Welcome to Thursday Tax Topics!

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Contact Information

Kristine Tidgren
Center for Agricultural Law & Taxation
Iowa State University
ktidgren@iastate.edu
www.calt.iastate.edu
@CALT_IowaState

THE INFLATION REDUCTION ACT

Reconciliation Bill Signed into Law

- The Inflation Reduction Act of 2022 (HR 5376) narrowly passed the Senate (August 7, 51-50) and the House (August 12, 220-213). The President signed the bill into law on August 16.
- This estimated **$740 billion** Act spends:
  - **$369 billion** on new or expanded climate and energy-related incentives, mostly in the form of complex tax credits
  - **$80 billion** on the IRS, primarily for increased enforcement
  - **$40 billion** on agricultural programs
- The Act also includes several key health care provisions.

Today

- Focus on providing a high-level summary of what we know today about provisions I believe will be most important for educating clients about what the Act does generally and how it may impact them.
- We have a blogpost with a bit more detail: https://www.calt.iastate.edu/blogpost/congress-passes-extensive-climate-tax-and-health-care-bill

REVENUE RAISERS

Revenue Raisers – Corporate AMT

- This will impact only the largest C corporations.
- 15 percent AMT on the annual adjusted financial statement income of C corporations averaging more than $1 billion in revenue over the past three years.
- This tax applies to U.S. corporations with foreign parents if average 3-year revenue earned in the U.S. is $100 million or more.
- This new tax will apply to taxable years beginning January 1, 2023. This provision is **projected to raise $222 billion over 10 years**.

Revenue Raisers – Excise Tax on Stock Repurchase

- This only applies to publicly traded companies.
- Beginning in 2023, the Act imposes a 1% excise tax on the fair market value of any stock repurchased by a publicly traded company. This provision is projected to raise **$73.7 billion** over 10 years.

Revenue Raisers – Excess Business Loss Limit

- The Act extends the limitation on excess business losses of noncorporate taxpayers for an additional two years, through 2028.
- This is expected to **raise $53.8 billion** in revenue through additional taxes over 10 years.

Revenue Raisers – IRS Enforcement

- This section provides **$80 billion to increase IRS enforcement and services**. This includes the following allocations:
- **$45.6 billion to IRS for increased enforcement**. Specifically, this funding is for IRS activities to determine and collect owed taxes, to provide legal and litigation support, to conduct criminal investigations, to provide digital asset monitoring and compliance activities, to enforce criminal statutes related to tax and other financial crimes, to purchase and hire passenger motor vehicles, and to provide other services.

Revenue Raisers – IRS Enforcement

- **$25.3 billion to support taxpayer services and enforcement programs**, including rent payments, facilities services, printing, postage, physical security, headquarters and other administrative activities, research and statistics of income, telecommunications, information technology development, enhancement, and the hiring of passenger motor vehicles.
- **$4.75 billion** for business systems modernization, including the development of callback technology and other technology to provide a more personalized customer service. The funds may not be used for the operation and maintenance of legacy systems.

Revenue Raisers – IRS Enforcement

- **$3.2 billion to increase taxpayer services**, including pre-filing assistance and education and filing and account services.
- **$15 million to create a task force to examine the creation of an IRS-run free "direct efile" tax return system**. The task force is supposed to report back to Congress within nine months regarding the cost to build such a system, taxpayer opinions and level of trust of such a system, and opinions of independent third-parties on the feasibility, schedule, and organizational design of such a system.

Revenue Raisers – IRS Enforcement

- This section includes the following statement, "Nothing in this section is intended to increase taxes on any taxpayer or small business with a taxable income below $400,000. Further, nothing in this section is intended to increase taxes on any taxpayer not in the top 1 percent."

- The increased IRS enforcement is **projected to raise $124 billion in revenue over 10 years**.

Revenue Raisers – Superfund Reinstatement

- The Act reinstates and increase the hazardous substance superfund tax on crude oil and petroleum products under I.R.C. § 4511. This is expected to raise **$11 billion in taxes**.

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HEALTH CARE UPDATES

Prescription Drug Price Reform

- **Beginning in 2026**, the bill directs the Secretary of Health and Human Services to negotiate Medicare part D drug prices. This program would expand each year. In 2026, the price of 10 drugs would be negotiated, in 2027 and 2028 that number would increase to 15, and by 2029, the negotiation plan would cover 20 Medicare part B and D drugs.
- Additionally, the Act would cap out-of-pocket costs at $2,000 for Medicare Part D participants, **beginning in 2025**. It also includes a monthly cap on cost-sharing payments for Medicare Advantage and Part D plans **in 2025** and a $35 cap on insulin for Medcare patients only, **starting in 2023**.

Increased Affordable Care Act Subsidies

- This provision extends the American Rescue Plan Act expansion of Affordable Care Act premium tax credits through 2025. ARPA had extended these provisions only through 2022.
- Taxpayers with household income above 400 percent of the federal poverty line will continue to qualify for premium tax credits if the second lowest silver plan would cost them more than 8.5 percent of household income.
- The Act also lowers the applicable percentages of household income (which determines the amount of the required premium) for all income levels.

Increased Affordable Care Act Subsidies

- This table depicts the final premium percentages through 2025. Taxpayers must only pay premiums in an amount up to the final premium percentage of household income. The premium tax credit pays the difference.

"In the case of household income (expressed as a percent of poverty line) within the following income tier:	*The initial premium percentage is—*	*The final premium percentage is—*
Up to 150.0 percent	*0.0*	*0.0*
150.0 percent up to 200.0 percent	*0.0*	*2.0*
200.0 percent up to 250.0 percent	*2.0*	*4.0*
250.0 percent up to 300.0 percent	*4.0*	*6.0*
300.0 percent up to 400.0 percent	*6.0*	*8.5*
400.0 percent and higher	*8.5*	*8.5".*

“CLEAN” ENERGY CREDITS

Nonbusiness Energy Property Credit (I.R.C. § 25C)

- The Act retroactively revives and extends the nonbusiness energy property credit through 2032. The credit had expired at the end of 2021.
- For 2022, the credit retains the same provisions that existed in 2021. Then, for 2023 and beyond, the credit is renamed the "**Energy Efficient Home Improvement Credit**," and new provisions kick in.

Nonbusiness Energy Property Credit (I.R.C. § 25C)

- For 2023 through 2032, the Act increases the credit **from 10 percent to 30 percent** for the sum of amounts paid for qualified energy efficiency improvements and residential energy property expenditures.
- The credit further increases, in an amount **up to $150**, for amounts paid for a **home energy audit**.
- Repeals the lifetime credit limit and implements a yearly limit of $1,200 per taxpayer per year.

Nonbusiness Energy Property Credit (I.R.C. § 25C)

- A higher $2,000 annual limit applies for amounts paid to implement certain heat pumps, heat pump water heaters, and biomass stoves and boilers. Sub-limits apply to specific property, such as $600 for windows and skylights and $250 per door ($500 limit)
- The Act expands the definition of eligible property to include residential property that is not the taxpayer's primary residence.
- Beginning in 2025, taxpayers must have a qualified product identification number from a qualified manufacturer to take the credit.
- This provision is estimated to cost $12 billion.

Residential Energy Efficient Property Credit (I.R.C. § 25D)

- The Act significantly extends and expands the residential energy efficient property (REEP) credit, which is renamed the "**Residential Clean Energy Credit**."
- The credit was supposed to be 26 percent for 2022 and 22 percent for 2023. The credit was scheduled to expire at the end of 2023.
- The credit—available to taxpayers who install solar electric, solar hot water, fuel cell, small wind energy, geothermal heat pump, and biomass fuel property in their homes—Is **now available through 2034.**

Residential Energy Efficient Property Credit (I.R.C. § 25D)

- The Act also expands the credit to include qualified battery storage technology expenditures beginning in 2023.
- The applicable credit rates are as follows:
  - 26% for property placed in service before Jan. 1, 2022
  - 30% for property placed in service after Dec. 31, 2021, and before Jan. 1, 2033
  - 26% for property placed in service after Dec. 31, 2032, and before Jan. 1, 2034
  - 22% for property placed in service after Dec. 31, 2033, and before Jan. 1, 2035
- The extension and enhancement of this credit is estimated to cost $22 billion over 10 years.

“Clean Vehicles” – Three Credits

- The Act implements credits expected to cost **$14 billion** over 10 years to incentivize the use of “clean” vehicles.
- The Act overhauls the qualified plug-in electric vehicle credit and introduces two new credits. The changes are generally effective for vehicles purchased or **placed into service in 2023**, although a few provisions are effective beginning August 16, 2022.

Clean Vehicle Tax Credit

- This credit is an overhaul (including renaming) of the I.R.C. § 30D credit for new qualified plug-in electric drive motor vehicles.
- Under the new provision, the maximum credit for qualifying vehicles is $7,500, beginning in 2023 through 2032.
- But now, the credit availability depends upon the **sourcing** of the battery and critical mineral components (begins when regulations are promulgated) and upon whether the final vehicle was assembled in North America (begins at enactment).
  - A safe harbor exists or those entering into a binding contract between January 1, 2022, and August 16, 2022).

Clean Vehicle Tax Credit

- Eliminates the per-manufacturer cap on these credits.
  - Frees up Tesla, for example, to issue credits.
- Also imposes income limits for eligibility of this credit
  - $300,000 MAGI for taxpayers filing joint returns or surviving spouses
  - $225,000 for heads of household
  - $150,000 for other taxpayers
- There is no phaseout (it's a cliff), but the MAGI rules allow qualification in the current or prior tax year. [Tax year 2022 or 2023 will determine eligibility for 2023].
- Credit is recaptured if criteria not met.

Clean Vehicle Tax Credit

- Also imposes per vehicle price limits. If the manufacturer's suggested retail price exceeds these prices, there is no credit:
- Vans ($80,000),
- SUVs (80,000),
- Pickup Trucks ($80,000),
- Other vehicles ($55,000).
- Beginning in 2024, credits may be transferred to dealers.
- Treasury has released an FAQ with initial information: https://home.treasury.gov/system/files/136/EV-Tax-Credit-FAQs.pdf

Two New Vehicle Credits

- **New credit for previously-owned clean vehicles (I.R.C. § 25E)**
  - This credit is$4,000 or 30 percent of the cost of the vehicle, whichever is less.
  - Sales price cannot exceed $25,000.
  - MAGI limits are much lower:
    - $150,000 for MFJ
    - $ 112,500 for HOH
    - $75,000 for single
- **New credit for qualified commercial clean vehicles (I.R.C. § 45W)**

- Extension and modification of alternative fuel vehicle refueling property credit through 2032 (I.R.C. § 30C) (only in rural census tracts or low-income census tracts)

“ENERGY CREDITS WITH STRINGS

Prevailing Wage and Apprenticeship Requirements

- Many credits directed at producers of clean energy property require that:
  - prevailing wages are paid
  - qualified apprentices complete a certain amount of the work
- If companies don't meet these requirements, credit is very low.
- Some provisions require materials to be sourced in the United States for higher credits
- Some higher credits require locating in energy community (communities that have experienced closure of coal mine or coal-fired plants)

Energy Efficient Commercial Buildings Deduction (I.R.C. § 179D)

- Increases the energy efficient commercial buildings deduction, beginning in 2023, but only for those contractors who meet the prevailing wage requirements.
- Tax benefits range from $1 per square foot for all taxpayers to $5 per square foot for those who meet the wage and apprenticeship requirements.

New Energy Efficient Home Credit (I.R.C. § 45L)

- Extends and modifies the new energy efficient home credit for eligible contractors.
  - The credit had expired at the end of 2021, but the Act revives and extends it through 2032.
- The credit is modified beginning in 2023, with credit amounts ranging from $500 to $5,000, depending on the energy efficient components of the home and whether prevailing wage and apprenticeship requirements are satisfied.
- This credit is expected to cost $2 billion over 10 years.

I.R.C. § 45 - Energy Produced from Renewable Sources

- Extends and enhances production tax credits for electricity produced from certain renewable resources, including facilities producing electricity from wind, geothermal, and solar.
- These credits expired at the end of 2021, but will now generally apply to projects placed into service before January 1, 2025.

I.R.C. § 45 - Energy Produced from Renewable Sources

- The production tax credit is now tiered. The basic credit amount is 1.5 cents per kilowatt hour. Taxpayers that do not pay prevailing wages and ensure that qualified apprentices complete a certain amount of the work, however, will receive only .3 cents per kilowatt hour.
- Additionally, taxpayers can boost credit amounts by 10 percent by sourcing their steel, iron, or manufactured-product components from United States manufacturers or by locating in an energy community (communities with significant employment in the fossil fuel industry or which have experienced the closure of a coal mine or coal-fired plant).
- This credit extension is estimated to cost $51 billion over 10 years.

I.R.C. § 48 – Energy Property Investment Tax Credit

- Extends and enhances the investment tax credit for wind, solar, and energy storage projects through 2024. Geothermal is extended through 2034.
- Taxpayers that meet prevailing wage and apprenticeship requirements are eligible for the full credit of 30 percent.
- The credit for those who do not meet wage requirements drops to six percent.
- Like the production tax credit, a bonus applies for those taxpayers who buy American components or locate in an energy community.

I.R.C. § 48 – Energy Property Investment Tax Credit

- For 2023 and 2024, qualified solar or wind facilities located in low-income communities or on Indian land will qualify for an additional 10 percent bonus.
- The bonus jumps to 20 percent if the project is a low-income residential building project or a low-income economic benefit project.

- This credit provision is estimated to cost $14 billion over 10 years.

I.R.C. § 45U - New Credit for Zero-Emission Nuclear Power Production

- Creates a new credit for "zero-emission nuclear power" electricity sold from existing nuclear reactors. The tax credit extends through December 31, 2032.
- Those paying prevailing wages and meet apprenticeship requirements receive five times the credit amount as compared to those who don't.

- This credit provision is estimated to cost $30 billion over 10 years.

I.R.C. § 45Q – Carbon Sequestration

- Extends and modifies the credit for carbon capture and sequestration.
- Under the new rules, carbon capture, direct air capture, or carbon utilization projects that begin construction before January 1, 2033, qualify for the credit.
- Eligibility extends to facilities that capture at least 1,000 metric tons per year. Only those companies that pay prevailing wages and meet apprenticeship requirements are eligible for the full credit. Those that do not meet these requirements receive only 20 percent of the full credit.
- This credit provision is estimated to cost $3 billion over 10 years.

Credit Monetization and Elective Payments

- Provides that some of these energy credits are refundable, but this refundability is generally limited to tax-exempt entities.
- The Act does, however, allow those entities not eligible for refundable credits, to sell all or a portion of their energy tax credits for cash.

THE AGRICULTURE TITLE

Agricultural Provisions

- Title II of the Act appropriates $40 billion for new and enhanced programs primarily designed to promote climate smart agricultural practices and reduce greenhouse gas emissions.
- Additionally, the funds are directed to enhance the financial wellbeing of at-risk farmers, ranchers, and foresters.

Agricultural Provisions

- EQIP (and CSP funds are to be made available for one or more agricultural conservation practices or enhancements that the USDA determines:
  - directly improve soil carbon,
  - reduce nitrogen losses, or
  - reduce, capture, avoid, or sequester carbon dioxide, methane, or nitrous oxide emissions, associated with agricultural production.

Agricultural Provisions

- **Environmental Quality Incentives Program** (EQIP) - $8.45 billion in additional funding, allocated over four years as follows:
  - $250 million for fiscal year 2023
  - $1.75 billion for fiscal year 2024
  - $3 billion for fiscal year 2025
  - $3.45 billion for fiscal year 2026

Agricultural Provisions

- **Conservation Stewardship Program** (CSP) - $3.25 billion, allocated as follows over four years:
  - $250 million for fiscal year 2023
  - $500 million for fiscal year 2024
  - $1 billion for fiscal year 2025
  - $1.5 billion for fiscal year 2026

Agricultural Provisions

- **Agricultural Conservation Easement Program** (ACEP) – $1.4 billion, allocated as follows over four years:
  - $100 million for fiscal year 2023
  - $200 million for fiscal year 2024
  - $500 million for fiscal year 2025
  - $600 million for fiscal year 2026

- These funds are to be used for easements or interests in land that will most reduce, capture, avoid, or sequester carbon dioxide, methane, or nitrous oxide emissions associated with land eligible for the program.

Agricultural Provisions

- **Regional Conservation Partnership Program** - $6.75 billion, allocated as follows over four years:
  - $250 million for fiscal year 2023
  - $800 million for fiscal year 2024
  - $1.5 billion for fiscal year 2025
  - $2.4 billion for fiscal year 2026

- These funds must be used to support the implementation of conservation projects that assist agricultural producers and nonindustrial private forestland owners in directly improving soil carbon, reducing nitrogen losses, or reducing, capturing, avoiding, or sequestering carbon dioxide, methane, or nitrous oxide emissions, associated with agricultural production.

Agricultural Provisions

- The Act also provides funding to USDA for the following programs:
  - $1 billion to provide conservation technical assistance through NRCS
  - $300 million to establish a program to quantify carbon sequestration and carbon dioxide, methane, and nitrous oxide emissions

Relief for Borrowers with At-Risk Operations

- The Act allocates $3.1 billion to provide payments to distressed borrowers for the cost of loans or loan modifications.
- The USDA is directed to provide relief to agricultural operations at financial risk "as expeditiously as possible."
- Additionally, the Act allocates $125 million to provide technical assistance to underserved farmers, ranchers, and foresters.

Relief for Borrowers with At-Risk Operations

- The Act allocates $2.2 billion to provide financial assistance to farmers, ranchers, and foresters who have experienced discrimination in USDA lending programs prior to January 1, 2021.
- No borrower may receive more than $500,000 in assistance.
- The program is to be administered by one or more non-governmental programs, under the direction of USDA.
- This provision replaces the embattled ARPA provision providing loan payments to socially disadvantaged farmers (would have spent $4 billion).

Research and Development Credit for Small Business

- Payroll tax credit for small businesses expands in 2023.
- Increased from $250,000 to $500,000
  - Applies now to Medicare, in addition to Social Security tax
- Applies to those with less than $5 million in revenue with revenue for less than five years.

Lots of Upcoming Events!

August 18, 2022	Thursday Tax Topics	Web-Based	**More Info ›**
September 21, 2022 to September 22, 2022	September Seminars - Agricultural Law Seminar & Farm Tax Workshop In-Person & Webinar	September	**More Info ›**
October 18, 2022	Wisconsin Agricultural Tax Issues Course - Wausau	Wisconsin Tax Courses	**More Info ›**
October 25, 2022	Wisconsin Agricultural Tax Issues Webinar	Wisconsin Tax Courses	**More Info ›**
November 3, 2022 to November 4, 2022	Federal Income Tax School - Cedar Rapids	Iowa Tax Schools	**More Info ›**
November 8, 2022 to November 9, 2022	Federal Income Tax School - Webinar	Iowa Webinar	**More Info ›**
November 14, 2022 to November 15, 2022	Annual Federal Income Tax Course - Wisconsin Dells	Wisconsin Tax Courses	**More Info ›**

Discussion