2021 Tax Presentation

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Today’s Presenters

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Highlights of Proposed Tax Legislation

Polling Question #1

Do you think Congress will pass any big tax changes before the end of the year?

A. Yes

B. No

Timeline

WHAT HAPPENS NEXT

Ways & Means Committee	House/Senate	President
• House Ways and Means committee approves bill	• Senate and House to propose changes • Senate and House to vote and pass final package	• President Biden to sign into law?

Progression of Tax Proposals

Where did we start and where are we now?

	Biden Proposal	House Ways and Means Bill (9/27)	House Democratic Bill (10/28)
Corporate Tax Rate	Increase from 21% to 28%	Increase from 21% 26.5%	Removed
Corporate AMT	Minimum tax of 15% on book earnings if book earnings are in excess of $2 billion,	N/A	Minimum tax of 15% on book earnings if book earnings are in excess of $1 billion for a 3-year period
Individual Income Tax Rate	Increase from 37% to 39.6%	Increase from 37% to 39.6%	Removed
Surcharge Tax on High Income Individuals	N/A	Additional 3% tax if modified AGI exceeds $5,000,000 (MFJ)	Additional 5% tax if modified AGI exceeds $10,000,000 (MFJ) and 8% for AGI that exceeds $25,000,000 (MFJ)
20% deduction for qualified business income (199A)	N/A	Maximum 199A deduction allowed limited to $500,000 (MFJ) or $2,500,000 of qualified business income	Removed
Expansion of Net Investment Income Tax (NIIT) For High Income	Application of active pass-through business income to either NIIT or self-employment tax (both 3.8%)	Application of active pass-through business income to either NIIT or self-employment tax to individuals with modified AGI above $500,000 (MFJ) not allowing net operating losses to be taken into account as an offset	Application of active pass-through business income to either NIIT or self-employment tax to individuals with modified AGI above $500,000 (MFJ) not allowing net operating losses to be taken into account as an offset
Capital Gains Rates	Increase from 20% to marginal tax rate	Increase from 20% to 25%	Increase to 25% (due to surcharge) for modified AGI above $10,000,000 (MFJ) and 28% for AGI above $25,000,000 (MFJ)
Like -Kind Exchange Limitations	Limit the amount of gain that can be deferred to $1,000,000 (MFJ)	Removed	Removed
Excess Business Loss Limitation (Section 461(l)	Make the excess business loss limitation permanent, limitation of $500,000 (MFJ) losses per year	Make the excess business loss limitation permanent, limitation of $500,000 (MFJ) losses per year and any carryforward losses are no longer considered net operating losses but would remain in the excess business loss "bucket"	Make the excess business loss limitation permanent, limitation of $500,000 (MFJ) losses per year and any carryforward losses are no longer considered net operating losses but would remain in the excess business loss "bucket"
Interest Expense Limitation	N/A	Section 163(j) for partnerships and S corporations to apply at the partner and S corporation shareholder level and limiting interest expense carry over to 5 years	Section 163(j) for partnerships and S corporations to apply at the partner and S corporation shareholder level

Key Provisions for Individuals

- Surcharge 5% on all income over $10M
  - Additional 3% on all income over $25M
- Capital Gains increase to 25% for AGI over $10M
  - Capital Gains increase to 28% for AGI over $25M
- Excess Business Loss Limitation of $500,000 made permanent
  - No longer considered NOL losses

Key Provisions for Individuals

- Expansion of 3.8% net investment income tax
  - NIIT generally applies to investment income where a taxpayer's modified adjusted gross income exceeds:
    - $250,000 for joint filers
    - $200,000 for single tax filers
    - Proposal to broaden the application of the NIIT by applying it to all income over $400,000 single filer ($500,000 MFJ) rather than solely investment income.

Estate, Gift & Trust Tax Provisions

	CURRENT LAW	BIDEN ADMINISTRATION	BUDGET RECONCILIATION LEGISLATION
Estate, Gift and Trust	For 2020, estate and gift tax exemption is $11.58 million. This is scheduled to revert to a pre-TCJA indexed amount $5 million (indexed for inflation) after 2025. Transfers of appreciated property at death get a stepped-up basis. Top rate is 40%	• Eliminate step-up basis on assets inherited at death. • Indicated preference to reduce the estate and gift exemption and increase the tax rate.	• End temporary increase in unified credit again estate and gift taxes, reverting credit to $5M per individual (adjusted for inflation) • Pull grantor trusts into a decedent's taxable estate when the decedent is the deemed owner of the trusts • Nonbusiness assets should not be afforded a valuation discount for transfer tax purposes. • Trust Taxable income over $12,500 is taxed at top rate of 39.6%

Estate, Gift & Trust Tax Provisions

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Estate and Gift Tax Provisions

- Key changes to grantor trusts
  - Gifts
  - Sales
  - Distributions
- Valuation discount limitations
  - Nonbusiness Assets (passive assets)
  - Look-through rule (>10% interest)

Estate and Gift Tax Provisions

- Key changes to grantor trusts
  - ~~Gifts~~
  - ~~Sales~~
  - ~~Distributions~~
- Valuation discount limitations
  - ~~Nonbusiness Assets (passive assets)~~
  - ~~Look-through rule (>10% interest)~~

Other Planning Considerations

Inventory Methods

- LIFO – still potential for LIFO relief
- 263A method review

Employee Retention Tax Credit (ERTC)

Polling Question #2

Which credit program are you most interested in learning about?

A. Employee Retention Tax Credit

B. Worker Opportunity Tax Credit

C. Paid Leave Credit for Vaccines

ERTC (Employee Retention Tax Credit)

Tax relief for certain employers impacted by COVID-19

Originally enacted as part of the **CARES ACT** beginning March 13, 2020, eligible employers are entitled to a refundable tax credit used to offset their employment taxes.

CONSOLIDATED APPROPRIATIONS ACT (CAA), 2021, further extended the ERTC through June 30, 2021, and included certain enhancements that apply starting January 1, 2021.

THE AMERICAN RESCUE PLAN ACT (ARPA) signed by President Biden extended the ERTC enhancements under the CAA through the end of 2021.

Who's Eligible

2020 QUALIFICATION GUIDELINES MARCH 13–DECEMBER 31	2021 QUALIFICATION GUIDELINES JANUARY 1–DECEMBER 31
Who's Eligible	
1. Employers whose business was fully or partially suspended due to emergency orders from an appropriate government authority that limited commerce, travel, or group meetings • The portion of the suspended operations needs to be a "more than nominal" portion of the whole business' operations, for example, the gross receipts OR employee hours made up at least 10% of the entire business operations in the same 2019 quarter	1. Employers whose business was fully or partially suspended due to emergency orders from an appropriate government authority that limited commerce, travel, or group meetings • The portion of the suspended operations needs to be a "more than nominal" portion of the whole business' operations, for example, the gross receipts OR employee hours made up at least 10% of the entire business operations in the same 2019 quarter
OR	***OR***
2. Employers who had at least a **50%** reduction in gross receipts for the current calendar quarter as compared to the same calendar quarter in 2019 • In determining the gross receipts reduction, employers must confirm if the aggregation rules apply based on ownership structure	2. Employers who had at least a **20%** reduction in gross receipts for the current calendar quarter as compared to the same calendar quarter in 2019 • In determining the gross receipts reduction, employers must confirm if the aggregation rules apply based on ownership structure

Employee Threshold

2020 QUALIFICATION GUIDELINES MARCH 13–DECEMBER 31	2021 QUALIFICATION GUIDELINES JANUARY 1–DECEMBER 31
Employee Threshold for Determining Qualified Wages	
• For employers with **100 or fewer** full-time employees, measured as average employment in 2019, the credit applies to wages paid to all employees. • For employers with more than **100** full-time employees, the credit only applies to wages paid to employees during the time they weren't providing services. • In determining the number of employees, employers must confirm if the aggregation rules apply based on ownership structure.	• For employers with **500 or fewer** full-time employees, measured as average employment in 2019, the credit applies to wages paid to all employees. • For employers with more than **500** full-time employees, the credit only applies to wages paid to employees during the time they weren't providing services. • In determining the number of employees, employers must confirm if the aggregation rules apply based on ownership structure.

Credit Calculations

2020 QUALIFICATION GUIDELINES MARCH 13–DECEMBER 31	2021 QUALIFICATION GUIDELINES JANUARY 1–DECEMBER 31
Calculating the Credit	
• The credit is equal to **50%** of wages paid to an employee after March 12, 2020, in each qualifying calendar quarter, up to a total of **$10,000** for **all quarters**, per employee. • The credit may be worth up to **$5,000** per eligible employee. • Qualified wages, for purposes of this program, include qualified health plan expenses incurred by the employer.	• The credit is equal to **70%** of wages paid to an employee after December 31, 2020, in each qualifying calendar quarter, up to a total of **$10,000 per quarter**, per employee. • The credit may be worth up to **$28,000** per eligible employee. • Qualified wages, for purposes of this program, include qualified health plan expenses incurred by the employer.

Claiming The Credit

- The credit is claimed on an employer’s original Form 941
- The Form 7200 is available to certain employers to request an advance of the credit for a current quarter’s qualified wages prior to filing the current quarter’s 941
- Employers who did not claim the ERTC on their original Form 941 may amend, using the Form 941-X
- Statute of limitations for filing the Form 941-X is three years from the date the original return was file or two years from the date the taxes were paid

PPP Recipients Now Eligible for ERTC

- Under the CARES Act, any business who received a Paycheck Protection Program (PPP) loan was automatically ineligible for the ERTC

- The CAA retroactively waives the restriction to allow PPP loan recipients to also claim the ERTC on eligible wages back to March 13, 2020

- Wages from PPP forgiveness can't be used as qualified wages for the ERTC

No Double Benefits

The same wages cannot be used to calculate any of the following employment tax credits:

- Work Opportunity Tax Credit
- Paid Sick & Family Leave Credit
- Paid Family & Medical Leave Credit
- Disaster Employee Retention Credit
- Research & Development Credit

The ARPA also limits qualified wages for ERTC from certain grants under the Small Business Administration (SBA)

Work Opportunity Tax Credit (WOTC)

WOTC

- Wage-based credit available to employers who hire individuals who may be facing barriers to employment and qualify under a specified target group
- Federal income tax credit
- General business credit that allows one-year carryback or 20-year carryforward
- Active through December 31, 2025

TARGET GROUPS	MAXIMUM CREDIT
➤ Food Stamps	$2,400
➤ Long-term Unemployed	$2,400
TANF (temporary assistance)	$2,400-$9,000
SSI Recipient	$2,400

TARGET GROUPS	MAXIMUM CREDIT
Felon	$2,400
Voc. Rehab	$2,400
Des. Com. Resident	$2,400

VETERAN TARGET GROUPS	MAXIMUM CREDIT
Disabled Veteran	$2,400
➤ Unemployed Veteran (6 mos.)	$4,800-$5,600
Disabled & Unemployed Veteran	$9,600
Veteran Food Stamps	$2,400

Example of WOTC For Stores

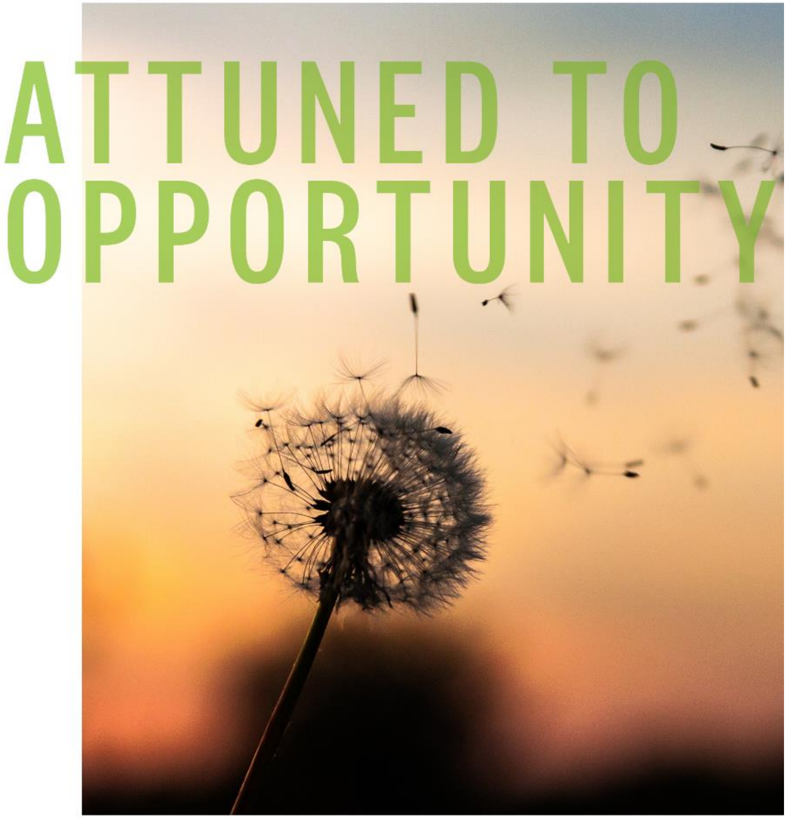
Avg. Qualification Rates	5-8%
Primary Qualifying Target Groups	Food Stamps TANF Veterans
Avg. Credit Per Eligible Employee (EE)	$1,900

WOTC (cont.)

- Prospective program with a 28-calendar day statutory filing deadline per qualified new hire
  - Only new hires with the company are eligible
- Requires employers to pre-screen new hires and file qualified applications within 28 days from the new hire’s first day of work
- Administered at the state level by state WOTC coordinators
  - Verify and certify qualified forms by issuing certifications that allow the employer to calculate the credit
- There is no limit on the number of certified new hires an employer can claim the credit for
  - One time credit per certified new hire

WOTC (cont.)

- The value of the tax credit is determined by the number of hours worked and wages earned within first 12 months of employment, and 24 months for long-term Temporary Assistance for Needy Families (TANF)
- Certified employees must work a minimum of 120 hours
  - 120-399 hours = 25% up to wage cap
  - 400+ hours = 40% up to wage cap



How to Take Advantage of the WOTC

WHAT DOES THE EMPLOYER DO?

1. Provide access and ensure all eligible individuals complete the screening timely
2. Provide payroll on a scheduled basis

WHAT DO WOTC PROVIDERS DO?

1. Provide a screening tool to employers
2. Track and monitor receipt of timely forms
3. Process all qualified employee forms and file with state WOTC coordinators
4. Manage backlogs with applicable states to speed up the certification process
5. Perform denial appeals when appropriate under the Freedom of Information Act (FOIA)
6. Obtain all certifications from the states
7. Calculate the eligible credit for easy reporting on the federal return

Other Credits

Paid Leave Credit for Vaccines

The American Rescue Plan Act allows employers (with under 500 employees) to claim refundable tax credits that reimburse them for the cost of providing paid sick and family leave to their employees due to COVID.

This includes leave taken by employees to receive or recover from COVID-19 vaccinations. The ARP tax credits are available for leave from April 1, 2021, through September 30, 2021.

The tax credit is equal to the sick/family leave paid for COVID. Credit is limited to $511 per day up to $5,000 or family leave limited to $200 per day or $12,000 total at 2/3 rate. The credit is claimed on payroll tax return filings (Form 941 or 941X).

Retirement Plan Startup Tax Credit

- Can Claim Tax Credit For Up To $5,000 For Three Years For The Cost Of Starting A SEP, SIMPLE IRA, Or Qualified Plan (i.e., 401(k))
- How To Qualify:
  - Must Have 100 Employees Or Less Who Received Comp Of At Least $5,000, At Least One Person Is Non-highly Compensated, Can't Be Part Of Another Plan For The Three Years Prior
- This Only Works For a New Plan
- Claimed On Form 8881

Cost Segregation, 179D, & Fixed Assets

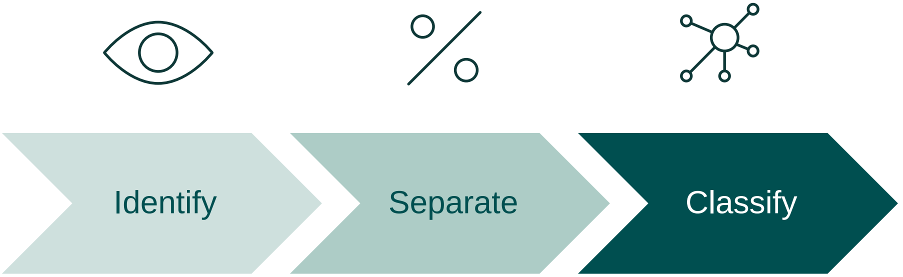
Polling Question #3

Have you recently acquired or developed any new properties?

A. Yes

B. No

Cost Segregation



- Tax deferral strategy that frontloads depreciation deductions into the early years of real estate ownership
- Identifies, separates, and classifies real and personal property assets or buildings and equipment components into shorter recovery periods

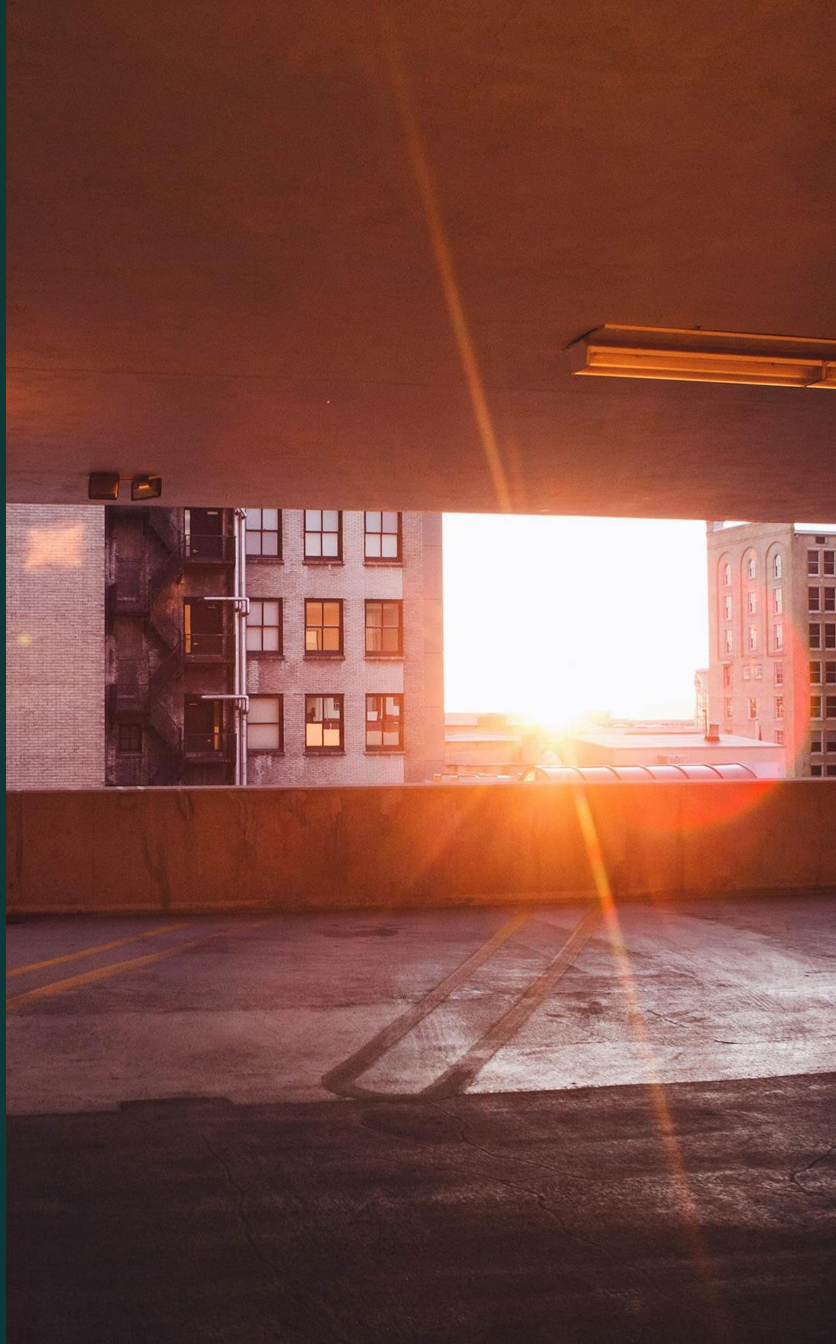
- Significantly shorter tax lives—5-, 7-, and 15-years—rather than the standard 27.5- or 39-year depreciation periods
  - 27.5-year property: Residential rental property, such as multifamily properties and senior housing (independent living, assisted living, memory care)
  - 39-year property: Nonresidential real property—**including auto dealerships**
- Increase current and future deductions, as well as catch-up “missed” deductions for past depreciation
- Reduces current tax liability—time value of money

Cost Segregation Studies

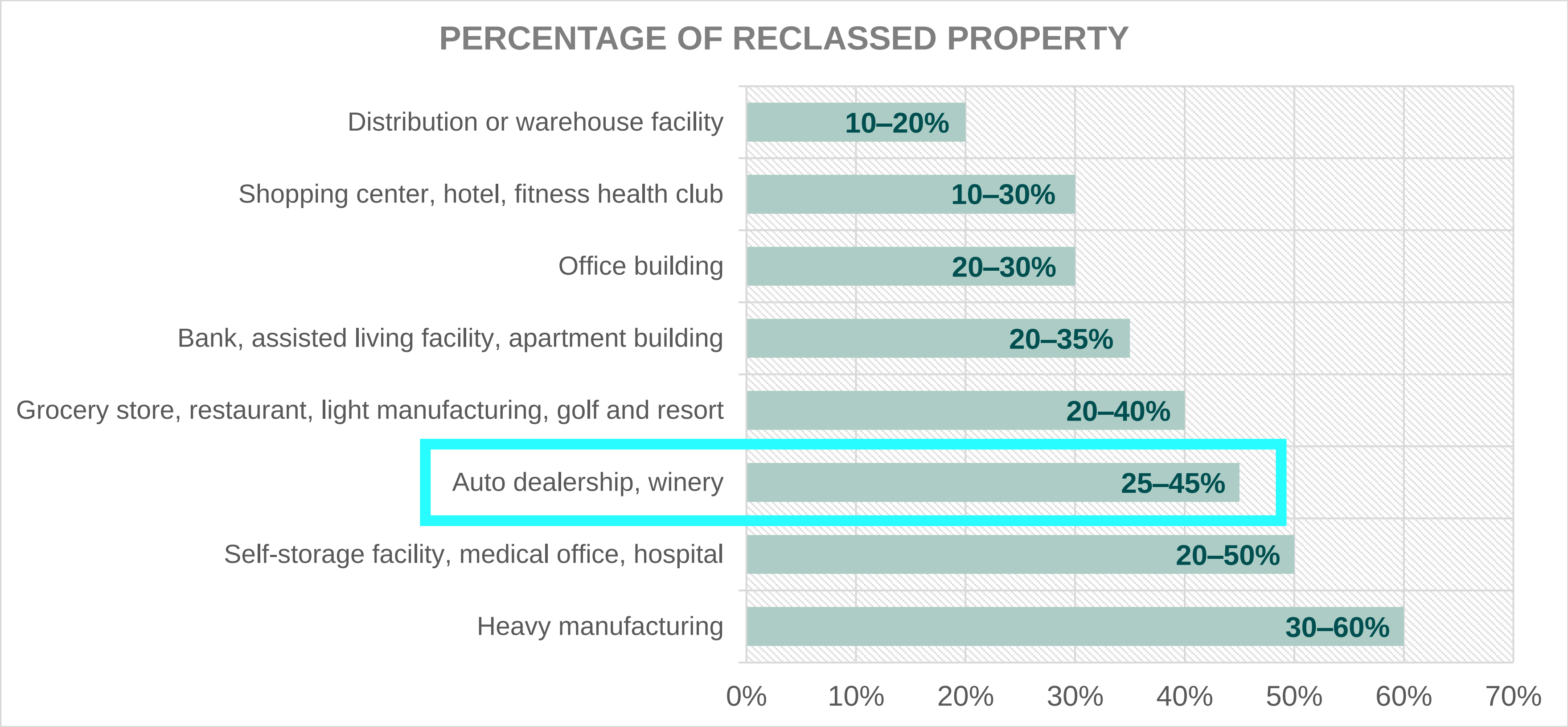
- New construction projects
- Remodels, expansions
- Tenant improvements
- Property acquisitions
  - Allocations of purchase price
  - Like-kind exchanges (Sec. 1031)
- “Look Back” studies (Form 3115)
  - Catch-up depreciation missed on past tax returns without amending returns
  - Applicable to any of the above project types
- Bonus Depreciation
  - Currently at 100%
  - Phases down by 20% per year beginning in 2023

Taxpayer Criteria

- Has taxable income and can utilize accelerated depreciation
- Owns significant building and/or land improvements—can go as far back as necessary via Form 3115
- Expanding and/or remodeling facilities
  - ***Manufacturer-required upgrades***
- $1 million or greater depreciable basis for a purchase or new construction
- $250,000 or greater of interior improvements
- Will hold the property for more than five years



Typical Reclassifications



Cost Segregation Example – Auto Dealership

ASSUMPTIONS	
Placed in Service	October 2019
Total Basis	$ 10,000,000
Federal Tax Rate	29.6%
Oregon Tax Rate	9.9%
NPV Factor	7.0%

SUMMARY OF BENEFITS		
Increased Cash Flow - Year 2019	$	782,046
Increased Cash Flow - Years 2019-2023	$	701,406
Net Present Value	$	521,777

WITH STUDY							W/O STUDY	BENEFITS OF A STUDY			
Tax Year	5 YR	7 YR	15 YR	39 YR	Repair Removal Expense	Total Deductions	Total Deductions	Increased Deductions	Cumulative	Federal & State Income Tax Deferral	Net Present Value
2019	$ 1,200,000	$ 50,000	$ 900,000	$ 41,934	$ -	$ 2,191,934	$ 53,419	$ 2,138,515	$ 2,138,515	$ 782,046	$ 782,046
2020	$ -	$ -	$ -	$ 201,282	$ -	$ 201,282	$ 256,410	$ (55,128)	$ (55,128)	$ (20,160)	$ (18,801)
2021	$ -	$ -	$ -	$ 201,282	$ -	$ 201,282	$ 256,410	$ (55,128)	$ (55,128)	$ (20,160)	$ (17,534)
2022	$ -	$ -	$ -	$ 201,282	$ -	$ 201,282	$ 256,410	$ (55,128)	$ (55,128)	$ (20,160)	$ (16,351)
2023	$ -	$ -	$ -	$ 201,282	$ -	$ 201,282	$ 256,410	$ (55,128)	$ (55,128)	$ (20,160)	$ (15,249)
Years 2019-2023	$ 1,200,000	$ 50,000	$ 900,000	$ 847,062	$ -	$ 2,997,062	$ 1,079,059	$ 1,918,003	$ 1,918,003	$ 701,406	$ 714,111
TOTAL	$ 1,200,000	$ 50,000	$ 900,000	$ 7,850,000	$ -	$ 10,000,000	$ 10,000,000	$ -	$ -	$ -	$ 521,777

Section 179D

Energy efficient commercial building deduction is now permanent

- Energy efficient commercial building deduction of $1.80 per square foot
- Available for newly constructed buildings or building improvements placed in-service after January 1, 2006 (179D is now permanent)
- Can be claimed on a look-back basis:
  - Owners & tenants: file Form 3115 Automatic Accounting Method Change on current-year tax return
  - Designers of government-owned buildings: amend prior-year tax returns
- Section 179D deduction can be claimed by:

Owners and tenants of commercial buildings who’ve built or installed improvements

Owners of four-story or greater residential buildings who’ve built or installed the improvements

Designers of government-owned energy-efficient buildings (architects, engineers, or contractors)

Section 179D Energy Efficient Building Deduction

- Taxpayers can receive as much as $1.80 per square foot for commercial building efficiency improvements above a certain threshold:
  - Heating, ventilation, and air conditioning (HVAC) and hot water systems ($0.60/SF)
  - Interior lighting retrofits ($0.60/SF)
  - Building envelopes that are part of new construction or remodels ($0.60/SF)
- Modeling of energy performance must be conducted by a contractor or Professional Engineer (P.E.) licensed in the state where the building is located
- Measured against standards set by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE)

179D Benefits: Auto Dealership Owners

- Deductions up to $1.80 per square foot of building area: a 50,000 SF auto dealership would yield a $90,000 deduction if full qualification is determined

MAXIMUM DEDUCTIONS BASED ON BUILDING SIZE

BUILDING SIZE IN SQUARE FEET	BUILDING ENVELOPE	HVAC	LIGHTING	TOTAL MAXIMUM DEDUCTION AVAILABLE
50,000	$30,000	$30,000	$30,000	$90,000
100,000	$60,000	$60,000	$60,000	$180,000
500,000	$300,000	$300,000	$300,000	$900,000

Maximum deduction of 60 cents per square foot for each type of deduction.

- The overall 179D deduction cannot exceed the total capitalized cost of the energy efficient property
- State tax conformity
- Environmentally-friendly energy efficient designs

Biden Administration's Proposed Tax Changes

Section 179D

- Effective for buildings and improvements placed in-service between January 1, 2022 and December 31, 2031
- **Base deduction**
  - $0.50/SF for energy cost savings of 25%
  - Increased by $0.02/SF for every percentage point of energy cost savings above 25%
  - Once 50% threshold is met, the deduction cannot exceed $1.00/SF
- **Bonus deduction**
  - $2.50/SF for energy cost savings of 25%
  - Increased by $0.10/SF for every percentage point of energy cost savings above 25%
  - Once 50% threshold is met, the deduction cannot exceed $5.00/SF
  - Prevailing wage and apprenticeship requirement – can this be included in a reconciliation bill?
  - In prior example of 50,000 SF auto dealership building, deduction could now be up to $250,000

Fixed Asset Study

- Comprehensive review of fixed asset holdings, to identify cost recovery issues:
  - Less than allowable depreciation claimed
  - Ghost assets (late disposals)
  - Overcapitalized repairs
  - Missed provisions (bonus depreciation, improvement property classifications, etc.)
  - Cap policy issues
- Most useful for companies:
  - With more than $25 million in fixed asset holdings (buildings, equipment, land improvements)
  - Operating out of multiple physical locations, business units, etc. with de-centralized accounting teams
  - Self-manage fixed assets for tax

Fixed Asset Study: Less than Allowable Depreciation

- **Issue:** Taxpayer claimed less than the allowable amount of depreciation.
- **Common Causes:**
  - Not claiming bonus depreciation or 179 elections, when applicable
  - Wrong recovery period used, or incorrect asset classification
  - Special recovery periods missed for improvement property (QIP, QLIP, QRIP, QRP)
  - Never placed an asset into service
- **Examples:**
  - **Single auto dealership** – vehicle service equipment and land improvements classified incorrectly as building property - $300,000 adjustment
  - **Auto dealership company with multiple locations** – did not take advantage of qualified retail improvement property and qualified improvement property classifications from 2005 to 2020 – $4 million+ adjustment

Polling Question #4

I learned something new during today’s presentation

A. True

B. False

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