

# TAX POLICY UPDATE: IS THE END IN SIGHT?



Dec. 1, 2021

# Today's presenters



**David Kautter**  
*Partner, National Tax*



**Mathew Talcoff**  
*Partner, National Industry Tax leader*



**James Alex**  
*Principal, National Tax*



**Fred Gordon**  
*Sr. Director, National Tax*

# Current state

House

House-passed H.R.  
5376—Build Back  
Better Act



Treasury Greenbook

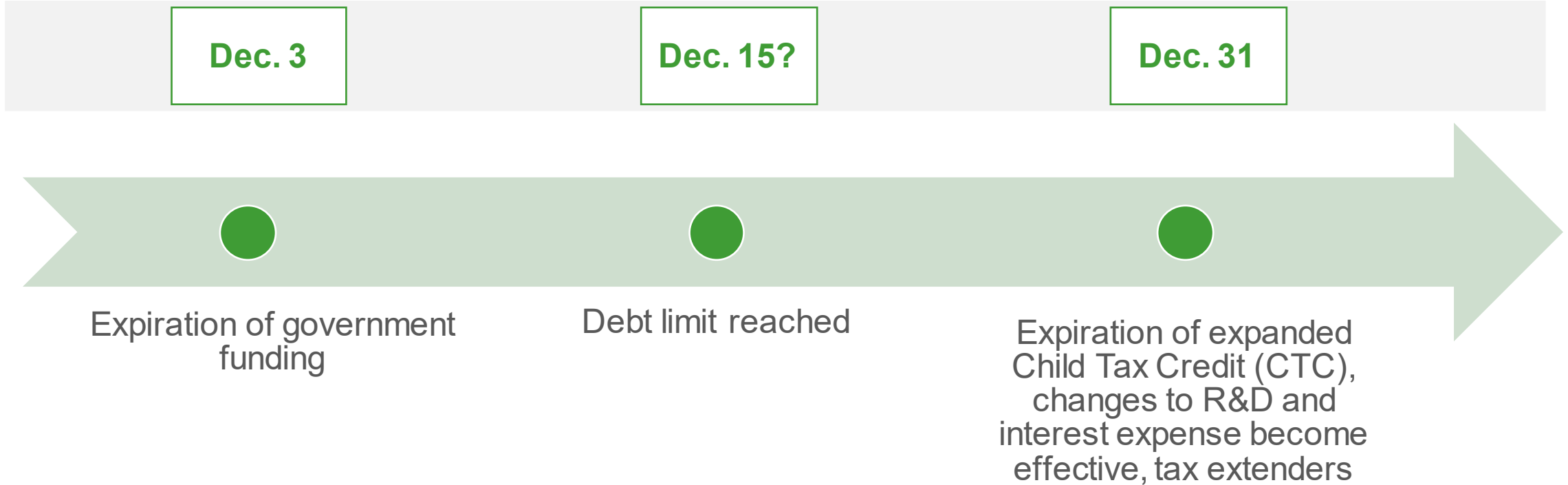
White House  
framework

Senate

No formal action



# Timing heading into year end



# House-passed legislation: *Responsibly Funding Our Priorities*

## Provisions with increases/decreases

	<i>Number</i>	<i>Amount</i>
Increases	40	\$1516
Decreases	<u>12</u>	<u>(\$40)</u>
Total	52	\$1476

## Provisions in tax title

	<i>Number</i>	<i>Revenue (billions)</i>
Corporate	17	\$535
International	10	\$279
<b>Total</b>	<b>27</b>	<b>\$814</b>
High income Individual	3	\$640
Retirement plans	5	\$10
Other (nicotine, individual, business, etc.)	17	\$11
<b>Total</b>	<b>52</b>	<b>\$1,476</b>

# House-passed legislation (cont.)

Top 10 revenue raisers (billion)	
Corporate AMT	\$319
Expansion of NIIT	\$252
Surcharges (5%; 8%)	\$228
Individual excess businesses losses	\$160
FDII	\$144
Stock repurchase excise tax	\$124
BEAT	\$67
GILTI	\$57
Interest expense	\$28
Divisive reorganization basis	\$18

# House-passed legislation (cont.)

## Revenue reductions over \$1 billion

Foreign tax credit for tested income	27
R&D deduction (12/31/25)	4.0
Contingency fee deduction	2.5
Employee uniforms (\$250)	2.3
Union dues (\$250)	1.8
Local news journalist credit	1.7
Total	39.3

# H.R. 5376, House-passed Build Back Better Act

## Individual

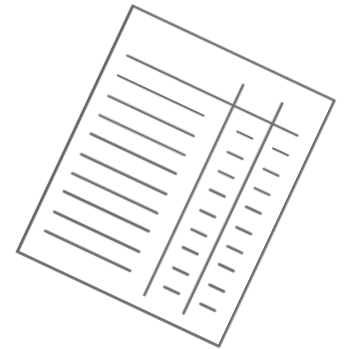
### Provision

Impose 5% surtax on MAGI > \$10 million

Impose 8% surtax on MAGI > \$25 million

Permanent disallowance of ability to deduct excess business losses

State and local tax (2021-2030) limitation (\$80,000)





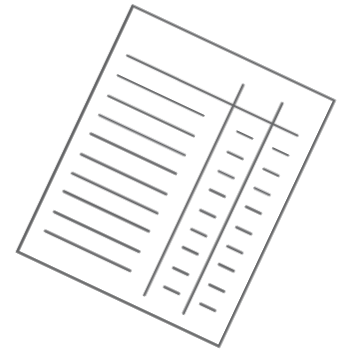
# H.R. 5376, House-passed Build Back Better Act

## Corporate

### Provision

15% alternative minimum tax based on GAAP earnings on corporations with > \$1 billion in profit

1% excise tax on public company stock buybacks



# H.R. 5376, House-passed Build Back Better Act

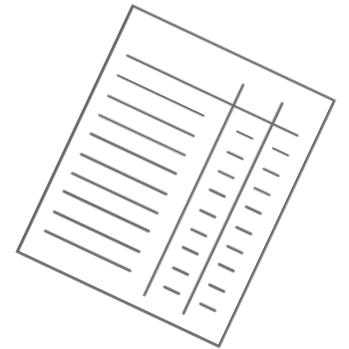
## Partnerships

### Provision

Worthless partnership interest – Capital loss

Interest deduction limitation – Applied at partner not partnership level

Expansion of 3.8% NIIT to NII derived in the ordinary course of business (\$400,000/\$500,000)



# H.R. 5376, House-passed Build Back Better Act

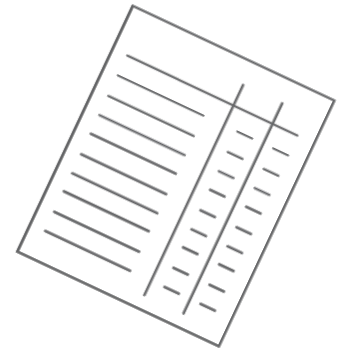
## Transactions

### Provision

Section 1202 stock – Exclusion = 50% of gain (>\$400,000)

Wash sale rule – Expanded to commodities, currencies, digital assets

Constructive sales – Expanded to include digital assets



# H.R. 5376, House-passed Build Back Better Act

## International

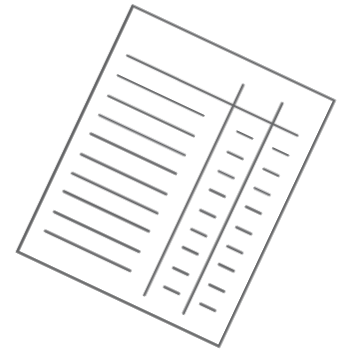
### Provision

#### Global intangible low-taxed income—GILTI

- Country-by-country computation
- 5% qualified business asset investment (QBAI) deduction
- 15% tax rate
- Tax credit changes

#### Foreign-derived intangible income—FDII

- 15.8% tax rate



# H.R. 5376, House-passed Build Back Better Act

## International (cont'd)

### Provision

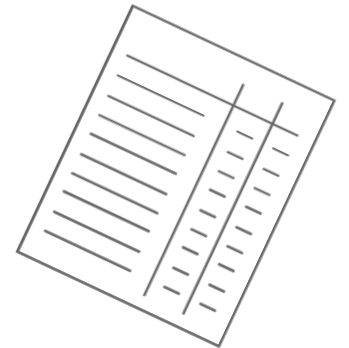
#### Base erosion anti-abuse tax—BEAT

- Tax rate –10% (2022); 12.5% (2023); 15% (2024); 18% (2025 and later)
- Tax credit changes
- Computational changes

#### Foreign tax credit changes

Interest deduction limitation for domestic corporations that are members of an “international reporting group”

Change rules for 10% to 50% shareholders to use “territorial” system of taxation



# H.R. 5376, House-passed Build Back Better Act

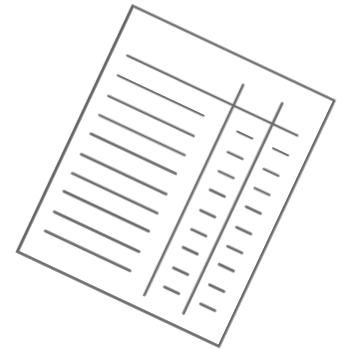
## Retirement changes

### Provision

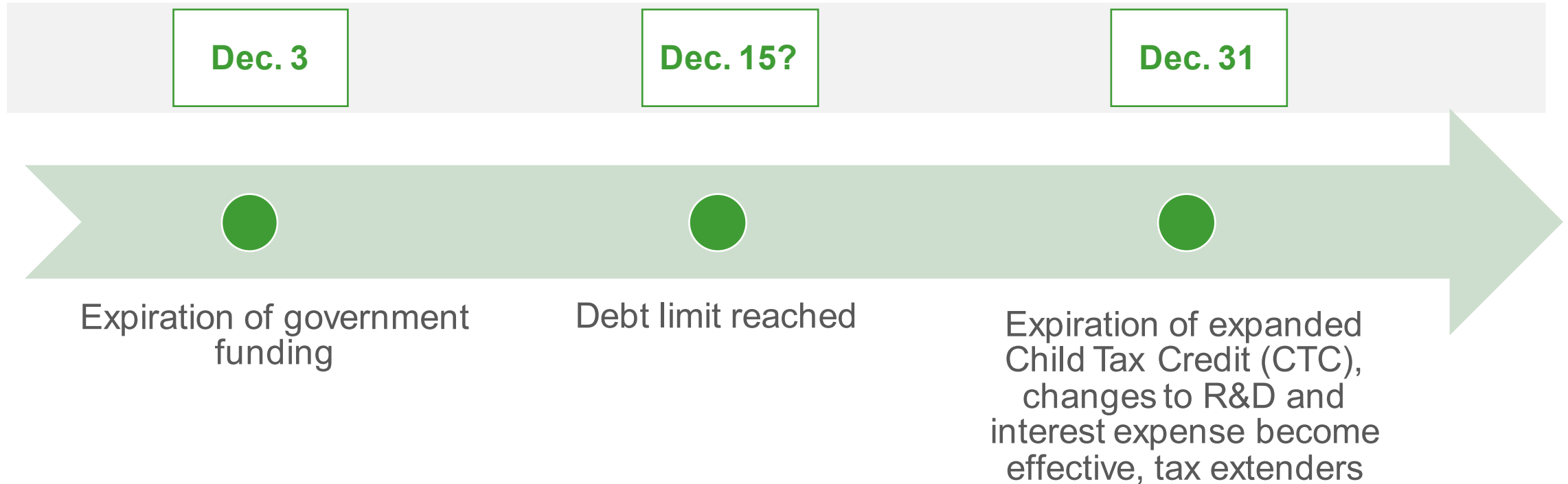
Distributions required if IRA and defined contribution plan balance > \$10 million

Limitations on Roth conversions

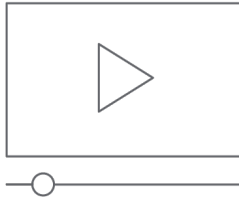
Limitations on contributions for high income taxpayers



# Timing (revisited)

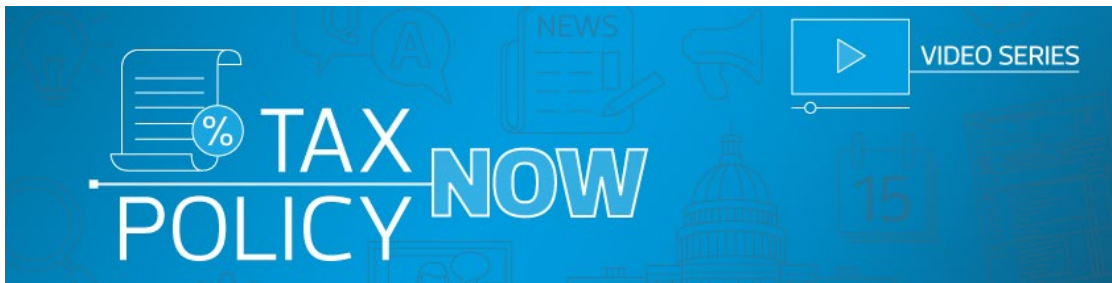


# Resources



## LIVE WEBCAST—DECEMBER 16

Tax policy update: How the Build Back Better Act affects individuals



[Tax policy now video series](#)

Watch tax policy now recordings.



[Tax policy resource center](#)

[rsmus.com/taxpolicy](https://rsmus.com/taxpolicy)



THANK YOU FOR  
YOUR TIME AND  
ATTENTION

## RSM US LLP

+1 800 274 3978

[rsmus.com](http://rsmus.com)

This document contains general information, may be based on authorities that are subject to change, and is not a substitute for professional advice or services. This document does not constitute audit, tax, consulting, business, financial, investment, legal or other professional advice, and you should consult a qualified professional advisor before taking any action based on the information herein. RSM US LLP, its affiliates and related entities are not responsible for any loss resulting from or relating to reliance on this document by any person. Internal Revenue Service rules require us to inform you that this communication may be deemed a solicitation to provide tax services. This communication is being sent to individuals who have subscribed to receive it or who we believe would have an interest in the topics discussed.

RSM US LLP is a limited liability partnership and the U.S. member firm of RSM International, a global network of independent audit, tax and consulting firms. The member firms of RSM International collaborate to provide services to global clients, but are separate and distinct legal entities that cannot obligate each other. Each member firm is responsible only for its own acts and omissions, and not those of any other party. Visit [rsmus.com/aboutus](http://rsmus.com/aboutus) for more information regarding RSM US LLP and RSM International.

RSM, the RSM logo and *the power of being understood* are registered trademarks of RSM International Association.

© 2021 RSM US LLP. All Rights Reserved.