What’s Not So New…

PRESENTED TO THE JAEPC

JANUARY 12, 2022

BY STEVEN M. PATCH, CPA

Today's Topics

We will discuss tax proposals in the Build Back Better legislation that did not pass the Senate (but passed the House and supposedly the President would sign). This will give us an idea about the current congress.

I'll also point out what was new and is now old in federal rules.

There are some new laws in Michigan.

The raw deal of being a widow in retirement with RMD's.

This is not legal, tax or financial advice. You should always consult with your tax advisor for the specific impact to your business or your personal situation.

LALLY group

Build Back Better:

Not Current Law

The tax components included:

Raising the top margin rate back to 39.6% on couples with taxable income of $400,000.

A new 5% surcharge on Modified AGI over $10 million.

An additional 3% tax surcharge on Modified AGI over $25 million.

Application of 3.8% Medicare surtax on active owners of S Corps and LLC’s.

Increasing the SALT deduction to $80,000 (potential savings of $25,900).

Limiting the size of Roth accounts to $10 million and forcing distributions above that amount.

LALLY group

Build Back Better:

What Didn't Make It.

- Increase capital gains taxes on high income individuals
- Change in itemized deduction rules and benefits
- Create new QBI "Qualified Business Income" deduction phase-out
- Create additional Social Security tax bracket (beginning at $400,000)
- Increase the corporate income tax rate
- Reduce estate tax exemption
- Repeal of step-up basis and tax on unrealized gains at death

2021 Filing Changes and Challenges

Back to an April 15 filing deadline (actual date is Monday, April 18, 2022).

IRS is behind in processing 2020 returns. On 12/18/21 they reported 6.3 million unprocessed 1040's and 2.3 million unprocessed amended returns.

Calling the IRS extremely challenged, correspondence response times are pitiful. It is not uncommon to get 2 "90-day Letters".

Stimulus payments (EIP) for the 2021 tax return were $1,400. The $600 received in January 2021 are a 2020 tax return item. The IRS will send letter #6475 regarding payments these payments.

LALLY group

2021 Filing Changes and Challenges

Advanced Child Tax payments: $3,600 per child 5 and under paid ½ over 6 months ($300 per month for July – December) Children 6 -17 will get $3,000 of which $250 will be paid in advance. The advance payments have lower AGI limits than the non advanced portion. The credit is fully refundable – no income requirement. IRS will send letter #6419 to provide amounts paid. If AGI is too high, portion of advanced amount will have to be repaid.

Updated the virtual currency questions to more broadly include a financial interest in virtual currencies.

Additional reporting requirements for virtual currencies.

Wash sale rules now apply to virtual currencies.

Unemployment benefits are again fully taxable.

2021 Filing Changes and Challenges

Charitable deduction for non-itemizers is $600 couples and $300 single.

No more 100% of AGI deduction limitation for charitable contributions for itemizers.

Postcard sized federal tax returns. The IRS has added many detail lines to schedules 1, 2 & 3. Including the schedules, the return now has more lines than the old style in 2017.

All taxpayers now eligible for Identity Protection PIN. Beginning in 2021, the IRS Identity PIN (IP PIN) Opt-In Program has been expanded to all taxpayers who can properly verify their Identity.

LALLY group

2021 Items That Didn’t Change

Qualified Business Income deduction (QBI) – no changes.

Estimated tax rules unchanged; 100% of last years tax (110% if AGI is greater that $150,000) or 90% paid in of current year.

Due date for estimates are April 18, June 15, September 15, 2022, and January 16, 2023.

- Use IRS for e-check payments: www.irs.gov/payments
- Use state of MI for e-check payments:
- https://treas-secure.state.mi.us/PayIncomeTax/PayIncomeTax.htm

Accuracy counts. The above 2 letters, estimated tax payment and bank account info for direct deposit is essential to avoid processing delays.

Estate and Gift Tax Highlights

For 2022, the federal estate tax exemption is $12,060,000 (up from $11,700,000 in 2021) and the top rate is 40%, same for generation skipping tax and lifetime gift exclusion.

Higher exclusions sunset after 12/31/2025, back to $5 million adjusted for inflation. IRS has announced no “claw-back” for gifts made between 2018 – 2025 for someone dying after 2025.

The annual gift exclusion is $16,000 for 2022 up from $15,000 in 2021.

LALLY group

Estate and Gift Tax Highlights

New process for obtaining an estate tax closing letter (effective 10/28/21).

Non-charitable gifting strategies:

Giving appreciated stock

- Paying otherwise deductible medical expenses directly to the provider
- Paying tuition directly to the education institution (any age)
- Remember discounts are still available for minority interests with the family for LLC and S Corp. interests

New for Michigan in 2021

Flow through entity tax election. Allows certain entity to elect to pay the tax on income and allows the members or owners to claim a refundable credit equal to the tax previously paid on that income beginning 1/1/21, however, the Governor didn't sign the bills until 12/22/21.

Must use the MTO system to make the payment. (System began 12/29/21)

2021 taxes must be paid by April 2022.

This essentially makes the taxes deductible at the entity level and avoids the SALT limitation.

New for Michigan in 2021

Benefit to members and owners is generally their margin tax rate is less the QBI deduction. (37% less 7.4% = 29.6%)

Returns with Earned Income Tax Credit or additional child tax credits will not be processed until Mid-February.

Personal exemptions in MI now worth $4,900.

Note: 2020 MI returns need to be amended for the unemployment benefit exclusion ($10,200). MI did not automatically amend MI returns like the IRS did.

LALLY group

Gambling Income

Gambling losses are generally deductible to the extent of gambling winnings. However, most folks do not itemize to be able to take advantage of this. There is a way to get around this and is known as session winnings.

Session winnings are defined as gambling activity during a period in the casino where once you leave the floor, your session has stopped. This allows you to deduct from Gross income the losses you incurred during that session.

Substantiating these losses probably requires the use of a player's card and requesting the report from the cashier or guest services.

Michigan now allows gambling losses to the extent of you federal Itemized deductions on line 21.

Donor Advised Funds (DAF)

Very Popular – now over 1 million accounts with an average balance of $159,000.

Charitable deduction occurs when money is put into the DAF, and at a 50% limit, as opposed to a Private Foundation (PF) limit of 20%.

DAF is considered a public charity because the donor only has an advisory role, and the account is not owned or controlled by the donor.

Distribution can only go to a public charity.

Contributed funds grow tax free in the DAF, no 1% or 2% tax like a PF.

Currently, no requirement to disburse from the DAF on an annual basis.

Accounts are generally set up with a beneficiary designation.

Donors can’t get money back from a DAF for any reason.

LALLY group

DAF Common Uses & Caution

Common uses of the DAF are:

1. Late in year unexpected large bonus where the employee wants to make a sizable contribution from it but does know to which charity.
2. Series of prefunding contributions to make a large future commitments when that future year may not have enough income or a low tax rate.
3. Last year of employment and employee receives a large payout, retiree prepays many years of contributions.
4. Applying the bunching strategy for itemized deductions (due to the higher standard deduction passed in 2018)
5. Generating an income tax deduction before death.

Caution – proposed legislation: Accelerating Charitable Efforts Act – could impose rules limiting the length of the DAF by; limiting the Donor advising to only 14 years, limiting donor advising to $1 million or by requiring a 5% distribution annually.

LALLY group

Retiree Widows (Widowers) Penalty

I see this scenario frequently and it seems unfair to me. I'll illustrate with a simple example. (They are both 73 years old.)

Husband (H) received a required minimum distribution RMD of $60,000; social security of $30,000 and interest of $5,000. The Spouse received a RMD of $15,000, social security of $15,000 and interest income of $5,000.

Joint income is 10K interest; $75k IRA and SSA is $38,250 taxable for an AGI of $123,250. The taxable income is $95,850 after applying the standard deduction of $27,400. The tax at joint rates is $12,673.

Retiree Widows (Widowers) Penalty

Should the spouse pass away, the interest and IRA income would be the same since they were both receiving RMD's. The lower SSA would be gone.

The result as filing as a single would have SSA being taxed at $25,500 (30,000 * 85%) resulting in an AGI of $110, 500 and taxable income of $96,450. The tax single rates is $17,234.

IRMAA tax as joint is zero; but the single tax is $59.40 for Part B and $12.30 for Part D monthly.

IRMAA Penalty

Income Related Monthly Adjustment Amount (IRMAA) is an additional adjustment to the cost of Medicare Part B and D.

This is a sleeper tax and can be hard to plan around.

Single	Monthly Adjustment	
	Part B	Part D
$ 88,00 – 111,000	$59.40	$12.30
111,001 – 138,000	148.60	31.80
138,001 – 165,000	237.60	51.20
165,001 – 499,999	327.70	70.70
500,000 +	356.40	77.10
Married brackets are 2 times the above, except:		
$750,000 plus	356.40	72.10

LALLY group

Thank You

We went through a lot of information in a short time. I hope you found this useful in your area of practice. These topics presented have many tax and non-tax implications. This is not legal, tax or financial advice. You should always consult with your tax advisor for the specific impact to your business or your personal situation.

Steven M. Patch, CPA

Office 517-787-0064

spatch@lallycpa.com

LALLY group