

The Inflation Reduction Act: A Tax Overview

August 15, 2022

The Inflation Reduction Act of 2022 (the "Act"), which passed both chambers of Congress on Aug. 12, 2022, includes the following tax provisions meant to raise government revenues and subsidize green energy initiatives.

1. A 15% corporate alternative minimum tax
2. An excise tax on repurchases of corporate stock
3. An extension on the limitation on excess business losses of noncorporate taxpayers
4. Additional funds to the IRS to bolster tax enforcement
5. Tax credits to incentivize investments in green technologies

The 15% Corporate Alternative Minimum Tax

The corporate income tax rate is currently 21%, but the effective tax rate for many corporations is less than 21% because of deductions and credits available to them. The Act provides a 15% alternative minimum corporate tax for tax years beginning after Dec. 31, 2022. It applies only to corporations with profits over \$1 billion and some foreign-owned corporations with profits in excess of \$100 million.

The alternative minimum tax imposes a 15% tax on adjusted financial statement income, which is not the same as federal taxable income. The alternative minimum tax allows corporations to claim net operating losses and tax credits against it, but only until a 15% rate is reached. A corporation that has paid the alternative minimum tax in prior years appears to be able to claim a tax credit against its regular corporate tax in a tax year where the regular tax rate exceeds the 15% alternative minimum tax rate for the amount of the alternative tax paid in prior years. There will undoubtedly be IRS guidance forthcoming on this issue.

The Act includes an amendment, which would prevent the tax from being applied through aggregation to companies with less than \$1 billion of profits under shared ownership of an investment fund or partnership.

In addition, the alternative minimum tax was changed to include a reduction in the calculation of financial statement income due to certain depreciation deductions under Section 167 and also amortization deductions under Section 197 for qualified wireless spectrum to the extent of the amount allowed as deductions in computing taxable income for the taxable year.

Excise Tax on Stock Buy Backs

The Act now includes a new 1% excise tax on the fair market value of stock repurchased by a publicly traded U.S. corporation during the taxable year. This tax will affect redemptions and certain acquisitions and repurchases of publicly traded foreign corporation stock. There are some reductions to the excise tax for stock issuances during the year and exceptions for certain tax-free reorganizations.

This excise tax was introduced to replace a provision in a prior iteration of the Act that increased the holding period to obtain preferential capital gain tax rates of carried interests held by certain managers of funds from three years to five years.

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Extension of Limitation on Excess Business Losses Replaces SALT Cap Extension

The Act extends the limitation on excess business losses of noncorporate taxpayers until 2028, a two-year extension.

Increased Funding for the IRS

The Act allocates roughly \$80 billion to the IRS over the next decade expecting it to increase tax revenue by \$200 billion over the same period due to increased enforcement and compliance.

Clean Energy Tax Credits

The Act also offers many tax incentives related to green energy, including but not limited to:

- Consumer tax credits for home energy efficiency and clean energy projects such as installing heat pumps or rooftop solar panels
- Enhanced electric vehicle tax credits no longer limited by the number of vehicles sold but rather the model's price and the purchaser's income
- Production tax credits for the manufacture of solar panels, wind turbines, batteries, and critical minerals processing
- Enhanced investment tax credits for renewable energy activities such as building clean technology manufacturing facilities that make wind turbines and solar panels
- Additional tax credits for clean commercial transportation, industrial manufacturing, and production of biofuels

If you have questions about how this legislation may affect you, please reach out to your Miller Canfield attorney or one of the authors of this alert.