

## Build Back Better (BBB) Act

The Biden administration has proposed several major tax law changes over the past year. In September 2021, draft legislation was circulated which included such proposals as an increase to the corporate income tax rate, an increase in the capital gain rate, among other tax increases. The version of the Act passed on 11/19/2021 excluded many of the originally proposed changes. The expectation is that additional changes will be made prior to the final passage.

The following is a summary of the more significant tax law changes that were included in the House-passed version of the Build Back Better Act:

- Currently, the 3.8% net investment income tax does not generally apply to passthrough income coming from an S-corporation or other passthrough entity if the owner actively participates. The BBB Act changes this for taxpayers with income over certain thresholds (\$400,000 single or \$500,000 married filing joint). Effective 1/1/22, these taxpayers will be subject to the 3.8% net investment income tax on this passthrough income regardless of active participation.
- High-income individuals will incur a “surcharge” of 5% of the amount of adjusted gross income that exceeds \$10 million.
- Exclusions resulting from the sale of qualified small business stock will be reduced or eliminated.
- Sale of commodities, foreign currencies and cryptoassets will be subject to the wash-sale rules (currently they are not).
- Increase the SALT (state and local tax) limit from \$10,000 to \$80,000.
- Extend the credit for residential energy-efficient property (i.e. solar panels) through 2033. It is currently scheduled to expire in 2023.
- Limit Roth or traditional IRA contributions if it would cause the total value of the IRA and Defined Contribution accounts to exceed \$10 million. The BBB Act also eliminates Roth conversions. This means an end to the so-called “back-door” Roth strategy to get around the income limitations on Roth contributions. Both of these provisions would apply only to taxpayers with income over \$450,000 (married) or \$400,000 (single).

The following were excluded from the previous version of the bill:

- Top marginal individual income tax rate increase to 39.6%.
- Capital gains rate increase. The original bill version increased the maximum capital gains rate from 20% to 25% with retroactive application to gains occurring after September 13, 2021.
- Reducing the gift and estate exemption from \$11.7 million to approximately \$6 million. Absent additional Congressional action, these exemptions are still scheduled to reduce down to \$5 million beginning in 2026.
- Corporate tax rate increase that replaced the current flat corporate income tax rate with a graduated structure between 18% and 26.5%.

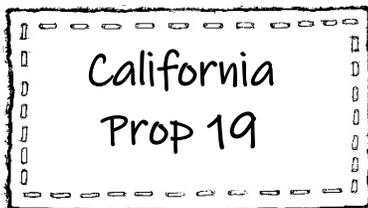
- **Economic Impact Payments:** The IRS started sending out the third round of economic impact payments (EIP's) in March 2021. The payments are equal to \$1,400 per eligible individual. **These will need to be reported on your 2021 tax returns so be sure to include the amount you received with your 2021 tax package!**

## Economic Impact Payments (round 3) and Advance Child Tax Credit

- **Child tax credit:** For 2021, the child tax credit is increased from \$2,000 to \$3,000 per child and is fully refundable. In July 2021, taxpayers automatically began receiving advance payments of this credit. These advances will continue through December 31, 2021 and will total an estimated 50% of the taxpayers total 2021 child tax credit.

This was not “free money” like the economic impact payments! The payments were simply an advance of a credit that you would have otherwise received when filing your 2021 tax return. This means that you will have a REDUCED federal refund (or increased federal balance due) for 2021 unless you opted out of receiving these payments or adjusted your withholdings accordingly.

The IRS will provide a notice to taxpayers who received these advance payments no later than January 31, 2022 that will include a recap of total amounts paid during 2021. **This notice MUST be included with your 2021 tax package or we cannot guarantee the accuracy of your federal tax return in regards to the calculation of your child tax credit for 2021.**



Last November, Californians passed Proposition 19, which expanded base-year value transfers of property tax value by persons over age 55, severely disabled, or a victim of a wildfire or other natural disaster. Conditions to qualify for the new exclusion include:

- Properties are no longer required to be located in the same county or a county that has an ordinance that allows intercounty base-year value transfers. Any county in California will qualify.
- The replacement property is no longer limited to a property with equal or lesser value. However, if the value of the replacement property is of lesser value than the original property, the assessed value of the replacement property will be the assessed value of the original property (meaning there will be no decrease in assessed value).
- The replacement property must have been acquired or newly constructed within two years before or after the sale of the original property.
- The owner must file an application within three years following the purchase date or new construction completion date of the replacement property.

The CalSavers program is a state-administered Roth-like retirement plan that private employers **MUST** offer to their employees if the employer does not provide its own retirement plan.



- By June 30, 2022, nonexempt employers with five or more California W-2 employees must register with CalSavers or verify their exemption.
- CalSavers will notify employers via letter of their requirement to register and will be provided an access code. Access codes can be requested on the website as well. <https://employer.calsavers.com>
- For union employers – if some employees are covered under a union plan, an employer can file an exemption even if all employees aren't covered under that plan. Employees that aren't covered can choose to self-enroll if they still want to participate.