


TAX POLICY UPDATE

Tax, energy and climate proposals in the Inflation Reduction Act



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Today's presenters



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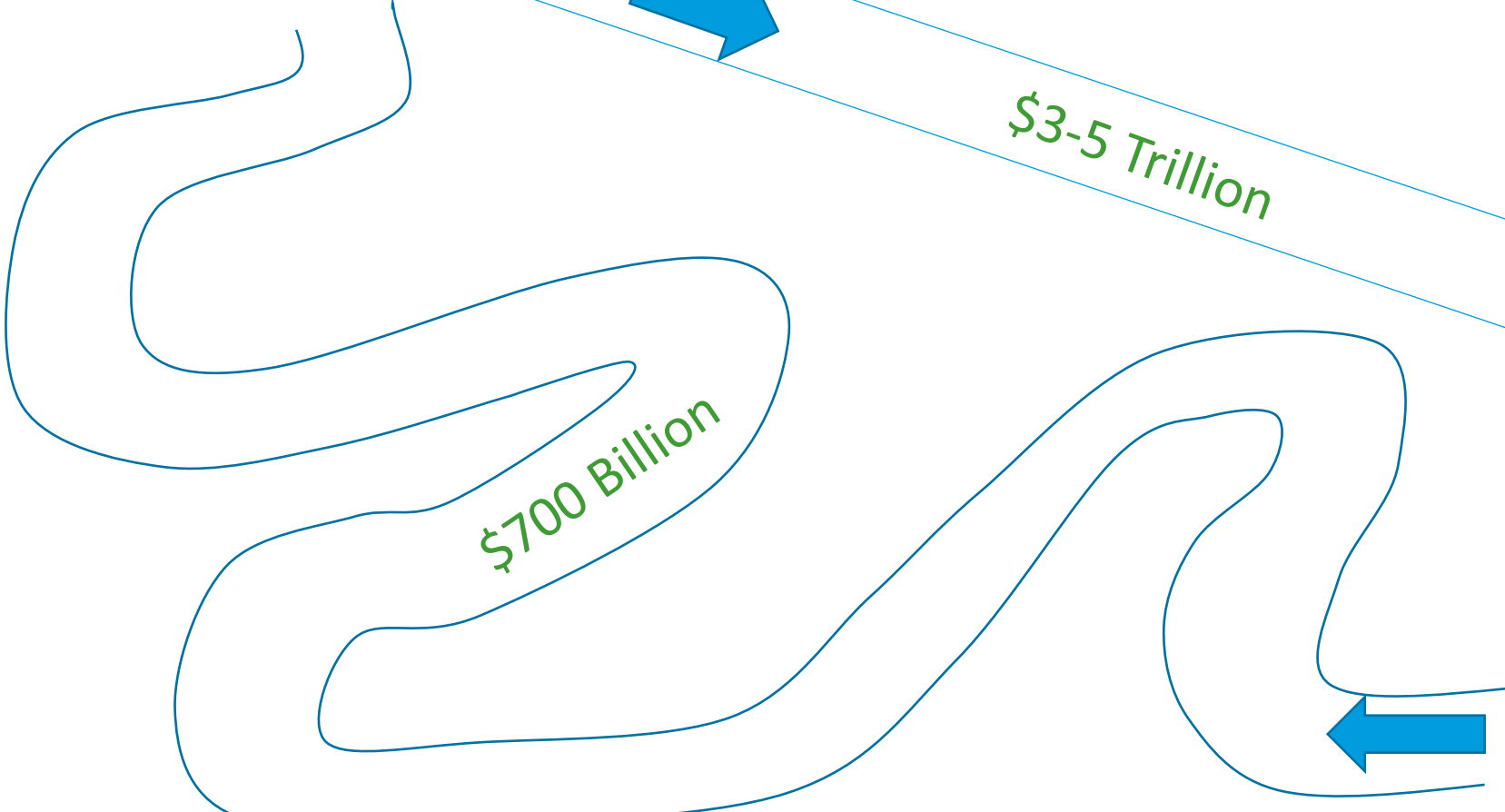
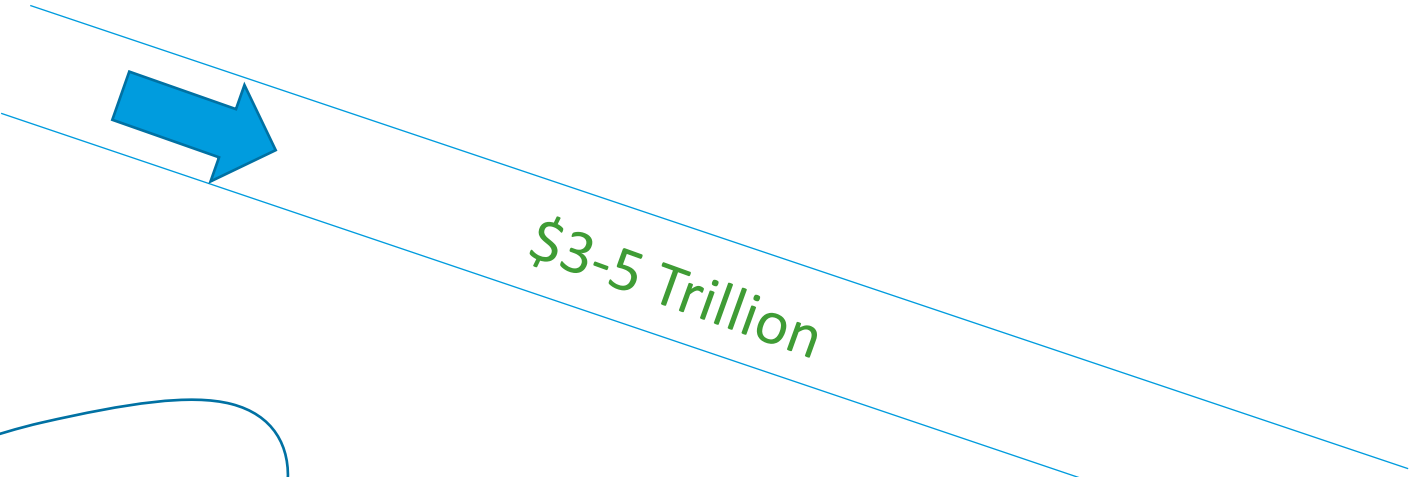
Today's agenda

TOPIC	SPEAKER
Welcome	Matt Talcoff
Washington D.C. landscape	Dave Kautter
Inflation Reduction Act of 2022: <ul style="list-style-type: none">• Tax proposals• Energy proposals• IRS enforcement	Fred Gordon Debbie Gordon Patti Burquest
Client perspectives	Matt Talcoff Jim Alex
Wrap up	Matt Talcoff

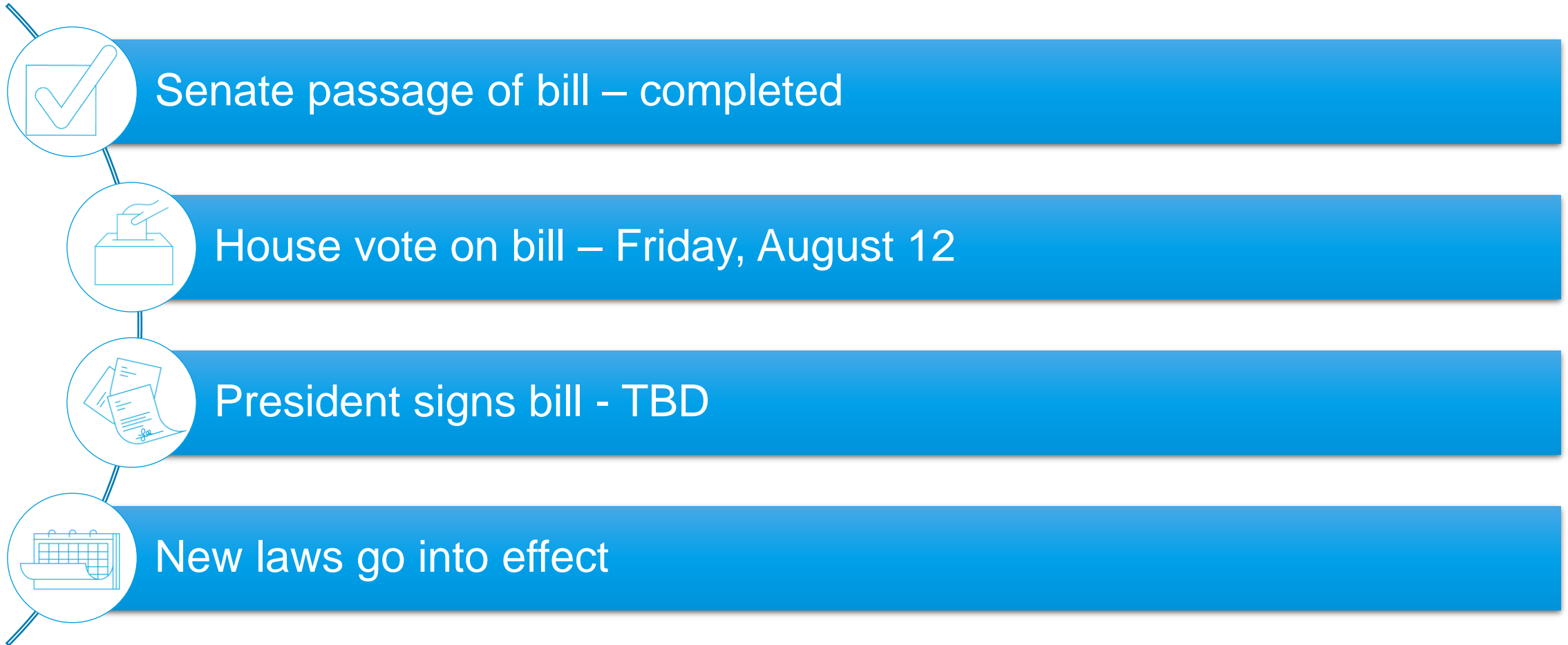
WELCOME

WASHINGTON D.C. LANDSCAPE

Inflation Reduction Act: The long and winding road



Inflation Reduction Act: Path ahead (projected)



Inflation Reduction Act – Tax-related changes

Revenue provisions* 2022-2031	
	<i>Revenue (billions)</i>
Corporate AMT (15%)	\$222
Stock buy back (1%)	\$74
Excess business losses (2 yrs.)	\$53
Superfund changes	\$12
Black lung extension	\$1
Subtotal	\$362
IRS funding (CBO)	\$204
Total	\$566

Credits and deductions 2022-2031	
	<i>Revenue (billions)</i>
Clean electricity and reducing carbon emissions	\$98
Clean fuels	\$19
Clean energy – individuals	\$37
Clean vehicles	\$14
Clean energy manufacturing	\$37
Clean electricity (2) and clean transportation	\$66
Total	\$271
Net revenue raised: without IRS funding	\$91
with IRS funding	\$295

*Non-tax related – Medicare prescription drug negotiation

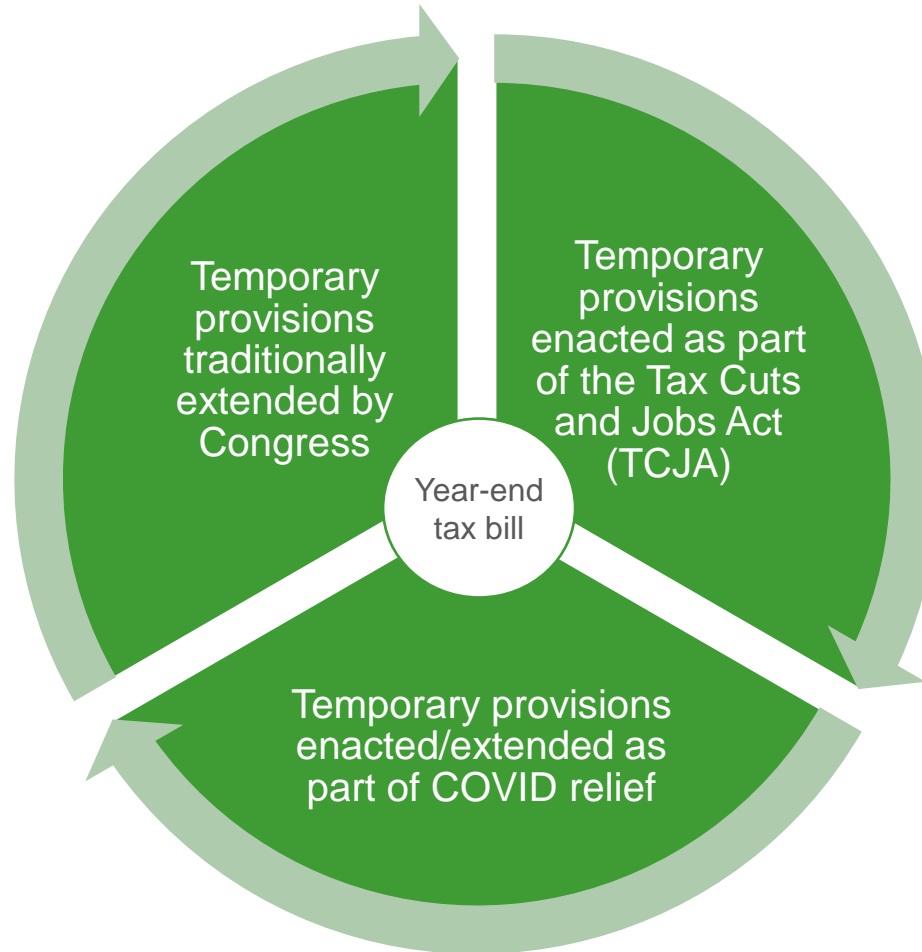
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Inflation Reduction Act – Net impact on individuals

Net impact on individuals (billions)			
Year	Below \$200K	Above \$200K	Total
2023	<\$12>	\$21	\$9
2025	<\$17>	\$4	<\$13>
2027	\$1	\$19	\$20
2029	\$0	<\$3>	<\$3>
2031	\$0	<\$4>	<\$4>
Subtotal	<\$28>	\$37	\$9

Looking ahead to potential year-end tax extenders and other changes

- Specific cost recovery, accelerated depreciation (racehorses two years or younger; business property on Indian reservation)
- Other misc. provisions (rum cover over, state LIHTC, Indian employment tax credit, mine rescue training credit, health coverage tax credit)



- R&E amortization*
- Interest expense limitation shift from EBITDA to EBIT
- Bonus depreciation phase down
- Many temporary provisions enacted in 2017 will expire after 2025

- Expansion of earned income tax credit
- Modifications to charitable contribution deductions
- Child tax credit expansion
- Employment tax credit for paid sick and paid family leave
- Employee retention credit

INFLATION REDUCTION ACT: DETAILED DISCUSSION

Overview of H.R. 5376, the “Inflation Reduction Act of 2022” (as passed by the Senate)

<i>Deficit reduction</i>	<i>Prescription drug pricing reform</i>	<i>Affordable Care Act subsidies</i>	<i>Energy security</i>	<i>Other provisions</i>
<p>Corporate tax reform – corporate alternative minimum tax</p> <p>Excise tax on repurchase of corporate stock</p> <p>Funding the Internal Revenue Service and improving taxpayer compliance</p>	<p>Prescription drug pricing reform-lowering drug pricing through drug price negotiation</p>	<p>Affordable Care Act subsidies – improve affordability and reduce premium cost of health insurance for consumer</p>	<p>Energy security</p> <ul style="list-style-type: none"> • Clean electricity and reducing carbon emissions • Clean fuels • Clean energy and efficiency incentives for individuals • Clean vehicles • Investment in clean energy manufacturing and energy security • Reinstatement of Superfund • Incentives for clean energy and clean transportation • Credit monetization and appropriation 	<p>Increase in research credit against payroll tax for small businesses</p> <p>Limitation on excess business losses of noncorporate taxpayers extended for two years</p>

The Inflation Reduction Act of 2022 (as passed by the Senate) – key highlights

Provision	Description	Observations
Corporate alternative minimum tax	<ul style="list-style-type: none"> • 15 percent minimum tax on adjusted financial statement income for applicable corporations with such income in excess of \$1 billion • Tentative minimum tax equals the excess of (i) 15 percent of the “adjusted financial statement income” over (ii) the corporate AMT foreign tax credit • The tentative minimum tax will result in an increase to tax liability only where it exceeds the regular tax plus BEAT liability for the current year • NOLs and tax credits can generally be claimed against the minimum tax • Tax credit against regular corporate tax for payment of minimum tax paid in prior tax years may also be available 	<ul style="list-style-type: none"> • S corporations, RICs or REITs excluded from definition of “applicable corporation” • Requires three-year average annual “adjusted financial statement income” in excess of \$1 billion • AFSI of corporations that are under common control or part of a controlled group are aggregated in determining whether the \$1B threshold is met • Foreign-parented corporations that are members of an international financial reporting group – AFSI measured on a global basis for purposes of threshold \$1B test; additional test involving lower threshold, modified testing group

The Inflation Reduction Act of 2022 (as passed by the Senate) – key highlights

Provision	Description	Observations
Excise tax on the repurchase of corporate stock	<ul style="list-style-type: none"> • Would impose a 1 percent excise tax on publicly traded US corporation for the value of any of its stock that is repurchased by the corporation during the taxable year • A “covered corporation” is generally a domestic corporation traded on an established securities market • Applies where (i) the corporation acquires its stock from a shareholder in exchange for property (regardless of whether the acquired stock is cancelled, retired or held as treasury stock) and (ii) any other economically similar transaction 	<ul style="list-style-type: none"> • Subsidiary-led buybacks for US parent, US subsidiary buyback of foreign parent’s stock – both are subject to the tax • Certain adjustments will reduce the amount subject to tax • Some exceptions apply
Limitation on excess business losses of noncorporate taxpayers	<ul style="list-style-type: none"> • Extends the current limitation on noncorporate taxpayers for excess business losses arising from an active business • Under current law, business losses are limited to business income plus \$500,000 (\$250,000 single) and carried forward as an NOL. 	<ul style="list-style-type: none"> • Current law extended through 2028 calendar year

Inflation Reduction Act of 2022 – Clean energy roadmap



Subtitle D Energy Security

General concepts

- Base and bonus rates
- Prevailing wage requirements
- Apprenticeship

Domestic Content

- “Direct Pay” and Transferability of certain credits
- Extensions generally through 2024; some longer

Clean Electricity & Reducing Carbon Emissions

Extending/modifying existing credits

- 45 – Production tax credit (PTC)
- 48 – Energy credit (ITC)
- 45Q – carbon capture

New credits

- 48 – increase ITC for solar in low-income communities
- 45U – Zero emission nuclear power PTC

Clean Fuels

Extending/modifying existing credits

- 40, 40A, 6426, 6427 – - biodiesel, alternative fuels
- 40(b)(6) – second generation biofuel

New credits

- 40B/6426/6427 – sustainable aviation fuel blender credit
- 45V – PTC – clean hydrogen

Manufacturing & Energy Security

Extending/modifying existing credits

- 48C – Advanced energy project credit – new credit allocation

New credits

- 45X – Advanced manufacturing PTC

Clean Energy Incentives for Individuals

Extending/modifying existing credits

- 25C – Nonbusiness energy (extend/increase/modify)
- 25D – Residential energy efficient property
- 179D – Energy efficient commercial buildings
- 45L – New energy efficient homes

Clean Vehicles

Extending/modifying existing credits

- 30C – Alternative fuel refueling property
- 30D – Clean Vehicles credit

New credits

- 25E – Used clean vehicles
- 45W – Commercial vehicles

Clean Electricity and Transportation

Below new incentives generally effective 1/1/2025

- 45Y – Clean Electricity PTC
- 48D* – Clean Electricity ITC
- 45Z – Clean Fuel PTC
- Cost recovery for qualified facilities, property, and storage

Superfund Excise Tax

New tax

- 4611 – Reinstate hazardous superfund financing rate on crude oil and petroleum products

Highlights – Clean electricity and reducing carbon emissions

- Production Tax Credit (PTC) and Investment Tax Credit (ITC)
 - Solar PTC returns
 - New ITC qualifying property including battery storage, interconnection, renewable natural gas, microgrids, and dynamic glass
 - Increased rate for solar investment in low-income communities
- 45Q – Carbon capture and sequestration
 - Increase rates
 - Expand availability to claim
- New credit
 - Zero emission nuclear power
- Direct pay and transferability
- New clean electricity PTC/ITC regime - 2025



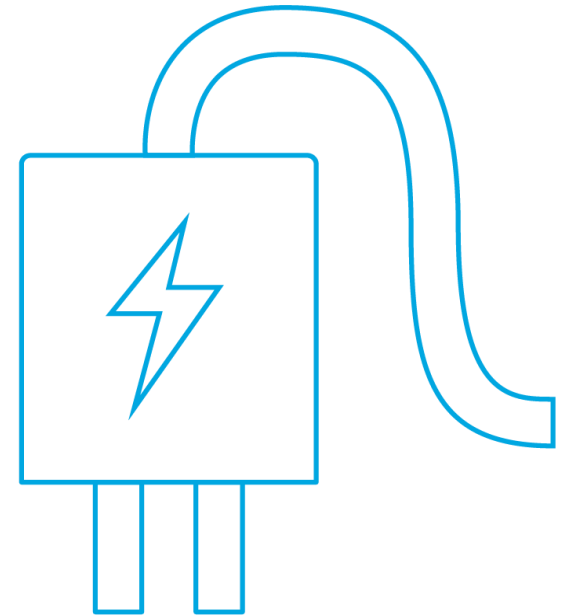
Highlights – Clean fuels



- Extension of existing biofuel credits through 2024
 - Biodiesel
 - Alternative fuel
 - Second generation biofuel
- New credits
 - Sustainable aviation fuel (SAF)
 - Clean hydrogen
- New clean fuel production tax credit regime - 2025

Highlights – Clean vehicles

- Overhaul of clean vehicle credit – up to \$7,500 per vehicle
 - Remove cap on vehicles produced
 - Income limitations
 - Sourcing of materials
- Expansion of alternative refueling property credit
- New credits
 - Commercial vehicles – up to \$40,000 per vehicle
 - Used electric vehicles – up to \$4,000 per vehicle



Highlights – Manufacturing and energy security

- New round of allocations for advanced energy project credit
- New advanced manufacturing PTC for U.S manufactured solar, wind and electric vehicle components
- New credit for semi-conductor manufacturing industry – CHIPS Science Act of 2022



Highlights – New excise taxes

- Superfund excise tax on crude oil and imported petroleum products
- Coal excise tax now permanent
- New excise tax on the sale of selected drugs by manufacturers, producer or importers during specific “non-compliance” periods

Inflation Reduction Act: IRS enforcement

Provision	Highlights	Observations
<p>Funding for IRS enforcement and other IRS activities</p>	<ul style="list-style-type: none"> • \$80 billion allocated to the IRS for enforcement and other IRS activities • The measure appropriates funding over the ten-year period as follows: <ul style="list-style-type: none"> ○ \$3.2 billion for taxpayer services, ○ \$45.6 billion for enforcement ○ \$25.3 billion for operations support, and ○ \$4.7 billion for business systems modernization • Commissioner's letter to the Senate <ul style="list-style-type: none"> • Will follow Treasury's directive that audit rates will not rise on households making under \$400,000 • Will pursue "meaningful" and "impactful" examinations of large corporations and high-net-worth taxpayers to ensure they are paying their fair share 	<ul style="list-style-type: none"> • Estimated to raise a net \$124 billion in revenue over 10 years • Previous funding proposals <ul style="list-style-type: none"> ○ Biden Administration FY23 Budget (\$14.1B) ○ House Appropriations Financial Services and General Government Subcommittee June 16 FY2023 Budget – \$1B increase to top-line funding for a total of \$13.6B
<p>Directive to report to Congress</p>	<ul style="list-style-type: none"> • A directive to and funding for the IRS to report to Congress on the cost of developing a free direct e-file system. 	

CLIENT PERSPECTIVES

Inflation Reduction Act: What's not included

- **Increasing the corporate tax rate** (some proposals suggested raising the rate **from 21% up to 28%**)
- **Increasing the top marginal income tax rate** on high earners to **39.6%** (from the current 37%)
- An **additional surcharge tax of 5%-8% on high-income individuals**
- **Expansion of the net investment income (NII) tax** on 'specified income' for high-income taxpayers
- A proposed **increase in top capital gains tax rates** (some proposals raised the rate from its current **20% to 25% or higher**)
- **Taxing unrealized capital gains** by eliminating the ability to step up the basis in appreciated property upon the death of the transferor
- **Changes to the carried interest provisions**
- Addressing the current limitation on the deduction for state and local taxes (**SALT**)
- **Limitations on section 1202 qualified small business stock gains**
- **Repealing the deferral of gain from like-kind exchanges** under section **1031**
- **Expanded limitations on deduction for interest expense** under section **163(n)**
- **Expanded wash sale rules**
- **Reduced estate and gift lifetime exemptions** (the temporary increase in the exemption will expire in 2026 under current law)
- Estate inclusion of **grantor trusts** and gain recognition on certain transactions with grantor trusts
- **Loss of valuation discounts** for certain transfers of nonbusiness assets
- **Changes to the Qualified Business Income (QBI) deduction limitation (section 199A)**
- Proposed **IRA and retirement plan changes**
- **Outbound international provisions including modifications to GILTI**, modifications to **foreign tax credit** limitations, country-by-country reporting, modifications to the base erosion and anti-abuse tax (**BEAT**), and adopting the Undertaxed Profits Rule
- **Modifications back to an EBITDA-like base** for the business interest limitation under **section 163(j)**
- **Modifications back to allow for immediate expensing of R&D costs** under section 174
- **Retroactive reinstatement of the employee retention tax credit for Q4 of 2021**

WRAP UP

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