn't engage in any activities involving digital assets, just as they did for tax year 2021.

The question, which appears at the top of Forms 1040, *U.S. Individual Income Tax Return*; 1040-SR, *U.S. Tax Return for Seniors*; and 1040-NR, *U.S. Nonresident Alien Income Tax Return*, was revised this year to update terminology. It asks: At any time during 2022, did you: (a) receive (as a reward, award, or payment for property or services); or (b) sell, exchange, gift, or otherwise dispose of a

# Virtual Currency – State Tax Guidance



## AICPA

- [Tracking list of state guidance on taxation and reporting of digital assets](#)

## National Conference of State Legislatures (NCSL)

- [State cryptocurrency 2022 legislation page](#) and may have one for 2023

## Multistate Tax Commission (MTC)

- [Sales tax on digital products project](#)
- [Draft of detailed outline on sales taxation of digital products](#)

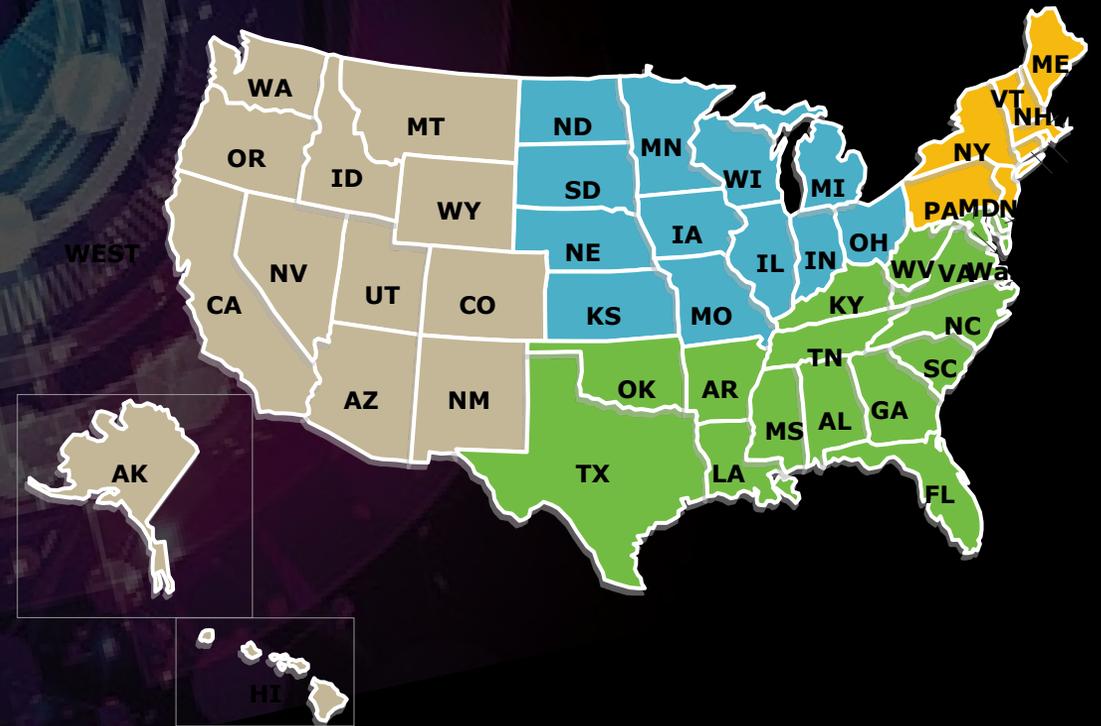
# Key state tax issues for the profession: For 2023 and beyond

**Tax on professional services** – governors looking to eliminate personal and corporate taxes ([one pager](#))

**Pass-through entity (PTE) taxes** – more states likely to enact and refine as workaround to federal SALT deduction cap (AICPA [state map](#), [links](#), [considerations](#))

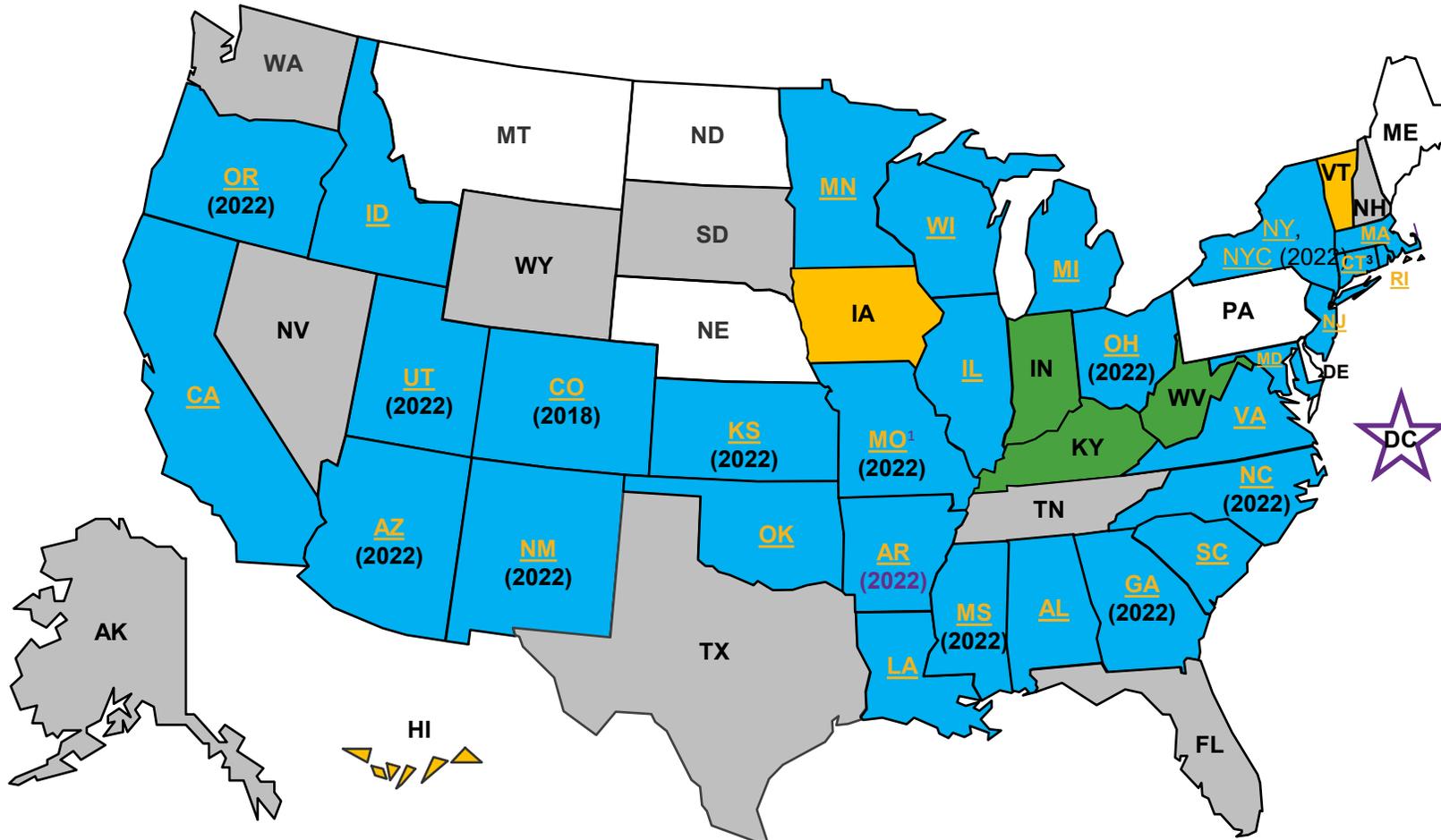
**Mobile and remote workforce** – more states may enact 30-day threshold for nonresidents and may clarify rules and guidance (AICPA [article](#), [coalition](#))

**Student loan forgiveness** – several states may clarify state tax treatment ([AICPA chart](#))



# States with Enacted or Proposed Pass-Through Entity (PTE) Level Tax

As of February 7, 2023



● 29 states (& 1 locality) that enacted a PTE tax since TCJA SALT deduction limitation, effective for 2021 (or earlier) unless noted:

[AL](#), [AR](#)<sup>1</sup>, [AZ](#)<sup>1</sup>, [CA](#), [CO](#)<sup>2</sup>, [CT](#)<sup>3</sup>, [GA](#)<sup>1</sup>, [ID](#), [IL](#), [KS](#)<sup>1</sup>, [LA](#), [MA](#), [MI](#), [MD](#), [MN](#), [MO](#)<sup>1</sup>, [MS](#)<sup>1</sup>, [NC](#)<sup>1</sup>, [NJ](#), [NM](#)<sup>1</sup>, [NY](#), [OH](#)<sup>1</sup>, [OK](#), [OR](#)<sup>1</sup>, [RI](#), [SC](#), [UT](#)<sup>1</sup>, [VA](#), [WI](#), and [NYC](#)<sup>1</sup>

<sup>1</sup> Effective in 2022 or later – on map (2022) or (2023)

<sup>2</sup> Retroactive to 2018

<sup>3</sup> Mandatory

● 6 states with proposed PTE tax bills:

HI – [HB1362](#), [SB 1437](#), in committee

IA - [HSB 69](#), in committee

IN - [SB 2](#), passed Senate 2/6/23

KY - [HB 37](#), in committee

VT – [HB61/SB45](#), [HB 153](#), in committee

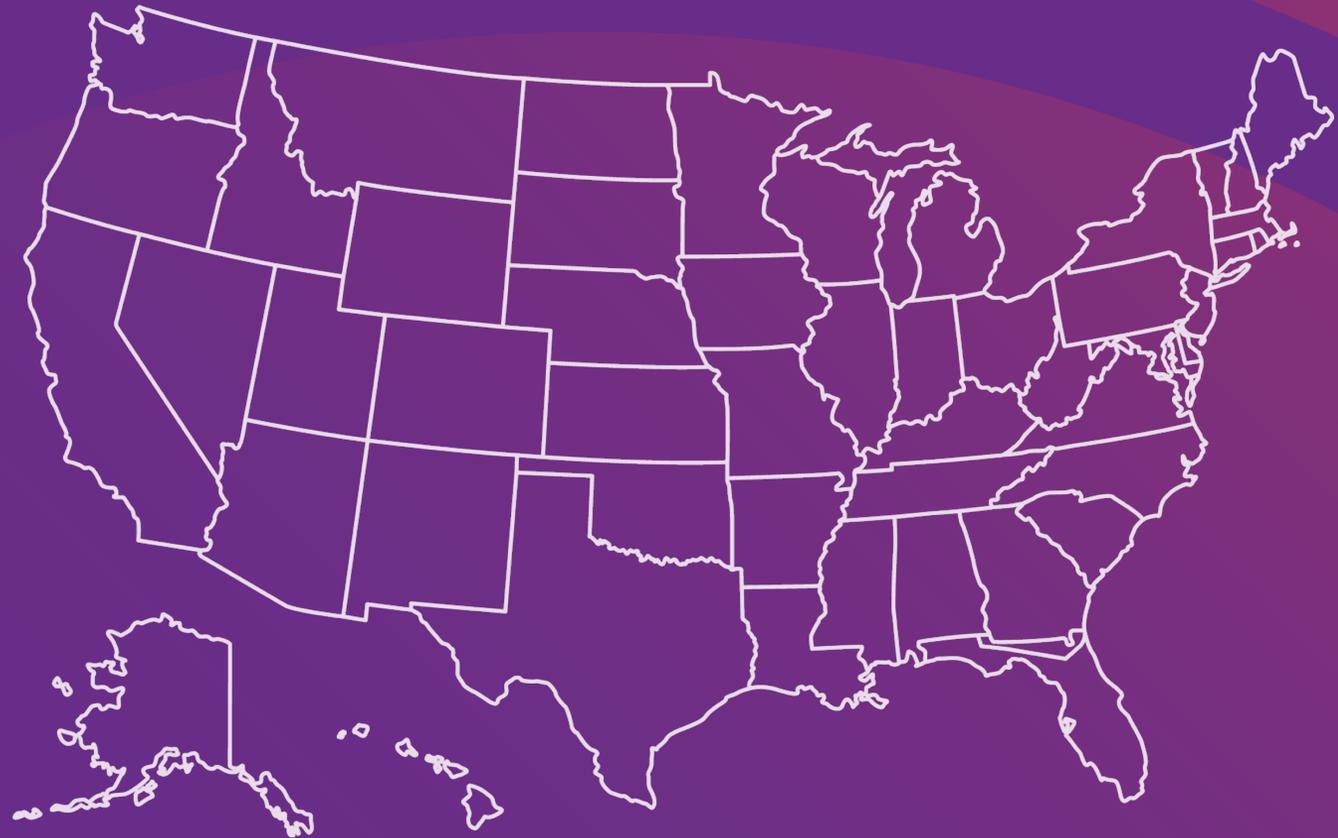
WV - [HB 2608/SB 151](#), [HB 2934/SB 496](#), [HB 3245/SB 442](#) in committee

● 9 states with no owner-level personal income tax on PTE income:  
AK, FL, NH, NV, SD, TN, TX, WA, WY

○ 10 states with an owner-level personal income tax on PTE income that have not yet proposed or enacted PTE taxes:  
DC, DE, HI, IA, ME, MT, NE, ND, PA, VT

# Passthrough Entity Tax (PTET)

- New Tax Odyssey podcast [When to call an audible on the passthrough entity tax](#)
  - S-corp issues, state crediting complications, AMT, Trust issues, and more
- [SALT Roadmap and Resource Center](#)
  - Interactive reference library to access state and local tax info in one central place
- The Tax Adviser Article: [Federal implications of passthrough entity tax elections](#) (Nov. 22)



# Other Tax Advocacy Issues



# HOT TOPICS

Other Advocacy Issues

AAR/BBA  
audit rules  
simplification

Foreign tax  
credit  
proposed  
regulations

Form 3520  
suggestions



Q&A



# AICPA Tax Policy & Advocacy Webpages

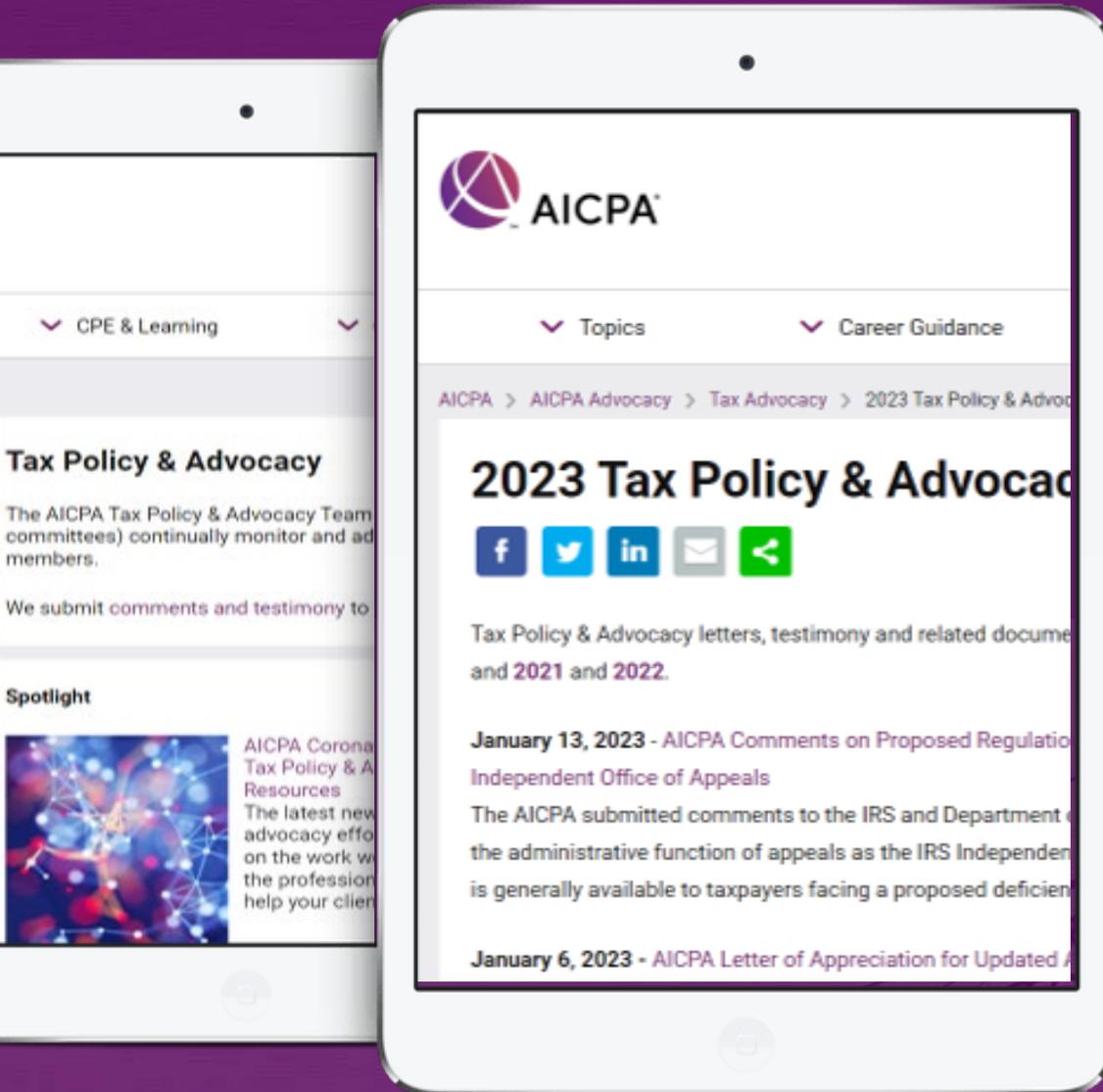
For more information about the Tax Policy and Advocacy team check out our website and comment letters page.

## Website

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

## Comment letters

<https://us.aicpa.org/advocacy/tax/2023taxadvocacycommentletters.html>



# TAX

## Section Odyssey

- Uncovering the intricacies — Schedules K-2 and K-3
- Managing your risk with engagement letters
- Tax practice resiliency and due dates
- Reconciling ERC claims with reality
- Inside look at the Inflation Reduction Act
- State implications with the PTE tax

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Virtual  
currency tax  
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Schedules  
K-2 and K-3  
guidance

SALT  
Roadmap

Energy tax  
credits chart

Federal  
preparer  
penalties  
guide

Tax  
extension  
FAQs

[Browse resource library →](#)



# State guidance on taxation and reporting of digital assets

Consolidated list of the latest  
in state tax guidance

Arizona provides income tax subtraction for crypto airdrops.

California requires sales tax on taxable item purchased with virtual currency.

Pennsylvania lists NFTs as taxable but may be retroactive to the state's expansion of digital goods.

Wyoming states virtual currency is not subject to personal property tax.

[View additional states and guidance →](#)



# ANNUAL TAX COMPLIANCE KIT

Your go-to resource for managing your tax season workflow



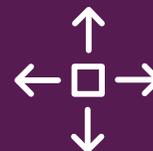
Engagement letters



Client organizers



Tax return checklists



Practice guides

[Browse the Annual Tax Compliance Kit →](#)

# IRS Schedules K-2 and K-3 guidance and resources

Schedules K-2 and K-3 report items of international tax relevance from the operations of pass-through entities. Get the latest updates in our resource library:

Client information letter

IRS guidance and draft forms

AICPA advocacy

Tax Section Odyssey podcasts

- Uncovering the intricacies — Schedules K-2 and K-3
- Making sense of new international passthrough reporting
- Transitional challenges for Schedules K-2 and K-3

[Visit the Schedules K-2 and K-3 library →](#)



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# SALT Roadmap and Resource Center

Interactive reference library to access state and local tax info in one central place

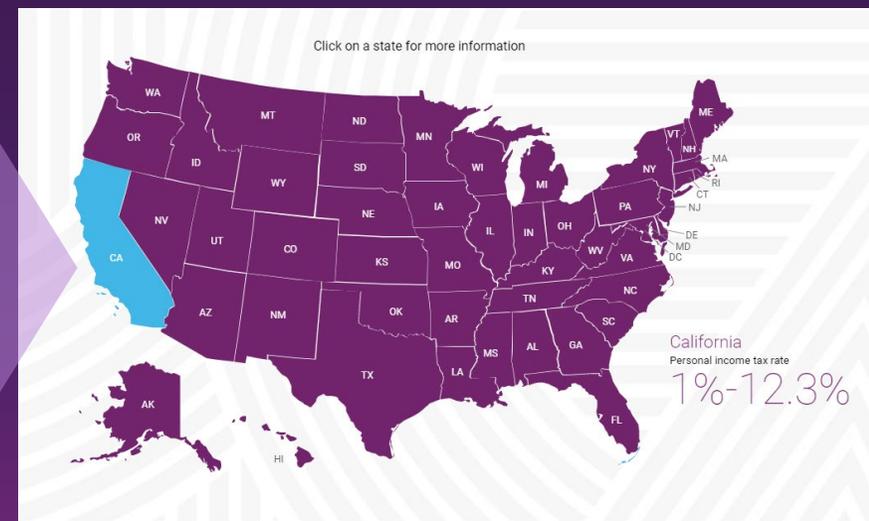
**California pass-through entity/general business taxes:**

Access [California business tax information](#) for compliance obligations.

[California allows a pass-through entity tax election](#) for taxable years beginning on or after Jan. 1, 2021, and before Jan. 1, 2026.

CalCPA

Personal income tax	Corporate income tax	Franchise tax	Sales/use tax
Pass-through entity / general business taxes	Due dates	State tax forms	View California's state government websites



Access the SALT Roadmap →



## EMPLOYEE RETENTION CREDIT

While the ERC is an opportunity to consider for your business, the eligibility rules and credit calculations are complex with significant consequences if done improperly.

### ERC Resource Library

- Chart — [ERC: Fact or Fiction?](#)
- Guidance — [ERC FAQs](#)
- Podcast — [Reconciling ERC claims with reality](#)



### Employee retention credit: Fact or fiction?

Given COVID-19's wide-reaching effects, many small businesses will qualify for an employee retention credit (ERC).

**FICTION.** Determining whether a business is eligible for the ERC can be pretty complex. Your business must meet the gross receipts test (50% or more reduction for 2020 or a 20% or more decline for 2021 qualifying quarters when compared to 2019 quarters) or experience a full or partial suspension of operations because of a government order. Whether a business experienced a partial suspension is a facts and circumstances determination and will vary depending on the location of the business and the government orders.

My business did not have a significant revenue decline in a calendar quarter compared to 2019 (50% or more for 2020 or 20% or more for 2021), but I can still qualify for an ERC.

**FACT.** However, as noted above, there must have been a full or partial suspension of operations BECAUSE OF A GOVERNMENT ORDER that limited commerce, travel or group meetings due to COVID-19. A partial suspension is based on the facts and circumstances of what government orders are in place for the location. The orders would need to have a more than a nominal impact on the business to qualify for the ERC.

Visit the ERC resource library →



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