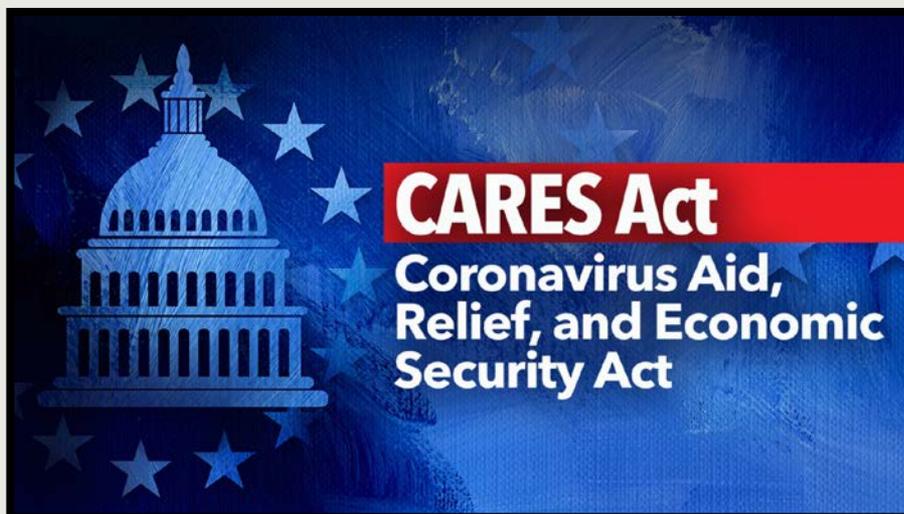


November 12, 2020

A R M

Tax Planning During Uncertain Times



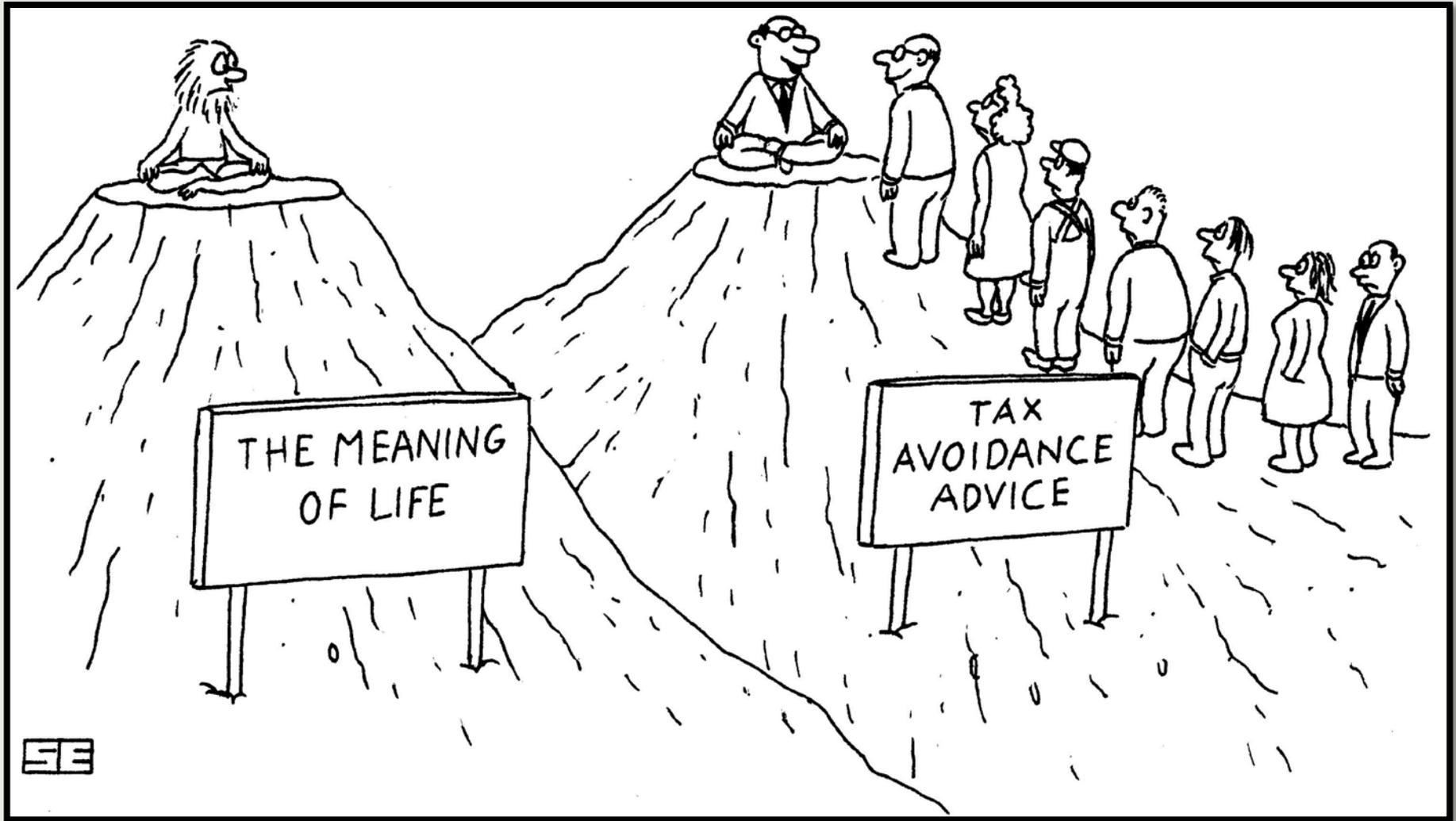
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Truth About Tax

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Disclaimer

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- This document and information is provided by Ary Roepcke Mulchaey, P.C. and the presenter for general guidance only, and does not constitute the provision of legal advice, accounting services, investment advice, written tax advice, or professional advice of any kind.
- The information provided herein should not be used as a substitute for consultation with professional tax, accounting, legal, or other competent advisors.
- Before making any decision or taking any action, you should consult with a professional adviser who has been provided with all pertinent facts relevant to your particular situation.
- The information is provided “as is” with no assurance or guarantee of completeness, accuracy, or timeliness of the information, and without warranty of any kind, express or implied, including but not limited to warranties of performance, merchantability, and fitness for a particular purpose.

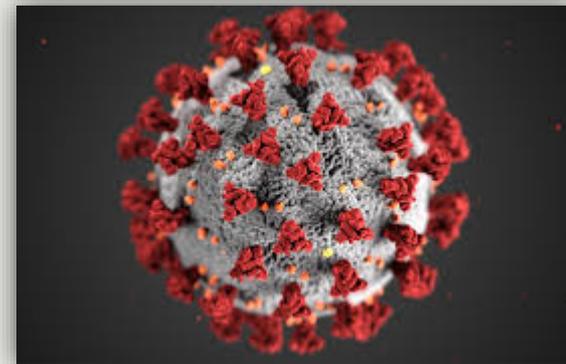
Days out of city

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- How many people live in a non-taxing city?
- How many people ever travel for work or work from home?



Case study

A R M

- John makes \$400k per year
- Travels or works from home 34 days during the year
- Works in city with tax rate of 2.5%
- Lives in non-taxing city

Days out calc



- If you work 34 days outside of the 2.5% taxing district and received a \$400,000 salary, you would only be required to pay city tax on \$340,844 of those earnings. Your total city tax refund would be \$1,479.

If you were a nonresident employee who worked part of the year outside the city for which your employer withheld city tax complete Lines 18 through 28. <u>Attach a list of the dates and locations worked out</u> See instructions.		
18. Enter the total number of vacation days taken during the entire year	18	20
19. Enter the total number of holidays for the entire year	19	10
20. Enter the total number of sick leave days taken during the entire year	20	
21. Add Lines 18 through 20	21	30
22. Subtract line 21 from 260 (total workdays in a year) (see instructions)	22	230
23. Enter your total wages for this job for the year	23	400,000.
24. Enter the amount of 2108 expenses related to this income. <u>Attach a copy</u> of the 2108 & Fed Sch A	24	
25. Subtract Line 24 from 23. If less than zero, enter zero	25	400,000.
26. Divide Line 25 by the number of days shown on Line 22	26	1,739.
27. Enter the number of days worked in the city (Line 22 less total days worked out)	27	196
28. Multiply Line 26 by Line 27. List this figure in Part A of Page 1 along with any other taxable wages you or your spouse earned. <u>Complete Certification by Employer below</u>	28	340,844.

Part B TAX CALCULATION A Declaration of Estimated City Tax (form IR-21) is REQUIRED for all individuals whose tax is not fully withheld.								
Column A CITY	C O D E	Column B INCOME FROM WAGES, SALARIES, COMMISSIONS, ETC. (SEE NET WAGES)	Column C INCOME FROM NET PROFITS, RENTS AND OTHER TAXABLE INCOME	Column D TOTAL NET TAXABLE INCOME	TAX RATE	Column E TAX DUE	Column F LESS TAX WITHHELD (W-2) PAID BY A PARTNERSHIP OR PAID DIRECTLY TO CITY WHERE INCOME WAS EARNED	Column G NET TAX DUE
COLUMBUS	01	340,844.		340,844.	2.5%	8,521.	10,000.	-1,479.
GROVEPORT	08				2.0%			

Working from home?

A R M

- Governor DeWine signed into law, House Bill 197 on March 27th, 2020.
 - Employees working from home during the pandemic are considered to be working in the location where they would typically be reporting on a regular and ordinary basis (i.e., their principal place of work).
 - Hot topic right now.
 - Constitutional?

- **Ohio Opportunity Zone Credit**

- The Taxpayer is eligible for a non-refundable tax credit equal to 10% of the amount of its funds invested by the Ohio QOF in the QOZ Property.
- The Ohio Opportunity Zone Tax Credit Program will have \$23 million available in tax credit allocation for its 2021 application round.
- The 2021 application period will open on Friday, January 8, 2021 at 10:00 a.m. and will be open through Sunday, January 31, 2021 at 11:59 p.m.

- **Ohio Opportunity Zone Credit**

- The tax credit is transferrable to another taxpayer, but may only be transferred one time.
- No additional transfer will be permitted.
- Great way to get value for a credit that a taxpayer may not be able to use during these uncertain times.

Is the amount eligible for forgiveness taxable income?

- Congressional intent was for the amount to be not taxable.
- IRS ruled that expenses related to forgiveness are not deductible (thus taxable).
- The IRS cited Section 256 of the tax code, which states that deductions can't be taken if they are tied to a certain class of tax-exempt income.

PPP Forgiveness

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Wages fully deducted

\$ 1,000,000 Gross Receipts
(500,000) Wages
(300,000) Other expenses
\$ **200,000** Net income

PPP loan wages not deducted

\$ 1,000,000 Gross Receipts
(400,000) Wages
(300,000) Other expenses
\$ **300,000** Net income

\$100,000 Increase in taxable income



PPP Forgiveness

A R M

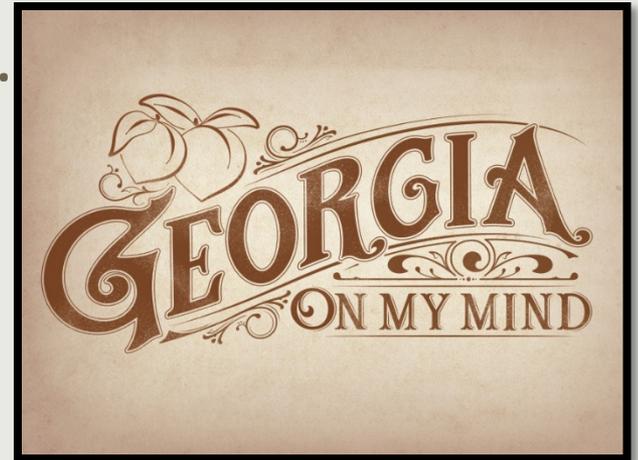
- What if loan forgiveness is deferred until 2021? Timing of forgiveness between 2020 and 2021 for tax reporting?
- Very important to run a projection to help avoid surprises.

- Lame Duck – COVID Relief
 - Expansion of PPP loan program
 - PPP loan expenses deductible
 - Expanded employment retention credit
 - Credit to employers for COVID-related health and safety improvements
 - Another round of checks
 - Federal unemployment extension
 - Testing, tracing, etc.

Biden - Planning

A R M

- **What to do now?**
 - Time to learn about Biden's tax plan.
 - Closely watch Senate races.
 - Have conversations with clients.
 - Timeline of reform.



Timeline

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- **September 15, 2016:** Trump's Campaign Tax Plan
- **April 26, 2017:** Administration releases 2017 Tax Reform for Economic Growth and American Jobs
- **July 27, 2017:** Administration and congressional Republican leaders release Joint Statement on Tax Reform
- **September 27, 2017:** Administration release Unified Framework for Fixing Our Broken Tax Code
- **October 20, 2017:** U.S. Senate passes budget resolution
- **November 1, 2017:** Tax reform bill release

Biden - Return



Form 1040		U.S. Individual Income Tax Return (2018)		2018	OMB No. 1545-0074	IRS Use Only - Do not write or staple in this space.	
Filing status: <input type="checkbox"/> Single <input checked="" type="checkbox"/> Married filing jointly <input type="checkbox"/> Married filing separately <input type="checkbox"/> Head of household <input type="checkbox"/> Qualifying widow(er)		Your first name and initial JOSEPH R.		Last name BIDEN JR.		Your social security number	
Your standard deduction: <input type="checkbox"/> Someone can claim you as a dependent <input checked="" type="checkbox"/> You were born before January 2, 1954 <input type="checkbox"/> You are blind		If joint return, spouse's first name and initial JILL T.		Last name BIDEN		Spouse's social security number	
Spouse standard deduction: <input type="checkbox"/> Spouse is blind <input type="checkbox"/> Someone can claim your spouse as a dependent <input checked="" type="checkbox"/> Spouse was born before January 2, 1954 <input type="checkbox"/> Spouse itemizes on a separate return or you were dual-status alien		Home address (number and street). If you have a P.O. box, see instructions.		Apt. no.		Presidential Election Campaign: (see inst.) <input checked="" type="checkbox"/> You <input checked="" type="checkbox"/> Spouse	
City, town or post office, state, and ZIP code. If you have a foreign address, attach Schedule G. WILMINGTON, DE						If more than four dependents, see inst. and <input type="checkbox"/> here	
Dependents (see instructions):		(2) Social security number	(3) Relationship to you	(4) <input checked="" type="checkbox"/> If qualifies for (see inst.): Child tax credit Credit for other dependents			
(1) First name	Last name						
Sign Here Joint return? See instructions. Keep a copy for your records.		Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.		Your signature <i>J. Biden</i>		Date 5-7-14	
Spouse's signature, if a joint return both must sign. <i>Jill T. Biden</i>		Date 7-7-19		Your occupation EXECUTIVE		If the IRS sent you an Identity Protection PIN, enter it here	
Spouse's occupation TEACHER		If the IRS sent you an Identity Protection PIN, enter it here		Preparer's name WALTER H DEYHLE, CPA		Preparer's signature <i>Walter H Deyhle</i>	
Preparer's title CPA		Preparer's PIN		Firm's EIN		Check if: <input checked="" type="checkbox"/> 3rd-Party Designee <input type="checkbox"/> Self-employed	
Firm's name GELMAN, ROSENBERG & FREEDMAN		Firm's address BETHESDA, MD 20814-2930		Phone no.			
LHA For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions.						Form 1040 (2018)	

Biden - Return



Form 1040 (2018) **JOSEPH R. BIDEN JR. & JILL T. BIDEN** Page 2

1		Wages, salaries, tips, etc. Attach Form(s) W-2	STMT 1	1	1,000,073.
2a		Tax-exempt interest	2a	2b	17,559.
3a		Qualified dividends	3a	3b	
4a		IRAs, pensions, and annuities	4a	4b	182,971.
5a		Social security benefits	5a	5b	42,113.
6		Total income. Add lines 1 through 5. Add any amount from Schedule 1, line 22	3,337,743.	6	4,580,459.
7		Adjusted gross income. If you have no adjustments to income, enter the amount from line 6; otherwise, subtract Schedule 1, line 36, from line 6		7	4,580,437.
8		Standard deduction or itemized deductions (from Schedule A)		8	314,351.
9		Qualified business income deduction (see instructions)		9	
10		Taxable income. Subtract lines 8 and 9 from line 7. If zero or less, enter -0-		10	4,266,086.
11		a Tax (see instructions) 1,517,831. (check if any from: 1 Form 8814 2 Form 4972 3)		11	1,517,831.
12		b Add any amount from Schedule 2 and check here		12	
13		Subtract line 12 from line 11. If zero or less, enter -0-		13	1,517,831.
14		Other taxes. Attach Schedule 4		14	10,377.
15		Total tax. Add lines 13 and 14		15	1,528,208.
16		Federal income tax withheld from Forms W-2 and 1099	SEE STATEMENT 5	16	191,816.
17		Refundable credits: a EIC (see inst.) b Sch 6812 c Form 8863		17	1,349,438.
18		Add any amount from Schedule 5	1,349,438.	18	1,541,254.
19		Add lines 16 and 17. These are your total payments		19	13,046.
20a		If line 18 is more than line 15, subtract line 15 from line 18. This is the amount you overpaid		20a	
21		Amount of line 19 you want refunded to you. If Form 8888 is attached, check here			
22		b Routing number			
23		c Type: Checking Savings			
24		d Account number			
25		Amount of line 19 you want applied to your 2019 estimated tax	13,046.	25	
26		Amount you owe. Subtract line 18 from line 15. For details on how to pay, see instructions		26	
27		Estimated tax penalty (see instructions)		27	

Go to www.irs.gov/Form1040 for instructions and the latest information.

Form 1040 (2018)

Biden – S Corp change?

A R M

SCHEDULE 1 (Form 1040) <small>Department of the Treasury Internal Revenue Service</small>		Additional Income and Adjustments to Income Attach to Form 1040. Go to www.irs.gov/Form1040 for instructions and the latest information.		OMB No. 1545-0074 2018 Attachment Sequence No. 01	
Name(s) shown on Form 1040 JOSEPH R. BIDEN JR. & JILL T. BIDEN				Your social security number	
Additional Income	1-9b	Reserved	STATEMENT 6	1-9b	
	10	Taxable refunds, credits, or offsets of state and local income taxes	STATEMENT 7	10	99,383.
	11	Alimony received		11	
	12	Business income or (loss). Attach Schedule C or C-EZ		12	1,596.
	13	Capital gain or (loss). Attach Schedule D if required. If not required, check here <input type="checkbox"/>		13	
	14	Other gains or (losses). Attach Form 4797		14	
	15a	Reserved		15b	
	16a	Reserved		16b	
	17	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E		17	3,236,764.
	18	Farm income or (loss). Attach Schedule F		18	
19	Unemployment compensation		19		
20a	Reserved		20b		
21	Other income. List type and amount		21		
22	Combine the amounts in the far right column. If you don't have any adjustments to income, enter here and include on Form 1040, line 6. Otherwise, go to line 23		22	3,337,743.	
Adjustments to Income	23	Educator expenses	23		
	24	Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106	24		
	25	Health savings account deduction. Attach Form 8869	25		
	26	Moving expenses for members of the Armed Forces. Attach Form 3903	26		
	27	Deductible part of self-employment tax. Attach Schedule SE	27	22.	
	28	Self-employed SEP, SIMPLE, and qualified plans	28		
	29	Self-employed health insurance deduction	29		
	30	Penalty on early withdrawal of savings	30		
	31a	Alimony paid b Recipient's SSN	31a		
	32	IRA deduction	32		
33	Student loan interest deduction	33			
34	Reserved	34			
35	Reserved	35			
36	Add lines 23 through 35		36	22.	

LHA For Paperwork Reduction Act Notice, see your tax return instructions.

Schedule 1 (Form 1040) 2018

Biden - Amended

A R M

Check here if this is a joint return and your spouse did not previously want \$3 to go to the fund, but now does.

Part III Explanation of Changes. In the space provided below, tell us why you are filing Form 1040X.

▶ Attach any supporting documents and new or changed forms and schedules.

DURING 2018, THE TAXPAYER MADE A \$25,000 CONTRIBUTION TO WALKING WITH THE WOUNDED, WHICH IS A CHARITABLE ENTITY ORGANIZED IN THE UNITED KINGDOM. IN PREPARING THE RETURN, THIS CONTRIBUTION WAS MISTAKENLY IDENTIFIED AS HAVING BEEN MADE TO A SECTION 501(C)(3) ORGANIZATION. A REVIEW OF THE UNDERLYING PAPERWORK IDENTIFIED THIS ERROR AFTER THE RETURN WAS FILED. CONSEQUENTLY, THE RETURN IS BEING AMENDED TO REMOVE THE DEDUCTION.

Remember to keep a copy of this form for your records.

Under penalties of perjury, I declare that I have filed an original return and that I have examined this amended return, including accompanying schedules and statements, and to the best of my knowledge and belief, this amended return is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information about which the preparer has any knowledge.

Sign Here

▶ *R. Biden* 7-7-19 EXECUTIVE
Your signature Date Your occupation

▶ *Jill T. Biden* 7-7-19 TEACHER
Spouse's signature. If a joint return, both must sign. Date Spouse's occupation

Paid Preparer Use Only

▶ *Walter H. Deyhle CPA* 7/7/19 GELMAN, ROSENBERG & FREEDMAN
Preparer's signature Date Firm's name (or yours if self-employed)

WALTER H DEYHLE, CPA BETHESDA, MD 20814-2930
Print/type preparer's name Firm's address and ZIP code

Check if self-employed

PTIN _____ Phone number _____ EIN _____

810702 02-09-19 For forms and publications, visit www.irs.gov Form 1040X (Rev. 1-2019)

Joe Biden Tax Plan

A R M

- “As President, Biden will require corporations and the wealthiest Americans to finally pay their fair share. He won’t ask a single person making under \$400,000 per year to pay a penny more in taxes, and will in fact enact more than one-dozen middle class tax cuts that will finally give working families the financial support they deserve.” - joebiden.com

Conventional Revenue, 2021-2030 (Billions of Dollars)	\$3,052
Dynamic Revenue, 2021-2030 (Billions of Dollars)	\$2,650
Gross Domestic Product (GDP)	-1.47%
Capital Stock	-2.54%
Full-time Equivalent Jobs	-517,800

Source: Tax Foundation General Equilibrium Model, January 2020.

Biden – SS tax increase

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- Imposes a 12.4 percent Old-Age, Survivors, and Disability Insurance (Social Security) payroll tax on income earned above \$400,000, evenly split between employers and employees to secure solvency of the program.
- This would create a “donut hole” in the current Social Security payroll tax, where wages between \$137,700, the current 2020 wage cap, and \$400,000 are not taxed.
- 2021 wage cap will increase to \$142,800.

Biden – Top tax rate

- Reverts the top individual income tax rate for taxable incomes above \$400,000 from 37 percent under current law to the pre-Tax Cuts and Jobs Act level of 39.6 percent
- It is not clear how the \$400,000 threshold would apply.

Income	Current Rate	Biden Rate	Bernie Rate
\$0-\$9,875	10%	10%	
\$9,876-\$40,125	12%	12%	12%
\$40,126-\$38,700	12%	12%	16%
\$38,701-\$85,525	22%	22%	26%
\$85,526-\$163,300	24%	24%	28%
\$163,301-\$207,350	32%	32%	36%
\$207,350-\$250,000	35%	35%	39%
\$250,000-\$400,000	37%	37%	44%
\$400,001-\$518,400	37%	39.6%	44%
\$518,401-\$2,000,000	37%	39.6%	49%
\$2,000,001-\$10,000,000	37%	39.6%	54%
>\$10,000,000	37%	39.6%	56%

Biden – QBI Phase out

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- Phase out of the “Qualified Business Income” Section 199A deduction for taxpayers with income over \$400,000.
- Would result in significant tax increase for business owners who are currently paying ~30% with the QBI deduction.
- With no QBI deduction, their new marginal rate of 39.6% would be an approximate 10% point increase.

Biden – Cap Gains

A R M

- Taxes long-term capital gains and qualified dividends at the ordinary income tax rate of 39.6 percent on income above \$1 million.
- Would only apply to the income in excess of \$1 million.
- The top rate paid on long-term capital gains and dividends would nearly double
 - 20% long-term capital gains tax + 3.8% surtax = 23.8%
 - 39.6% + 3.8% = 43.4%

Biden – Cap Gains

A R M

- Eliminates the step-up in basis for capital gains at death.
- Can be problematic from a record keeping perspective.
- Potential deemed sale rule would consider any built-in gain of an asset to be taxable upon the owner's death.
 - Liquidity would be a concern
 - Life insurance planning

Biden – Itemized Cap

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- Caps the tax benefit of itemized deductions to 28 percent of value for those earning more than \$400,000
- Restores the Pease limitation on itemized deductions for taxable incomes above \$400,000.
 - The itemized deductions of taxpayers are reduced by 3% of the amount by which AGI exceeds \$400,000, but the reduction could not exceed 80% of the total itemized deductions.



Biden – Corporate rate

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- The hallmark of the TCJA was the reduction of the corporate rate from 35% to 21%.
- Biden’s plan would increase the corporate rate to 28%.
- Propose a new form of the AMT by requiring corporations with financial statement income in excess of \$100 million to pay at least 15% on financial statement income.

Biden – Corporate rate

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- When the economists get done “scoring” the Biden tax plan, despite the safeguards put in place to prevent tax increases on those earning less than \$400,000, the distributional analysis will in fact show increases at the lower levels.
- These increases, however, will all be attributable to the increase in the corporate tax rate.
- The theory is that when corporate taxes are increased, workers – and not just shareholders – bear the burden of a piece of those corporate taxes.

Biden – Economic Effect

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Economic Effect of Biden's Tax Plan by Provision

Provision	Long-Run Change in Economic Output
Apply a Social Security payroll tax of 12.4% to earnings above \$400,000	-0.18%
Tax capital gains and dividends at 39.6% on income above \$1 million and repeal step-up in basis	-0.02%
Limit the tax benefit of itemized deductions at 28% of value for those earning over \$400,000	-0.09%
Raise the corporate income tax to 28%	-0.97%
15% corporate minimum book tax	-0.21%
Total	-1.47%

Source: Tax Foundation General Equilibrium Model, January 2020.

Biden – Retirement

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🔒 joebiden.com/two-tax-policies/

Equalizing the tax benefits of retirement plans. Current tax benefits for retirement savings provide upper-income families with a significant tax break, while providing a limited benefit for low- and middle-income workers. Biden will equalize benefits across the income scale, so working families also receive substantial tax benefits when they put money away for retirement.

- Proposal to eliminate the current deduction for a flat credit to equalize the tax savings for contributions.
 - Currently high income earners get a large deduction.
 - \$10,000 contribution would save \$3,700 (37%)
 - Currently lower income earners get a smaller deduction.
 - \$10,000 contribution may only save \$1,200 (12%)

Biden – Retirement

A R M

- No specific credit percentage or details on this change have been made available.
- The Tax Policy Center estimates that a percentage of 26% would be revenue neutral.
- In that scenario, regardless of income level, a taxpayer would get a 26% credit for retirement contributions.

Biden – Retirement

A R M

- No deduction up front for traditional contribution— just a credit.
- May alter current Roth vs traditional strategy
 - High income earners may opt for Roth since not as much tax savings with a traditional.
 - Low income earners may opt for traditional to get larger credit than currently receiving (with deduction).

- **First-time homebuyer credit**
 - A new refundable credit of up to \$15,000.
- **Renter’s tax credit**
 - Creating a refundable renter’s tax credit capped at \$5 billion per year, aimed at holding rent and utility payments at 30 percent of monthly income.

Biden – 1031 Exchange

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- The Biden tax plan proposes the elimination of the 1031 Exchange for taxpayers with income in excess of \$400,000.

1031 Exchange



Biden –Dependent Care

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- **Dependent Care**

- Expands the Child and Dependent Care Tax Credit (CDCTC) from a maximum of \$3,000 in qualified expenses to \$8,000 (\$16,000 for multiple dependents).
- Also increases the maximum reimbursement rate from 35 percent to 50 percent.

- **Child Tax Credit** – The current credit of \$2,000 per child under age 17 would be increased to \$3,600 for children under age 6, and \$3,000 for all other children under age 17.
- **Caregiver Credit** – A new credit of up to \$5,000 would be created to assist individuals who provide informal care to those in need of long-term care.

Biden – Revenue

Conventional and Preliminary Dynamic Revenue Effect of Biden's Tax Plans (Billions of Dollars)

Proposal	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2021-2030
1. Apply a Social Security payroll tax of 12.4% to earnings above \$400,000	\$73.2	\$78.5	\$81.3	\$80.7	\$79.5	\$80.8	\$83.9	\$87.1	\$88.1	\$86.8	\$819.9
2. Raise the top ordinary income tax rate from 37% to 39.6%	\$25.1	\$29.0	\$30.4	\$31.1	\$32.5	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$148.1
3. Reactivate the Pease limitation for income above \$400,000	\$16.2	\$18.8	\$19.7	\$20.4	\$21.4	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$96.6
4. Tax capital gains and dividends at 39.6 percent on income over \$1 million and repeal step-up in basis	\$14.2	\$27.1	\$39.5	\$42.1	\$45.8	\$49.5	\$56.9	\$61.8	\$64.8	\$67.6	\$469.4
5. Limit the tax benefit of itemized deduction at 28% of value for those earning over \$400,000	\$23.7	\$27.7	\$28.9	\$29.7	\$31.2	\$25.3	\$27.7	\$28.7	\$29.7	\$31.0	\$283.5
6. Phase out qualified business income deduction for income over \$400,000	\$29.9	\$34.4	\$35.8	\$37.3	\$39.6	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$177.1
7. Expand the Child Tax Credit to \$3,000 maximum value, \$600 bonus for children under 6, and make the CTC fully refundable with no phase-in thresholds	-\$105.5	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	-\$105.5
8. Expand the Child and Dependent Care Tax Credit (CDCTC) to a maximum value of \$8,000 and increase the refundability percentage to a maximum of 50 percent	-\$6.0	-\$7.0	-\$7.2	-\$7.5	-\$7.9	-\$8.3	-\$8.7	-\$9.0	-\$9.4	-\$9.7	-\$80.7
9. Provide a First Time Homebuyer Credit up to \$15,000 in value	-\$12.0	-\$14.0	-\$14.5	-\$15.0	-\$15.9	-\$16.9	-\$17.8	-\$18.8	-\$19.4	-\$20.2	-\$164.6
10. Raise the corporate income tax rate to 28%	\$40.9	\$78.0	\$96.0	\$106.3	\$115.8	\$117.4	\$118.5	\$122.7	\$125.8	\$128.9	\$1,050.8
11. Impose a 15 percent corporate minimum tax on book income	\$7.9	\$15.1	\$18.6	\$20.5	\$22.3	\$22.7	\$22.9	\$23.7	\$24.3	\$24.9	\$202.7
12. Double the tax rate on GILTI, eliminate the exemption for deemed returns to QBAI, and impose GILTI on a country-by-country basis	\$16.0	\$29.5	\$34.7	\$39.2	\$43.1	\$28.5	\$26.9	\$26.3	\$24.3	\$21.2	\$289.7
13. Miscellaneous credits	-\$6.6	-\$9.1	-\$11.0	-\$11.8	-\$12.9	-\$14.7	-\$15.7	-\$16.6	-\$17.5	-\$18.4	-\$134.3
Total Conventional Revenue	\$117	\$308	\$352	\$373	\$395	\$284	\$295	\$306	\$311	\$312	\$3,052
Total Dynamic Revenue*	\$110	\$271	\$301	\$330	\$345	\$287	\$256	\$250	\$252	\$249	\$2,650

*Note: Dynamic 10-year revenue is a preliminary estimate that we will be updating in subsequent analysis. Source: Tax Foundation General Equilibrium Model, January 2020. Items may not sum due to rounding.

Biden – Estate

- Estate tax

- Plan is to return the exemption levels to pre-TCJA levels (basically half current levels).

Year	Estate and Generation-Skipping Transfer (GST) tax rate	Gift tax rate	Estate and GST tax exemptions	Lifetime gift exemptions	Annual gift exclusion ^a
2007	45%	45%	\$2 million	\$1 million	\$12,000
2008	45%	45%	\$2 million	\$1 million	\$12,000
2009	45%	45%	\$3.5 million	\$1 million	\$13,000
2010	0% ^a	35%	N/A ^b	\$1 million	\$13,000
2011	35%	35%	\$5 million	\$5 million	\$13,000
2012	35%	35%	\$5.12 million	\$5.12 million	\$13,000
2013	40%	40%	\$5.25 million	\$5.25 million	\$14,000
2014	40%	40%	\$5.34 million	\$5.34 million	\$14,000
2015	40%	40%	\$5.43 million	\$5.43 million	\$14,000
2016	40%	40%	\$5.45 million	\$5.45 million	\$14,000
2017	40%	40%	\$5.49 million	\$5.49 million	\$14,000
2018	40%	40%	\$11.18 million	\$11.18 million	\$15,000
2019	40%	40%	\$11.40 million	\$11.40 million	\$15,000
2020	40%	40%	\$11.58 million	\$11.58 million	\$15,000

- **U.S Supreme Court**
 - Texas v. United States
 - The Supreme Court will review the constitutionality of the Patient Protection and Affordable Care Act (ACA)
 - Decision expected sometime next spring/summer

- **To file or not to file**
 - Should taxpayers file protective refund claims regarding the case?
 - What is a protective refund claim?
 - If a protective claim is filed, it must be on a reasonable basis.
 - Statute of limitations applies.

- **Questions to consider**
 - What's the likelihood of the Court holding the ACA unconstitutional?
 - If held unconstitutional, what is effective date? 1/1/2019?
 - What's the dollar amount of tax that makes filing a protective claim potentially worthwhile?

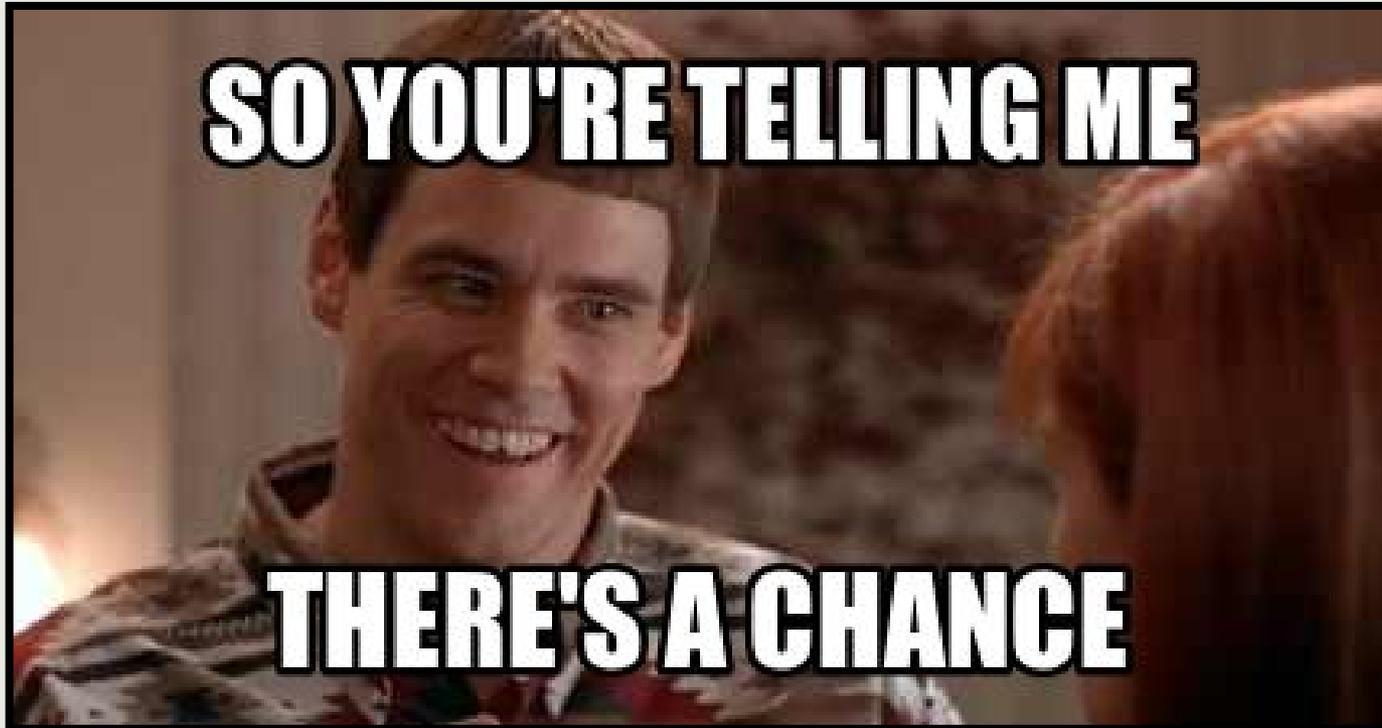
- **Questions to consider**
 - What's the likelihood of the Court holding the ACA unconstitutional?
 - If held unconstitutional, what is effective date? 1/1/2019?
 - What's the dollar amount of tax that makes filing a protective claim potentially worthwhile?

ACA Refunds

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ACA Refunds

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The screenshot shows the IRS website interface. At the top, there is the IRS logo and navigation links for Help, News, English, Charities & Nonprofits, and Tax Pros. Below this is a secondary navigation bar with links for File, Pay, Refunds, Credits & Deductions, and Forms & Instructions, along with a search bar. The main content area features a breadcrumb trail: Home / Forms and Instructions / Post Release Changes to Forms. The title of the page is "Due Date to File a Protective Claim for Tax Year 2016 Individual Income Tax Returns, Including for ACA, Has Been Postponed Until July 15, 2020". On the left side, there is a vertical menu with options: Current Year, Prior Year, Accessible, eBooks, Browser Friendly, Post Release Changes to Forms (highlighted), Order Forms and Pubs, Help with Forms and Instructions, and Comment on Tax Forms and Publications. The main text area contains a paragraph explaining the general filing rule, a paragraph detailing the postponement due to COVID-19, a section for Form 1040-X instructions, and a section titled "Protective claim for refund" which includes a list of requirements for such a claim.

Due Date to File a Protective Claim for Tax Year 2016 Individual Income Tax Returns, Including for ACA, Has Been Postponed Until July 15, 2020

Current Year
Generally, the taxpayer must file their claim for a credit or refund within 3 years after the date they filed their original return or within 2 years after the date they paid the tax, whichever is later.

Prior Year
As a result of COVID-19, the due date to file a protective claim for tax year 2016 individual income tax returns has been postponed until July 15, 2020. To file a protective claim for tax year 2016, taxpayers make sure their claim is properly addressed, mailed, and postmarked by July 15, 2020.

Accessible

eBooks
For Forms 1040-X filed as "Protective Claims under the ACA litigation," write "Protective Claim for refund under California, et al. v. Texas" at the top of Form 1040-X.

Browser Friendly

Post Release Changes to Forms
Instructions related to [Form 1040-X](#) in IRS Publication 17 include:

Protective claim for refund
Generally, a protective claim is a formal claim or amended return for credit or refund normally based on current litigation or expected changes in tax law or other legislation. You file a protective claim when your right to a refund is contingent on future events and may not be determinable until after the statute of limitations expires. A valid protective claim doesn't have to list a particular dollar amount or demand an immediate refund. However, a valid protective claim must:

- Be in writing and signed
- Include your name, address, SSN or ITIN, and other contact information
- Identify and describe the contingencies affecting the claim
- Clearly alert the IRS to the essential nature of the claim
- Identify the specific year(s) for which a refund is sought.

ACA Refunds

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FORM 1040X

STATEMENT 1

THE TAXPAYERS ARE FILING AN AMENDED 2016 FORM 1040 TO MAKE A PROTECTIVE CLAIM FOR REFUND UNDER THE AFFORDABLE CARE ACT LITIGATION (CALIFORNIA, ET AL. V. TEXAS).

AS A RESULT OF THE ABOVE CHANGE, ADDITIONAL MEDICARE TAX OF [REDACTED] ON FORM 8959 AND NET INVESTMENT INCOME TAX OF \$ [REDACTED] ON FORM 8960 OF THE ORIGINALLY FILED RETURN WILL NO LONGER APPLY, PENDING THE OUTCOME OF THE AFFORDABLE CARE ACT LITIGATION.

ACA Refunds



- In March 2020, the Supreme Court of the United States agreed to review the case of *California v. Texas*. Known as *Texas v. United States* in the lower court proceedings, the lower courts held that, after enactment of the Tax Cuts and Jobs Act of 2017, P.L. 115-97 (“TCJA”), which reduced the so-called “Individual Mandate Penalty” or “IMP” to zero, the Patient Protection and Affordable Care Act of 2010, P.L. 111-148 (“ACA”) was then deemed unconstitutional and the remaining provisions in the ACA were then invalid as they could not be severed from the other provisions of the ACA.
- *It has been suggested in the press and by other practitioners that protective claims should be considered for taxpayers that may be impacted by the Supreme Court case. We have determined, however, that no immediate action is required at this time, because period of limitations for the years in question (i.e., 2019 and 2020) should remain open while the Court considers the case. As discussed below, depending on the Court’s ruling, amended returns may be considered thereafter.*
- Background. The ACA added an additional Medicare surtax, currently 0.9 percent (above what was in effect prior to the ACA), to wages and self-employment income above certain income amounts based on filing status. After enactment of the ACA, therefore, the Medicare tax starts at 1.45 percent and then rises to 2.35 percent over the relevant income level. IRC Sec. 1401(b)(2). This is in addition to the Social Security tax, which applies to wage earners, self-employed individuals, and partners with active partnership interests.
- The ACA includes an individual coverage mandate and a separate individual mandate penalty for failure to comply with the mandate (IMP). The IMP is imposed on taxpayers that do not have minimum essential coverage. IRC Sec. 5000A. In 2018, for example, the IMP for those not covered by insurance was \$295.00 or 2.5 percent of household income, whichever was higher. In the 2012 case *National Federation of Independent Business v. Sebelius*, 567 U.S. 519, the individual coverage mandate was held unconstitutional; however, the IMP was upheld as a constitutional tax by the Supreme Court.

ACA Refunds



- A provision included in the TCJA effectively repealed the IMP by reducing that amount to zero effective January 1, 2019.
- Current Supreme Court action. The Supreme Court case, which is expected to be argued during the October 2020 term, will consider whether the zero-rate IMP renders the coverage provision unconstitutional and, if so, whether the IMP is severable from the rest of the ACA – or if the entire ACA is therefore invalid.
- With a decision expected sometime before the end of June 2021, the Supreme Court may rule that the IMP remained valid even when reduced to zero. The Court may instead rule that, although the IMP zero rate is unconstitutional, the rest of the ACA remains valid. Finally, the Court could ultimately rule that the reduction of the IMP to zero deems the entire ACA unconstitutional, in which case the 0.9-percent Medicare surtax (included in the ACA) would be invalid. If the entire ACA is held unconstitutional, the validity of other taxes enacted as part of the ACA would also be at stake. These include, for example, the employer shared responsibility payment (IRC Sec. 4980H), taxes on failure by hospital organizations (IRC Sec. 4959), and indoor tanning excise tax (IRC Sec. 5000B).
- *If the entire ACA is deemed unconstitutional and thus invalid, we believe it would be from the effective date of the repeal of the IMP, which is January 1, 2019. This would likely mean that the 0.9-percent Medicare surtax would be invalid effective January 1, 2019, and forward. In such a case, for clients that have paid the Medicare Surtax in 2019 and later, we believe amended returns to claim the Medicare Surtax for 2019 and later years should be recommended to affected clients.*
- *The 3.8-percent Net Investment Income Tax (NIIT) (IRC Sec. 1411), medical device excise tax (IRC Sec. 4191), and codification of the economic substance doctrine (IRC Sec. 7701(o)) were enacted as part of the Health Care and Education Reconciliation Act of 2010, P.L. 111-152 (“HCERA”). The HCERA, although enacted in conjunction with the ACA, is technically a different law from the ACA. When discussing the Supreme Court case with clients, please note that there has been some discussion in the press and by other professionals that, if the Supreme Court rules the ACA unconstitutional because of effective repeal of the IMP, it could impact the validity of these provisions that were enacted as part of the HCERA.*
- While *California v. Texas* raises uncertainty about the ultimate survival of the ACA, the ACA does remain in effect for now and, therefore, must currently be followed in its entirety.

NOL Carryback

A R M

- TCJA limited NOLs arising after 2017 to 80% of taxable income and eliminated the ability to carry NOLs back to prior tax years.
- For NOLs arising in tax years beginning before 2021, the CARES Act allows taxpayers to carryback 100% of NOLs to the prior five tax years.
- 2018, 2019, 2020 losses can be carried back.

NOL Carryback

A R M

- The CARES Act also retroactively turns off the excess active business loss limitation rule of the TCJA by deferring its effective date to tax years beginning after December 31, 2020.
- Under the rule, active net business losses in excess of \$250,000 (\$500,000 for joint filers) are disallowed and were treated as NOL carryforwards in the following tax year.

Increase losses?

A R M

- 100% Bonus depreciation.
- Utilize cost segregation studies to accelerate deductions.
- Defer income, accelerate expenses.

Cost Segregation

A R M

- Commercial buildings typically depreciated over 39 years.
- Cost segregation allocates part of building to shorter asset classes.
- Way to accelerate deductions.

Cost Segregation

A R M

Component Number	Description	Asset Class	Class Life	Component Cost	Cost with Indirects	Acquisition Cost
520	Interior Protective Posts, Railings & Fencing	57.0	5.0	4,260.00	4,744.35	3,770.85
610	Decorative Millwork/Casework	57.0	5.0	5,768.25	6,424.08	5,105.91
920	Removable Partition Walls, Wall Coverings & Ceiling	57.0	5.0	45,489.60	50,661.59	40,266.29
940	Removable Floor Coverings	57.0	5.0	24,142.40	26,887.30	21,370.27
950	Carpet Floor	00.12	5.0	31,136.00	34,676.04	27,560.83
1010	Fire Extinguishers	57.0	5.0	796.80	887.39	705.31
1020	Interior Signage, Signage on Building, & Removable Signage	57.0	5.0	413.62	460.64	366.12
1110	Interior Business Equipment	57.0	5.0	11,428.80	12,728.21	10,116.50
1210	Cabinets & Countertops	57.0	5.0	104,783.50	116,696.97	92,751.80
2211	Plumbing System for Patient Exam Stations	57.0	5.0	59,698.50	66,485.98	52,843.66
2235	Compressed Air & Vacuum Systems for Dental Equipment	57.0	5.0	10,169.15	11,325.34	9,001.48
2612	Business Hook-Ups	57.0	5.0	20,473.82	22,801.61	18,122.93
2616	Break Room Hook-ups	57.0	5.0	1,738.00	1,935.60	1,538.44
2620	Vending Machine Hook-ups	57.0	5.0	367.00	408.73	324.86
2642	Service & Distribution Panels	57.0	5.0	37,155.60	41,380.04	32,889.23
2650	Building Mounted Lighting and Hook-ups	57.0	5.0	4,679.07	5,211.06	4,141.80
2672	Specialty Lighting	57.0	5.0	17,725.55	19,740.88	15,690.23
2686	Gas Water Heater Hook-ups	57.0	5.0	366.96	408.68	324.82
2810	Intrusion Detection, Video Surveillance & Fire Detection	57.0	5.0	2,250.00	2,505.82	1,991.65
Total 5-Year Property						338,882.96

RELATIONSHIPS | built on results

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Cost Segregation

- Example of post-study results:

MACRS Classifications	
5-year property:	\$ 338,882.96
7-year property:	\$ 22,240.24
15-year property:	\$ 86,243.48
39-year property:	\$ 514,148.32
TOTAL:	\$ 961,515.00

- Can do true-up in current year to change previous method.

What Qualifies for the R&D Tax Credit?

- If your company does any of the following, your business likely qualifies for the R&D Tax Credit:
 - Develops or designs new products or processes.
 - Enhances existing products or processes.
 - Develops or improves upon existing prototypes and software.

- **Credits for our clients**
 - Wood manufacturer
 - Dentist
 - Online clothing retailer
 - Apparel manufacturer and seller
 - Financial planning software company
 - Car part manufacturer

Also can get an Ohio Commercial Activity Tax credit!



SOFTWARE/TECHNOLOGY

- Cybersecurity
- Digital Advertising
- Digital Media Marketing
- Gaming
- Government Contracting
- Information Technology
- IT Resellers/IT Solutions Providers
- Mobile Applications
- Network Engineering



SYSTEM INTEGRATION

- Audio Visual Integration
- Building System Controls
- Distributors
- Industrial Control & Automation
- Life Safety Systems
- Manufacturing Representatives
- Material Handling
- Security Systems Integration



ENGINEERING & ARCHITECTURE

- Civil Engineering
- Electrical Engineering
- Mechanical Engineering
- Plant Design & Engineering
- Product Engineering
- Process Engineering
- Structural Engineering
- Waste Management



AGRICULTURE

- Agricultural Co-ops
- Egg Production
- Nut Growing
- Dairy Farming
- Poultry
- Pork Processing
- Swine Production
- Vineyard



MANUFACTURING/ FABRICATION

- Aerospace
- Aluminum Extrusion
- Automotive Manufacturing
- Commercial Printing
- Contract Manufacturing
- Cosmetics
- Electronics Manufacturing
- Food Processing
- Footwear
- Foundry
- Machine Shop
- Metal Stamping
- Packaging
- Plastic Injection Molding
- Precision Manufacturing
- Semiconductor
- Ship/Boat Building & Repair
- Sheet Metal Fabrication
- Steel Fabrication
- Technology Manufacturing
- Tool & Die/Job Shop



CONSTRUCTION/ CONTRACTING

- Bridge Design
- Civil Construction
- Curtain Wall Fab & Construction
- Electrical Contracting
- General Contracting
- Marine Construction
- Mechanical Contracting
- MEP Contracting
- Specialty Contracting
- Utility Contracting



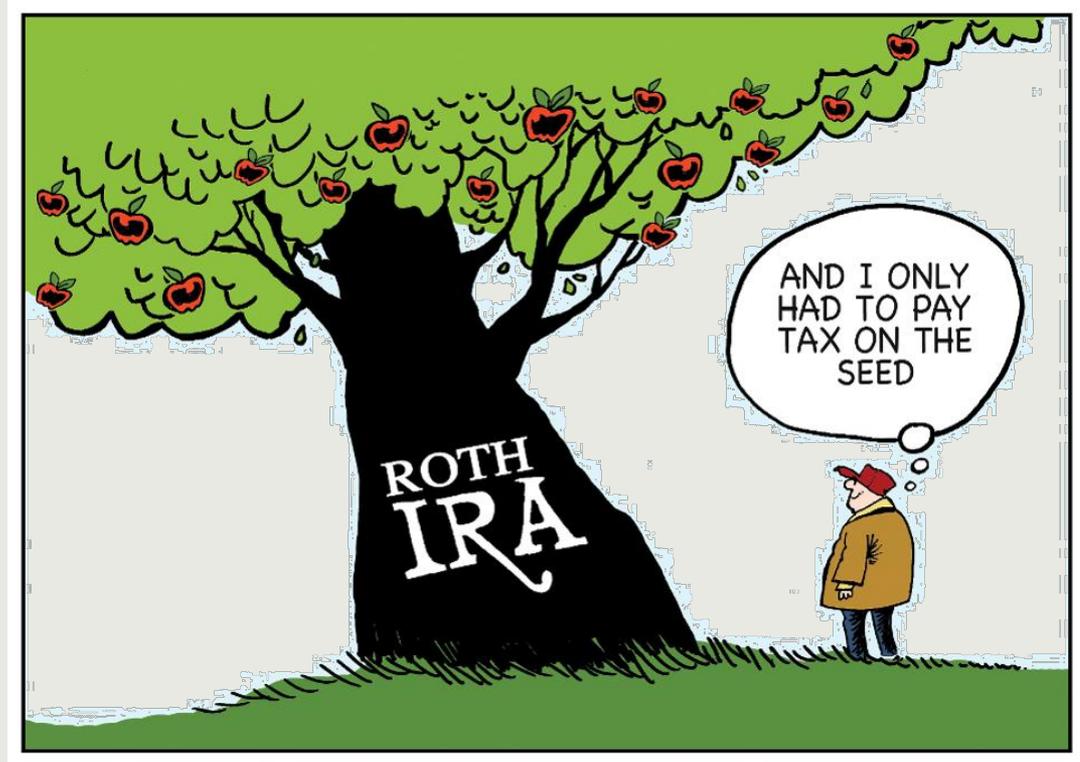
OIL & GAS

- Engineering, Procurement & Construction
- Heat Exchangers
- Oil & Gas Manufacturing
- Oil & Gas Engineering
- Oil & Gas Construction
- Pressure Vessels Fabrication

Roth Conversions

A R M

- 2020: Year of the Roth Conversion?
 - In the right circumstances the savings can be substantial.



Next Steps

A R M

- Review each client and consider their overall financial situation.
- Discuss with client and other professional advisors as needed.
- Get a plan in place.
- Execute now?
 - Be ready in the event the market comes back down? If market takes a drastic fall, then may be a great time to get aggressive.
 - Wait until year-end when more data is available on overall income/deductions?

Client Buckets

A R M

- Client who already is taking RMDs
- Client in gap years
- Younger client with small pre-tax IRA
- High income/business owner with low income year

Already Taking RMDs

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- Client that is already taking RMDs
 - Convert strategic amount depending on tax situation.
 - Maximize low tax brackets.
 - Important to run tax projection.
 - Consider cash flow needs.

- Client in gap years
 - Utilize lower brackets before RMD and Social Security.
 - Strategy that we used pre CARES and SECURES act.
 - May make sense to do additional Roth conversion given the current environment.

Gap Years

A R M

Summary Report

	Before SS and RMD			Before RMD			SS and RMD		
	Case 1	Case 2	Case 3	Case 1	Case 2	Case 3	Case 1	Case 2	Case 3
Income:									
Interest & Dividends	3,119	3,119	3,119	3,119	3,119	3,119	3,119	3,119	3,119
Social Security Benefits	0	0	0	4,701	12,291	20,791	33,150	33,150	33,150
Capital Gains & Losses	-3,000	-3,000	-3,000	-3,000	-3,000	-3,000	-3,000	-3,000	-3,000
Other Income	26,500	46,500	105,000	21,750	31,750	41,750	71,000	81,000	161,000
Total Income	26,619	46,619	105,119	26,570	44,160	62,660	104,269	114,269	194,269
Total Adjustments	0	0	0	0	0	0	0	0	0
Adjusted Gross Income	26,619	46,619	105,119	26,570	44,160	62,660	104,269	114,269	194,269

	2019			2020			2021		
	Case 1	Case 2	Case 3	Case 1	Case 2	Case 3	Case 1	Case 2	Case 3
IRA Income Change		20,000.00	58,500.00		10,000.00	10,000.00		10,000.00	80,000.00
Tax Change		2,031.00	7,260.00		1,759.00	2,202.00		2,187.00	17,604.00
Effective Rate		10.16%	12.41%		17.59%	22.02%		21.87%	22.01%

Younger client

A R M

- Client has a relatively small pre-tax IRA
 - Convert full amount given market environment.
 - Probably in lower tax bracket.
 - Start doing **back door** Roth conversions!

High Income (not 2020)

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- High income/business owner client with low income year
- Has cash flow/security (doesn't need the tax paid on the conversion).
- Maximize lower brackets

Other Considerations

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- Change pre-tax 401(k) deferrals temporarily to Roth?
 - Remember to not be all Roth. Good to have pre-tax income available for tax planning in retirement.
- Do back-door Roth strategy earlier in year vs waiting until year-end?
- Be sure to run projections to avoid surprises
 - Marginal rate can be difficult to predict!

Marginal Rate

A R M

	315k before QBI deduction	415k total phaseout
Income:		
Other Income	339,000	439,000
Total Income	339,000	439,000
Total Adjustments	0	0
Adjusted Gross Income	339,000	439,000
Personal Exemptions	0	0
Total Itemized	0	0
Standard Deduction	24,000	24,000
Qualified Income Deduction	63,000	0
Total Deductions from AGI	87,000	24,000
Taxable Income	252,000	415,000
Regular Tax:		
Schedule or Table Tax	49,059	96,629
Appropriate Regular Tax	49,059	96,629
Total Federal Taxes	49,059	96,629
Net Federal Tax Due	49,059	96,629
Resident State Tax	2,562	5,562
Net Resident State Tax Due	2,562	5,562
Total Net Tax Due	51,621	102,191

Increasing income by \$100k (and thus completely phasing-out of the business deduction) results in a tax increase of \$50,570

RELATIONSHIPS | built on results

- Other items to consider
 - Increase in income tax impacts a taxpayer's ability to get Economic Recovery Payment
 - Increase in income can push taxpayer into higher capital gain and qualified dividend tax bracket (0 to 15 to 20 and Net Investment Income Tax)
 - Increased taxation of Social Security
 - Increased Medicare IRMAA surcharges on Medicare Part B and Part D premiums.

Questions?



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