

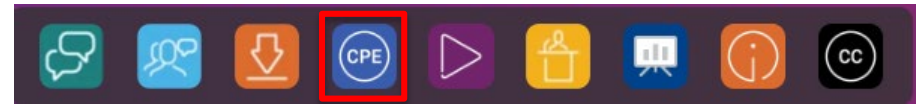
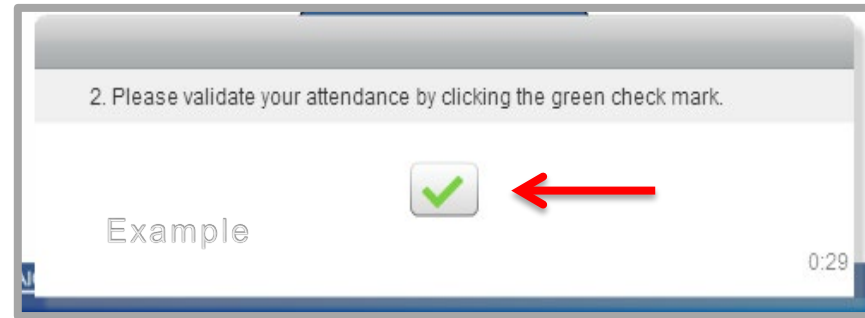


WASHINGTON TAX BRIEF

February 17, 2021

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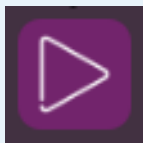


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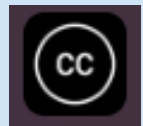
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Webcast series to update you on:

- 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



Eileen Sherr
DIRECTOR – TAX
POLICY & ADVOCACY



Melanie Lauridsen
SENIOR MANAGER – TAX
POLICY & ADVOCACY



Elizabeth Young
SENIOR MANAGER – TAX
POLICY & ADVOCACY



Jeaneen Zanollo
LEAD SPECIALIST – TAX
POLICY & ADVOCACY



Topics for Today

1.

**Legislative &
Political Outlook**

2.

**Advocating for
AICPA Priorities**

3.

Hot Topics

4.

Questions



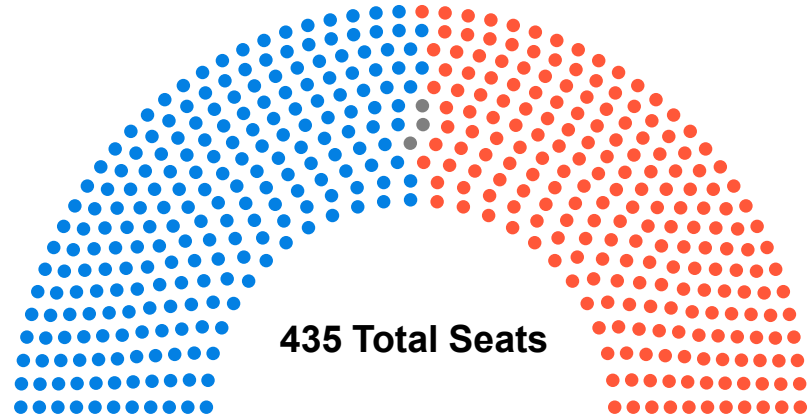


Legislative and Political Outlook



The 117th Congress

HOUSE



435 Total Seats

222 Democrats

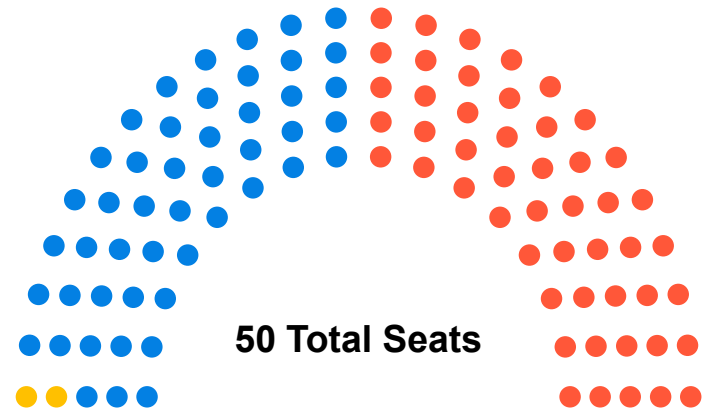
211 Republicans



218 Votes for Majority

3 Vacancies: LA-2, LA-5, NY-22

SENATE



50 Total Seats

48 Democrats

2 Independents**

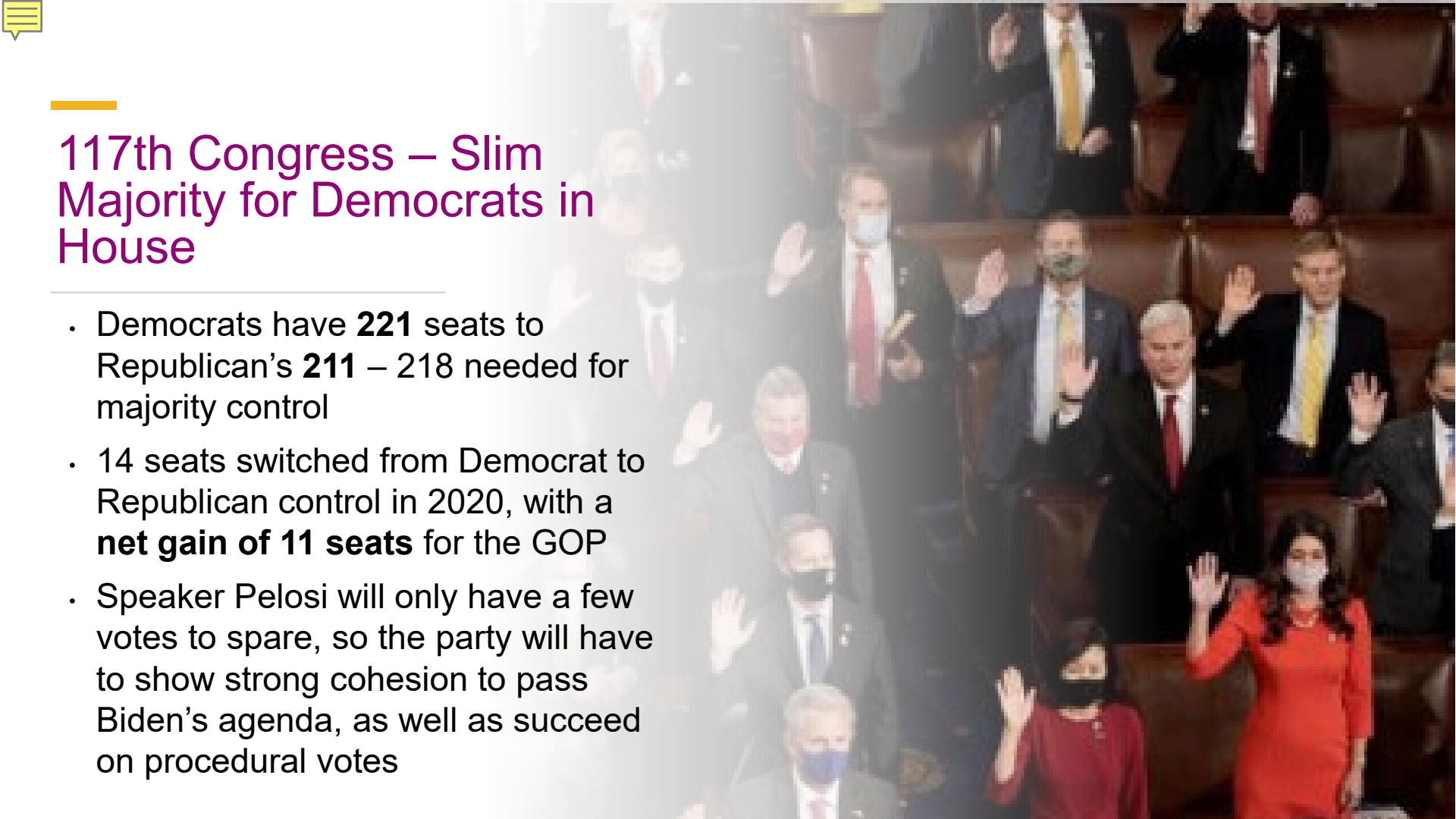
50 Republicans




51 Votes for Majority, VP Harris tie-breaker



117th Congress – Slim Majority for Democrats in House

- Democrats have **221** seats to Republican's **211** – 218 needed for majority control
 - 14 seats switched from Democrat to Republican control in 2020, with a **net gain of 11 seats** for the GOP
 - Speaker Pelosi will only have a few votes to spare, so the party will have to show strong cohesion to pass Biden's agenda, as well as succeed on procedural votes
- 





Committee Outlook: House Ways and Means and Senate Finance

- Ways & Means Committee Chairman Richard **Neal**, D-MA
 - Ranking Member Kevin Brady, R-TX
- Finance Committee Chairman Ron **Wyden**, D-OR
 - Ranking Member Mike Crapo, R-ID
- Possible Actions:
 - **COVID Relief/Stimulus - American Rescue Plan**
 - Biden tax plan or address expiring TCJA provisions
 - Modifications to SECURE Act, retirement issues
 - Infrastructure



President Biden's Cabinet Picks

 <p>Vice President Kamala Harris</p>	 <p>State Antony Blinken</p>	 <p>Treasury Janet Yellen</p>	 <p>Defense Lloyd Austin</p>
 <p>Attorney General Merrick Garland</p>	 <p>Interior Deb Haaland</p>	 <p>Agriculture Tom Vilsack</p>	 <p>Commerce Gina Raimondo</p>
 <p>Labor Marty Walsh</p>	 <p>Health & Human Services Xavier Becerra</p>	 <p>Housing & Urban Development Marcia Fudge</p>	 <p>Transportation Pete Buttigieg</p>
 <p>Energy Jennifer Granholm</p>	 <p>Education Miguel Cardona</p>	 <p>Veterans Affairs Denis McDonough</p>	 <p>Homeland Security Alejandro Mayorkas</p>

Cabinet-level officials

 <p>White House Chief of Staff Ronald Klain</p>	 <p>White House OMB Director Neera Tanden</p>	 <p>Special Presidential Envoy for Climate John Kerry</p>	 <p>EPA Administrator Michael Regan</p>
 <p>Director of Nat'l Intelligence Avril Haines</p>	 <p>US Trade Representative Katherine Tai</p>	 <p>Small Business Administrator Isabel Guzman</p>	 <p>US Ambassador to the UN Linda Thomas- Greenfield</p>

Changes at IRS/Treasury in Biden Administration



Janet Yellen
Secretary of the Department
of the Treasury



Charles P. Rettig
Commissioner of the IRS
Term Ends Nov. 12, 2022



William M. Paul
Acting IRS Chief Counsel and
Deputy Chief Counsel
(Technical)



Jeffrey Van Hove
Department of the Treasury
Acting Assistant Secretary
(Tax Policy)

Changes at Treasury in Biden Administration



Chris J. Soares
Acting Assistant Secretary
(Economic Policy)



Aruna Kalyanam
Deputy Assistant Secretary for
Tax and Budget, Office of
Legislative Affairs



Kimberly Clausing
Deputy Assistant Secretary for
Tax Analysis, Office of Tax
Policy



Mark J. Mazur
Deputy Assistant Secretary for
Tax Policy, Office of Tax Policy

Changes at Treasury in Biden Administration



Itai Grinberg

Deputy Assistant Secretary for
Multilateral Tax, Office of Tax
Policy



Rebecca Kysar

Counselor to the Assistant
Secretary, Office of Tax Policy



Tom West

Deputy Assistant Secretary for
Domestic Business Tax, Office
of Tax Policy



Outlook

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

Childcare credit
(\$4,000/child,
\$8,000 max
family)

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

**EITC (\$1,500
childless,
under \$21,000
AGI)**

**\$1,400
Economic
impact
payment**



Revenue Options: Will Tax Rates Increase?

- Congress & future Administration to mitigate
 - Tax increases?
 - Spending cuts?
- Corporate tax rate?
- Estate tax changes?
- Many small businesses operate as passthroughs
- Most TCJA individual provisions expire 12/31/25
- Record government debt risks
- Highest deficit in decades





Possible Biden Revenue Raisers:

- Increase corporate tax rate (from 21% to 25% - 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 top personal income tax rate from 37% to 39.6% on upper income individuals (earning over \$400,000 a year)
- Individual capital gains rate increase (earning over \$1 M)



Possible Biden Administration Changes:

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



Possible Biden Tax Cuts:

- Increased tax credits to afford health insurance
- Increased childcare tax credit
- \$15,000 first time home buyer's credit
- Increased child tax credit



Mobile Workforce & COVID-19

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





Advocating for AICPA Priorities:





TAX Administration in COVID

- . 2021 Tax Due Dates
- . Penalty Relief
- . E-signature Relief
- . IRS Service Levels





Filing Due Dates – IRS Position

“

“The IRS emphasizes there is no internal discussion about extending the April 15 deadline, and the normal deadlines remain in place. Taxpayers and tax professionals should assume that deadline will remain, just as in regular years.”



Filing Due Dates

AICPA Closely Monitoring

- Membership Needs (highly polarized issue)
- Congress/Treasury/IRS Position
- State Conformity
- Impact on Tax Administration
- Mobile Workforce

AICPA Official Assessment by Early March

- Ensure there will be decision-making time leading to April 15 deadline





Tax Penalty Relief

- IRS should provide relief for uncontrollable COVID-19 impacts on CPAs & their clients
- AICPA advocating for expedited and streamlined penalty abatement process
 - May request reasonable cause abatement orally up to a certain threshold
 - Above the threshold, the option for e-fax should be available
 - Request account holds



Tax Penalty Relief

Considerations for the 2020 Tax Filing Season

- Reducing Failure to Pay Penalty (section 6651)
- Reducing Estimated Tax Penalty (section 6654)
- Changes to the Extension Process

E-Signature Relief

Temporary Relief

- Available through June 30
- Asked for relief through October 15
- Asked to include non-income and paper-filed returns.

Permanent Relief

- Expand forms available to taxpayer for e-signature
- Include non-income and paper-filed returns
- Rely on previous business transactions to authenticate taxpayer

REVENUE
SERVICE

E-Signature Relief

IRS Forms 8821 & 2848 Pilot Program

- Started January 25
- Secure access registration necessary

Pilot Program FAQs

- <https://www.irs.gov/tax-professionals/submit-forms-2848-and-8821-online#2848-8821-faqs>

IRS Service Levels

IRS Operations :

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

What We are Hearing

- Not getting through on PPS line
- Erroneous penalty notices
- Escalation to levy and lien notices
- What to do about amended returns already filed



Note. This booklet c

200

Instructi



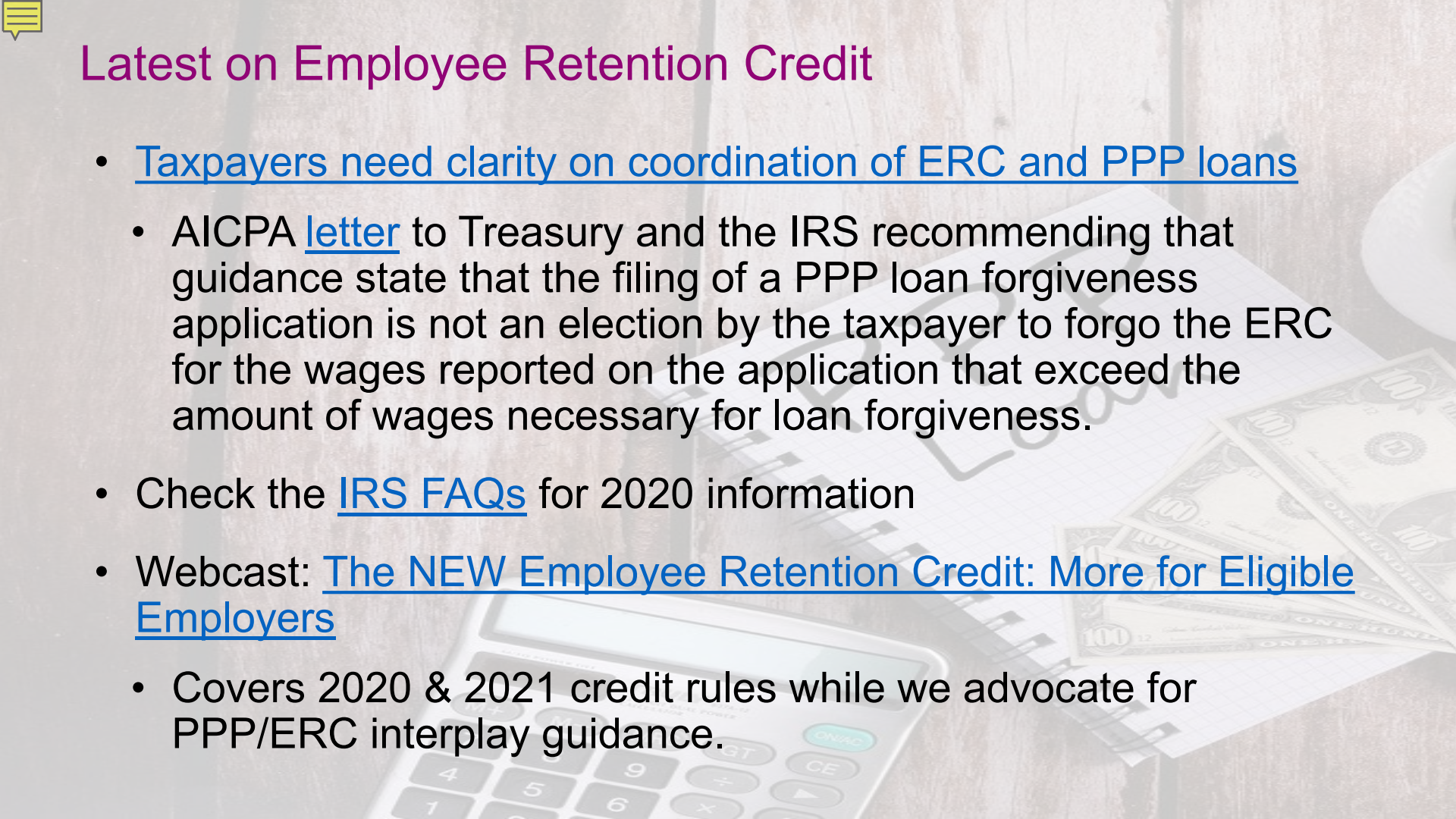
Taxpayer First Act Report to Congress

- **3 Main components:**
 - Taxpayer experience strategy
 - Expanded digital services
 - Training strategy
 - IRS university
 - Organizational redesign strategy
 - Relationships and services division
 - Third-party relationships office
- **Phased approach for implementation: 1-2, 3-5 and 10 years**
- **Cost: \$2.18B + \$1.9B for IT Infrastructure = \$4.08B total**





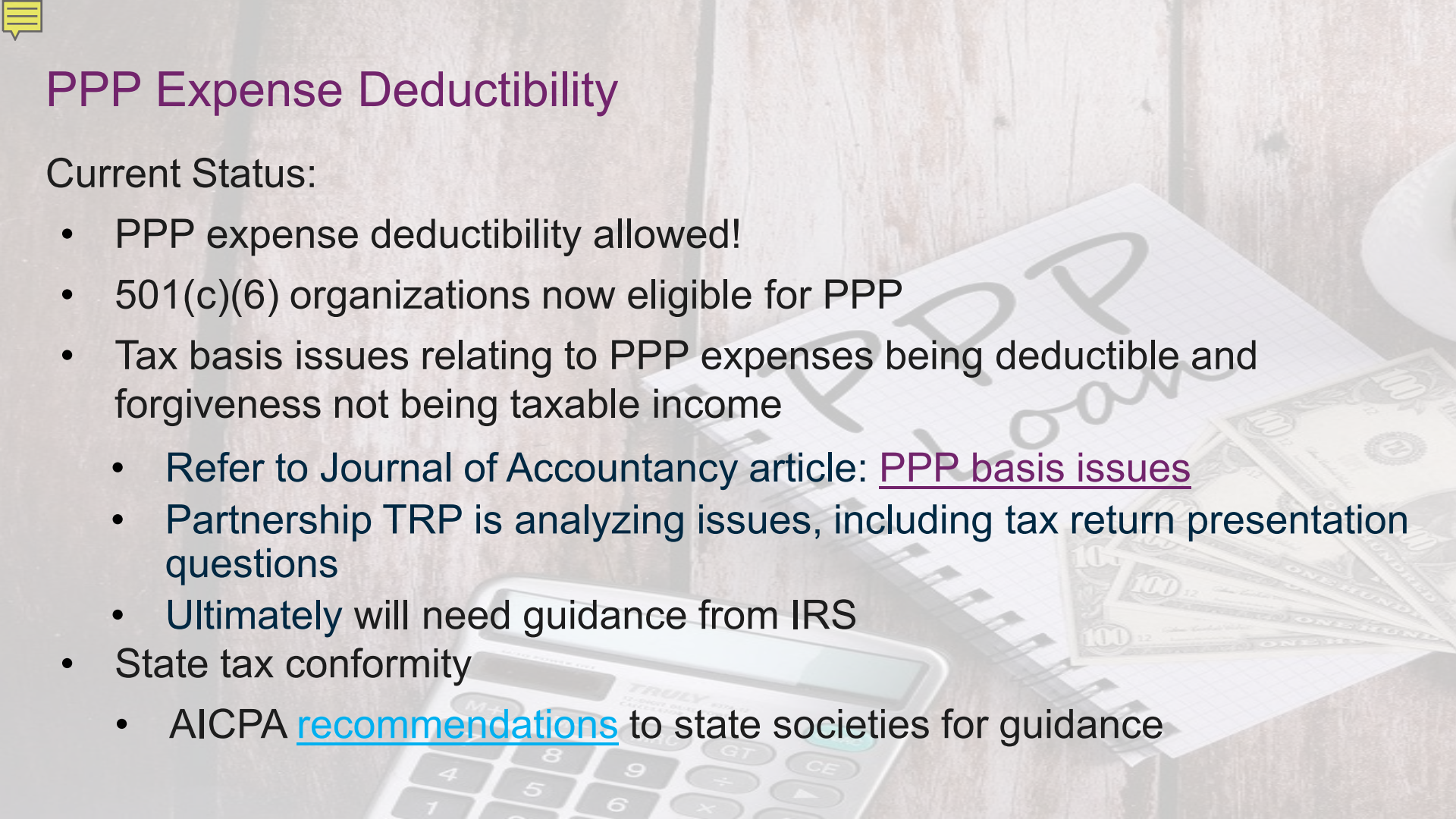
Latest on Employee Retention Credit

- [Taxpayers need clarity on coordination of ERC and PPP loans](#)
 - AICPA [letter](#) to Treasury and the IRS recommending that guidance state that the filing of a PPP loan forgiveness application is not an election by the taxpayer to forgo the ERC for the wages reported on the application that exceed the amount of wages necessary for loan forgiveness.
 - Check the [IRS FAQs](#) for 2020 information
 - Webcast: [The NEW Employee Retention Credit: More for Eligible Employers](#)
 - Covers 2020 & 2021 credit rules while we advocate for PPP/ERC interplay guidance.
- 



PPP Expense Deductibility

Current Status:

- PPP expense deductibility allowed!
 - 501(c)(6) organizations now eligible for PPP
 - Tax basis issues relating to PPP expenses being deductible and forgiveness not being taxable income
 - Refer to Journal of Accountancy article: [PPP basis issues](#)
 - Partnership TRP is analyzing issues, including tax return presentation questions
 - Ultimately will need guidance from IRS
 - State tax conformity
 - AICPA [recommendations](#) to state societies for guidance
- 

New resource: PPP State Tax Treatment Chart

AICPA members
can access
Chart in the
AICPA's COVID-
19 tax resource
hub



Chart

PPP state tax treatment

Tax Section

Paycheck Protection Program (PPP) State Tax Treatment Chart

Purpose of chart: Use this chart to determine whether states treat Coronavirus Aid, Relief and Economic Security Act (Public Law 116-136) (CARES Act) Paycheck Protection Program (PPP) loan forgiveness as taxable income. Also, use this chart to determine whether a state allows the deductibility of expenses paid with PPP loan amounts as provided for federal tax purposes by the Consolidated Appropriations Act, 2021 (CAA).

State	Taxability of CARES Act PPP loan forgiveness	Deductibility of expenses paid with PPP loan proceeds as provided by the CAA
Alabama	Not taxable. Amounts for which the taxpayer has received loan forgiveness under the CARES Act PPP are not included in the calculation of an individual taxpayer's 2020 Alabama income liability. 21st Supplemental Emergency Proclamation	Deductible. In calculating their 2020 Alabama income tax liability, taxpayers may deduct expenses paid with PPP loan amounts that have been forgiven or that the taxpayer reasonably expects to receive forgiveness even if the taxpayer has not applied for forgiveness of the loan by the end of the 2020 tax year.



Hot Topics





Hot Topics

Virtual Currency Task Force

Small Business Regulations

Passthrough SALT Workaround Allowed, IRS Notice 2020-75

Tax Capital Reporting

163(j) Business Interest Expense Limitation



Small Business Regulations

- The [final regulations](#) were published in December of 2020.
- In line with the AICPA's [recommendations](#) they include the following:
 - Special annual election allowed for certain entities classified as tax shelters
 - Removing the 5-year restriction on making automatic method changes
 - Simpler rules related to non-incidentals materials & supplies

AICPA state pass-through entity-level tax

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

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

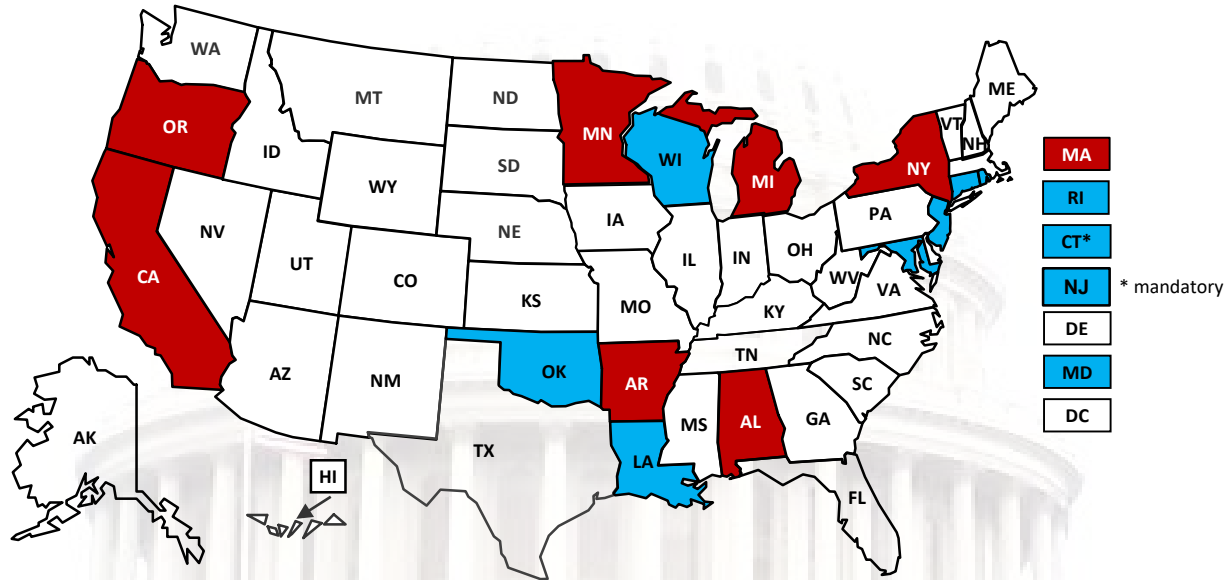


State Pass-Through Entity (PTE) Level Approach

States Adopting, Proposing, or Considering a PTE Tax

There are 41 states that tax pass-throughs at the owner level.

- 7 States that have enacted a PTE tax since TCJA SALT deduction limitation (CT*, LA, MD, NJ, OK, RI, WI)
- 8 States that proposed a bill to adopt, but did not yet enact, a PTE tax ([AL](#), [AR](#), [CA](#), MA proposal, [MN](#), [NY](#), [OR](#) (from 2020 MI))



Section 163(j)

- [TD 9905](#) was published on Sep. 14, 2020 in the Federal Register
- [TD 9943](#) was published on Jan. 19, 2021 in the Federal Register
- Summary:
 - These regulations are effective – but the effective/applicability dates can be tricky, so careful attention is needed
 - The regulations were reserved on many issues and we expect more regulations and guidance in this area.
 - Finalized some rules, such as self-charged lending – does not apply to S corporations, limited applicability to partnerships (no indirect lending)
 - Recommendation related to treatment of foreign tax expense was included in the final regulations
- AICPA provided comprehensive and detailed comments:
 - Section 163(j) Passthroughs [Comment Letter](#)
 - Section 163(j) International and Exempt Organizations [Comment Letter](#)

- Tax Capital Reporting implemented for 2020 tax year
- Must use the Transactional Method for future reporting
- 4 methods to compute opening balances
- IRS issued [Notice 2020-43](#) describing proposed Tax Capital Reporting requirement
- [AICPA commented](#) on proposed rules, and had major successes in modifying the proposals contained in [Notice 2020-43](#)
- [Draft Form 1065](#) (rev. Feb 4) instructions contain rules on complying and calculating the initial partner(s)' Tax Capital accounts
- IRS granted penalty leniency in [Notice 2021-13](#) regarding the new reporting requirement, and taxpayers (and practitioners) must use “ordinary and prudent business care” in calculating and reporting the opening balances

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



Q&A





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Upcoming learning opportunities

<p><u>The Latest and Greatest with Roth Conversion Planning</u> Support your clients to maximize the benefits of Roth conversions in the current environment by tuning in to an in-depth presentation led by renowned financial and tax planning expert, Bob Keebler, CPA/PFS, MST, AEP (Distinguished).</p>	<p>Feb 23rd 1pm-3pm ET CPE: 2</p>
<p><u>Annual Tax Update: Individuals and Sole Proprietors</u> In this comprehensive webcast we will present what's new and what has changed in the federal individual income tax arena. We will bring you up-to-the-minute guidance on the latest tax legislation, court decisions and IRS pronouncements.</p>	<p>Feb 24th 9am-5pm ET CPE: 8</p>
<p><u>Financial Advice in the Age of COVID</u> COVID has affected financial planning including the status of our health care system and health coverage policies. Learn what practices to put in place with this webcast.</p>	<p>March 16th 1-2:45pm ET CPE: 2</p>



Upcoming learning opportunities

From the AICPA Tax Section:	
Administrative Adjustment Requests to Correct Partnership Returns	Feb 23 rd 1pm-2:45pm ET CPE: 2
Tax Practice Quarterly: Managing a Tax Practice in the Modern World	May 13 th or May 18 th (<i>rebroadcast</i>) 1-2:45pm ET CPE: 2 (free to AICPA Tax Section members)

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Spotlight

AICPA TV

Section 163(j) Business Interest Expense Limitation

AICPA Comments on Section 163(j) Proposed Regs

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December 21, 2020 - AICPA Supports Omnibus Legislation that Allows Expense Deductibility for PPP Loan Recipients

AICPA strongly supports the Consolidated Appropriations Act of 2021 and urges its passage. We are pleased with Congress' efforts to provide much-needed economic relief to struggling businesses by ensuring expense deductibility under the PPP is honored, as was intended by the CARES Act.

December 21, 2020 - AICPA Comments on 163(j) International & EO Issues

The AICPA submitted comments in response to the proposed and final regulations on section 163(j), limitation on the deduction for business interest expense. Specifically, our recommendations address international and tax-exempt issues including the treatment of foreign tax expense, reduction of CFC group ownership threshold to 50%, annual election to group CFCs, application of ordering rules in section 163(j) ATI determinations, computation of section 163(j) limitation for tax-exempt organizations, and computation of section 163(j) excess items for tax-exempt partners.

December 21, 2020 - AICPA Passthroughs Comment Letter on Final and Proposed Regulations under Section 163(j)

The AICPA is pleased to submit comments on the final and proposed regulations under section 163(j) regarding application to partnerships and S corporations. The final and proposed regulations are voluminous and complex, and we propose numerous recommendations to improve the administrability and practicality of the regulations. We address a number of areas of practitioner concern, including specific issues such as:

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<https://www.aicpa.org/advocacy/tax/2020taxadvocacycommentletters.html>



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Thank you