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## INTRODUCTION

#### Topics to Be Covered

- Current tax update
- Pandemic related matters and areas for consideration
- Other federal tax matters and areas of importance
- State income and sales tax exposure
- Tax planning thoughts and strategies





Key 2021 Tax Legislation

- American Rescue Plan Act (ARP) enacted March 2021
- Infrastructure Investment and Jobs Act enacted November 2021
- Build Back Better Act in progress



### **CURRENT TAX UPDATE**

#### Year-end Tax Legislation

- State of pending 2021 tax legislation
- Where we started vs. where we will land
  - Original proposals were very aggressive, with substantial tax increases
  - Compromises needed to be made to get the bills passed



#### "Made in America Tax Plan" & "American Families Plan" Provisions:

- Increase of the corporate tax rate from 21% to 28%
- Increase of the top individual rate from 37% to 39.6%
- Increase of the capital gains rate to 39.6% for wealthy taxpayers
- Elimination of the "step-up" in basis at death
- Changes to the carried interest rules
- Increased net investment income taxes (on active income)

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## **CURRENT TAX UPDATE**

### Infrastructure Investment and Jobs Act

- Very minor tax implications
- Repealed prior extension of the ERC to exclude the fourth quarter of 2021 (ERC can now only be claimed through September 30, 2021)



#### **Build Back Better Act**

- \$1.7 trillion bill passed by House of Representatives on November 19, 2021
- Moved into the Senate and will likely be further modified before passage
- As it currently stands, includes a number of tax change provisions



## **CURRENT TAX UPDATE**

- Child tax credit
  - One year extension through 2022
  - Permanent extension of refundability
  - Advanced credits already happening
  - Phased out at \$75,000, \$112,500 and \$150,000 of modified AGI



Build Back Better Act – Tax Provisions

- SALT deduction cap
  - Increases the SALT deduction from \$10,000 to \$80,000 and extends this limitation through 2031
  - Effective in the tax year 2021!
  - This is a revenue raiser
  - This will likely be changed by the Senate

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## **CURRENT TAX UPDATE**

- Net investment income (NII) tax
  - Rules changed to make all income that is not already subject to payroll or selfemployment taxes subject to NII tax
  - NIIT change applies at AGI levels \$250,000/\$400,000/\$500,000



Build Back Better Act – Tax Provisions

- Excess business losses
  - Makes the new EBL limitation permanent
  - The provision disallows the current use of losses that exceed \$524,000 for 2021 joint filers and \$262,000 for 2021 other filers
  - The unused portion of the losses would not become part of the NOL carry-over, but would retain its character as business loss to be carried over and added to the following year's business losses to determine the limitation

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### **CURRENT TAX UPDATE**

- Section 1202 small business stock
  - Changes rules to exclude the exemption if the taxpayer's AGI is over \$400,000
  - Applies to stock sales after September 13, 2021
  - The 75% and 100% exclusions would not apply to taxpayers with AGI of \$400,000 or more



#### Build Back Better Act – Tax Provisions

- Expanded tax credits
  - Extends expanded earned income tax credit enacted by ARPA through 2022
  - Increases the amounts for expanded premium tax credit assistance through 2025



## **CURRENT TAX UPDATE**

- Other business-related tax changes
  - 15% minimum tax on profits of large corporations (those with over \$1B in profits reported to shareholders) – largest revenue raiser in the bill
  - 1% surcharge on corporate stock buybacks (publicly traded stock)
  - Other changes related to entities that have foreign operations or are foreign owned



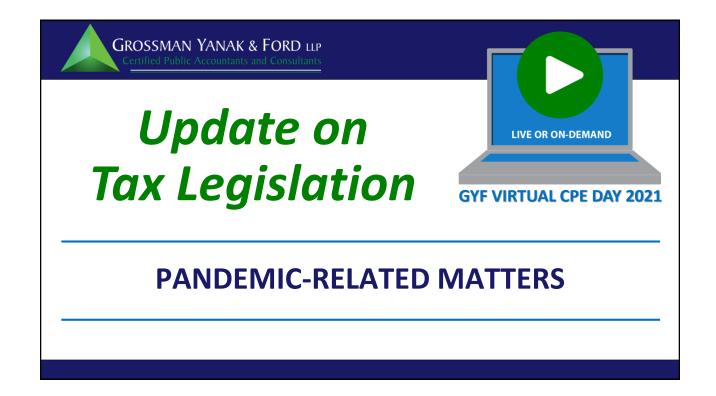
Build Back Better Act – Tax Provisions

- High-income surcharge for individuals, trusts and estates
  - 5% surcharge when AGI exceeds \$10M, plus 3% when AGI exceeds \$25M
  - Surcharge applies at much lower levels (\$200,000) for trusts and estates, and rises to 8% at \$500,000



### **CURRENT TAX UPDATE**

- Nominal changes compared to where we started
  - No change to the individual ordinary income tax rates
  - No change to the capital gains rates
  - No change to the estate tax exemption
  - No changes to carried interest?



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## **PANDEMIC-RELATED MATTERS**

Paycheck Protection Program (PPP) Loans

- 2020 and 2021 loan forgiveness applications
- SBA audits of PPP loans that are \$2M and greater
- Loan necessity questionnaire
- Federal and state tax consequences of the PPP loan



## **PANDEMIC-RELATED MATTERS**

Employer Retention Credit (ERC) Matters

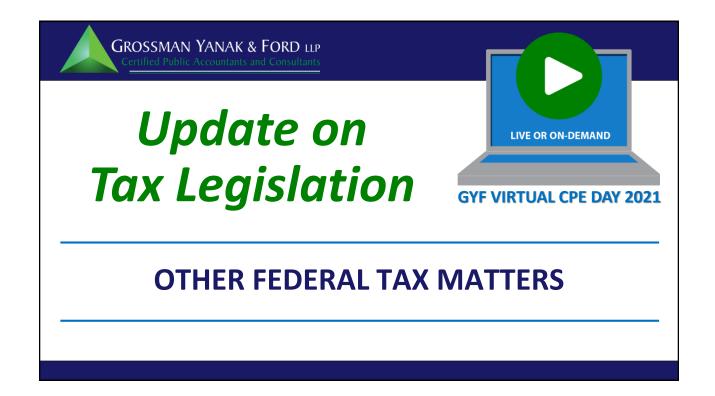
- The tie-in and coordination to the PPP
- Who qualifies? 2020/2021
- Timing of the refund claim (2020 and 2021)
- Timing of the refunds
- Federal and state tax consequences of the ERCs

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## **PANDEMIC-RELATED MATTERS**

#### **Other Considerations**

- Family and sick leave credits
  - Emergency paid sick leave
  - Emergency family & medical leave
- Business meals are 100% deductible in 2021 and 2022



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## **OTHER FEDERAL TAX MATTERS**

#### **IRS Changes and Increased Audit Activity**

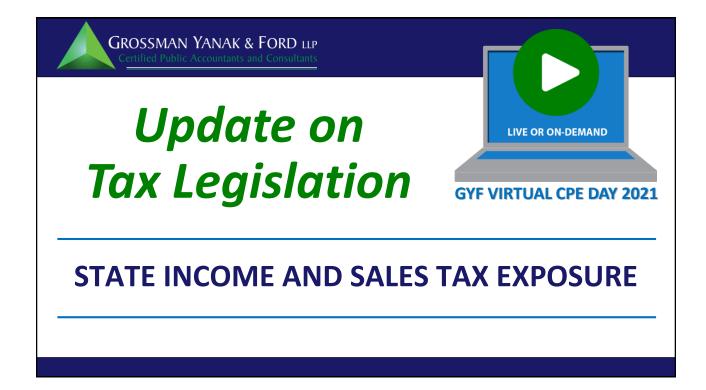
- Organizational changes at the IRS
- Increase in compliance audits
- Timing of IRS audits and communications with the IRS

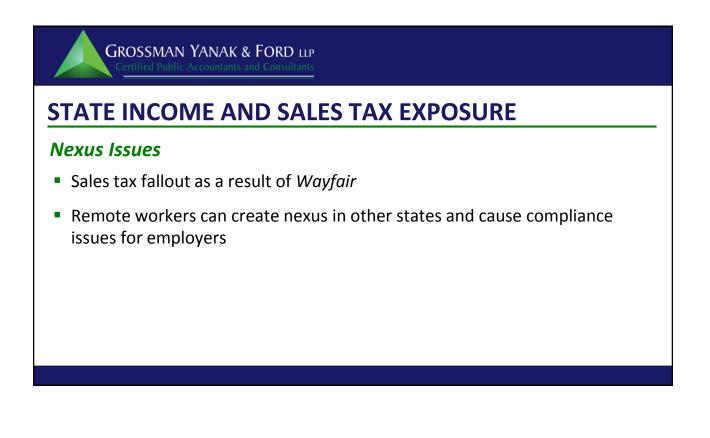


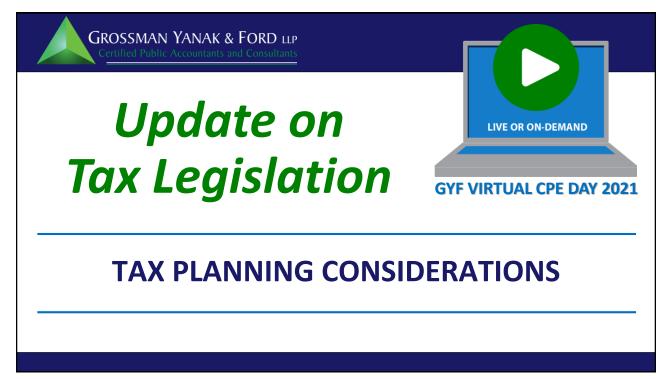
# **OTHER FEDERAL TAX MATTERS**

### **Technical Areas of Importance**

- Section 199A
- Elimination of certain tax benefits that were extended during the pandemic
  - Excess losses limitations
  - Net operating loss (NOL) changes
- Shareholder compensation matters (reasonable compensation)
- S corporation wages and pass-through income the tie-in to Section 199A









# LOOKING TO THE FUTURE

- Very uncertain tax times
- It is unlikely that there will be additional legislation increasing taxes in 2022
- Recurring concerns and planning considerations
- IRS services limitations



# **TOP 10 PLANNING STRATEGIES**

- 1. Hire a professional to provide assistance
- 2. Plan in advance finding a qualified professional is getting harder, and finding someone for a quick turnaround may not happen
- 3. Plan now for future college costs and understand the rules for the state where your child will attend school
- 4. Understand the education tax benefits (American opportunity tax credit and the Lifetime learning credit)
- 5. The PA EITC (Educational Income Tax Credit)

