Senior Living Summit Tax Update

Matthew Litz | Kristin Courtemanche

BerryDunn

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Learning objectives

- To understand some recent and soon-to-be expiring tax provisions enacted under previous legislation
- To highlight tax changes found in various legislative proposals, including tax credit opportunities
- To understand the provisions and effective dates for SECURE 2.0

Section 1

Sunsetting Provisions of the Tax Cuts & Jobs Act

Sunsetting Provisions of the Tax Cuts & Jobs Act

Recently sunset provisions and more on the horizon

1

Required capitalization of Section 174 research and experimental expenses

Effective January 1, 2022

2

Limits on the deductibility of business interest expense under Section 163j

Effective January 1, 2022

3

Incremental reduction of bonus depreciation rates under Section 168k

Effective January 1, 2023

4

Expiration of the qualified business income (QBI) deduction under Section 199A

Effective January 1, 2026

5

Other miscellaneous provisions of importance

Sunsetting Provisions of the Tax Cuts & Jobs Act

Recently sunset provisions and more on the horizon

1. Required capitalization of Section 174 research and experimental expenses:
   Effective January 1, 2022.
   - Cost recovery period: 5-year (Domestic) vs 15-year (Foreign).
   - Applicable costs: Direct (wages, supplies, etc.) and indirect (rent, utilities, etc.).
   - Compliance challenges to consider: Cost identification and documentation, impact with other Internal Revenue Code (IRC) sections (41, 163(j), 263A, etc.), and state conformity issues.
2. Limits on the deductibility of business interest expense under Section 163j:
   Effective January 1, 2022.
   - Deduction is limited to sum of: (a) business interest income, (b) 30% of adjusted taxable income (ATI), and (c) floor plan financing interest.
   - ATI calculation: EBITDA vs EBIT.
   - Exceptions for small businesses, certain electing businesses, and the ADS trade-off.
     - Several of our senior living clients have elected out of the 163j limitation

Sunsetting Provisions of the Tax Cuts & Jobs Act

Recently sunset provisions and more on the horizon

3

Incremental reduction of bonus depreciation rates under Section 168k:

Effective January 1, 2023.

- 2022 was the last year of 100% bonus. Beginning 2023, the rate drops 20% per year until completely phased out in 2027.

4

Expiration of the qualified business income (QBI) deduction under Section 199A:

Effective January 1, 2026.

- Remains 20% of QBI from certain pass-through entities.
- Potential impacts if not renewed.

5

Other miscellaneous provisions of importance:

- Most business (corporate) provisions were made permanent, e.g., corporate tax rate reduction (21%), repeal of AMT. Not so for pass-through entities.
- Individual: Marginal tax rate changes, SALT limitation, standard deduction, and personal exemptions, child tax credit, estate tax exemptions.

Polling question

In what year are most of the tax provisions enacted under the Tax Cuts and Jobs Act currently set to expire?

a) 2024

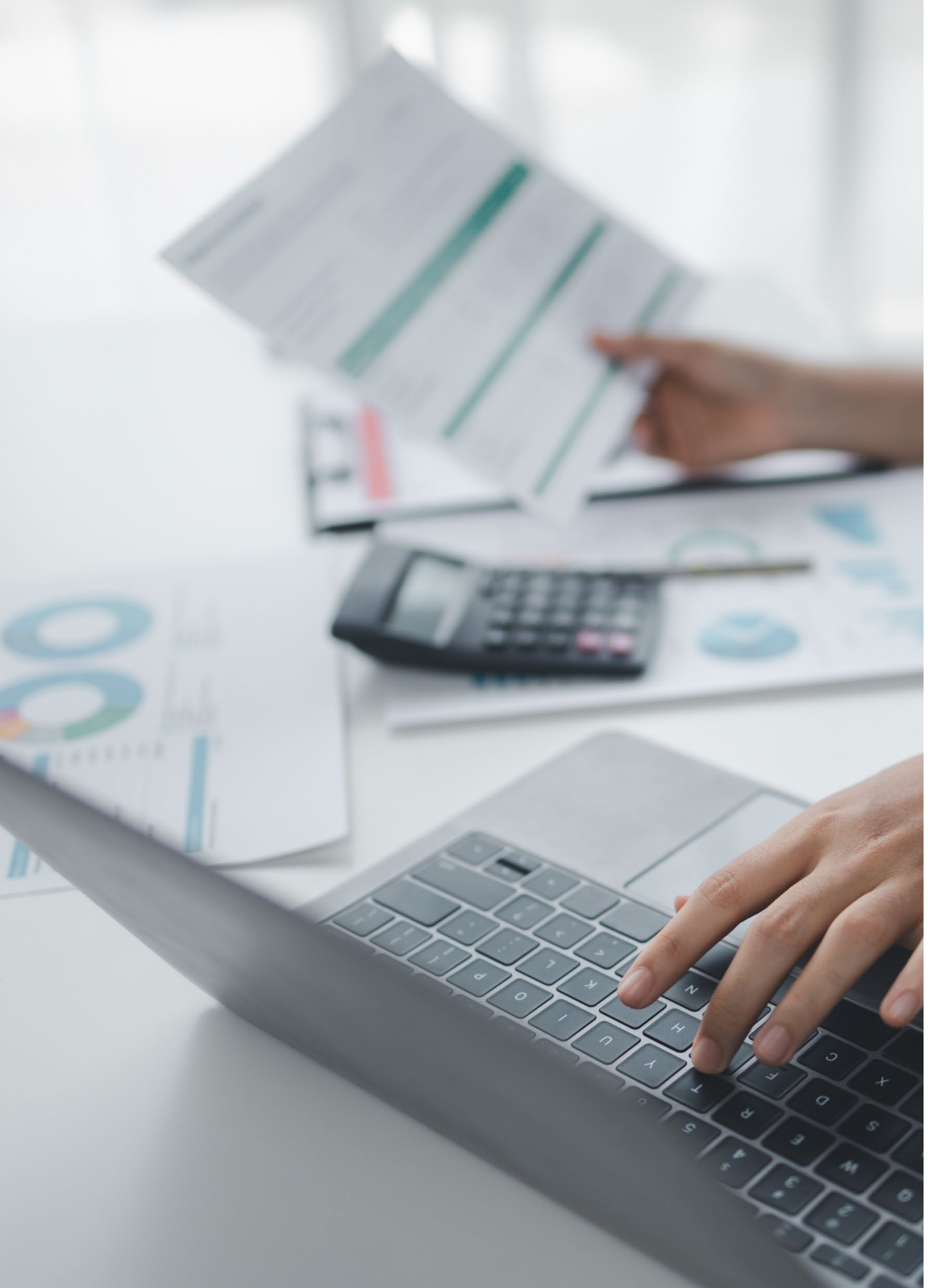
b) 2025

c) 2026

d) 2027

Section 2

Highlights of Tax Proposals and Opportunities to Consider While We Await Legislative Action



Highlights of Various Tax Proposals

Hoping for legislative action that is yet to materialize and may not until after the next election cycle

- Recently proposed "Tax Relief for American Families and Workers Act of 2024"
  - Retroactively restores Sec. 174 expensing for U.S. based R&D investments, Sec. 163j relief, and extends 100% bonus depreciation (through 2025)
  - Accelerates deadline for claiming the Employee Retention Credit to January 31, 2024, to help pay for the cost of the tax package

Opportunities to Consider While We Await Legislative Action

Actions to take in the meantime

1. Assume this is the new norm and take action to reduce the compliance burden.

2. Scrutinize historical R&E costs classification for potential deductibility as ordinary business expenses (Sec. 162).

3. Consider differences between Sec. 179 vs. bonus depreciation, alternate deprecation methods, or cost segregation studies to control timing of deductions.

4. Electing out of Sec. 163j could make sense where the impact of switching to the ADS deprecation method is insignificant.

5. With tax rates at historic lows, consider accelerating income recognition before rates change…and they will!

Opportunities to Consider While We Await Legislative Action

Don’t forget there are some new tax credits available under the Inflation Reduction Act

- An investment tax credit (ITC) is available for certain solar energy projects placed in service under Section 48 of the Code
  - The ITC is calculated as a percentage of the basis of eligible equipment used to generate electricity and placed in service.
  - Base and bonus structure: (a) base of 6% and (b) increase to 5X (up to 30%) if prevailing wage and apprenticeship requirements are satisfied or an exception applies.
  - Bonus depreciation.
- The Act creates a multitude of new (or extends existing) clean energy initiatives and tax credits.
  - A new credit for the purchase of commercial clean vehicles (Sec. 45W) provides a tax credit for up to $7,500, subject to gross vehicle weight (GVW) and vehicle price limitations.
  - The clean vehicle credit (Sec. 30D) has been modified in various ways. It imposes certain requirements for sourcing critical materials used in the manufacture/assembly of the battery components, and final vehicle assembly in the US, among other things. The credit is capped at $7,500 per vehicle. The limitation on which vehicle manufacturers qualify for the credit has been removed.

Opportunities to Consider While We Await Legislative Action

Tax credit elective pay available under the Inflation Reduction Act

What is elective pay?

Elective pay allows applicable entities, including tax-exempt and governmental entities that would otherwise be unable to claim certain credits because they do not owe federal income tax, to benefit from some clean energy tax credits. By choosing this election, the amount of the credit is treated as a payment of tax and any overpayment will result in a refund.

Who is eligible?

Applicable entities **include tax-exempt organizations,** states and political subdivisions such as local governments, Indian tribal governments, Alaska Native Corporations, the Tennessee Valley Authority, rural electric cooperatives, U.S. territories and their political subdivisions, and agencies and instrumentalities of state, local, tribal and U.S. territorial governments.

Opportunities to Consider While We Await Legislative Action

Tax credit elective pay available under the Inflation Reduction Act

How is the elective payment election made?

Eligible entities would claim and receive an elective payment by making an elective payment election on their annual tax return along with any form required to claim the relevant tax credit.

Elective Pay Eligible Tax Credits

- The ITC under Section 48 of the Code
- The credit for qualified commercial clean vehicles under Section 45W of the Code

Polling question

Have you considered any clean energy initiatives for 2024 and beyond?

a) Yes

b) No

c) Already in process

d) In the future

Section 3

Securing a Strong Retirement Act of 2022

Securing a Strong Retirement Act of 2022

Other changes to 401(k) and 403(b) plans

Current rule

Employer matching contributions apply to employee salary deferrals to plan

New rule

Student loan repayments to qualify for employer matching contributions

Securing a Strong Retirement Act of 2022

Changes to 401(k) and 403(b) plans

Current rule

Age 50 and older catch-up $7,500

DELAYED UNTIL 2026

New rule

- Contributions would be required to be made on a Roth basis
- Increases catch-up limit for those aged 62 – 64 to $10,000 (after 12/31/24)

Securing a Strong Retirement Act of 2022

Changes to cash-out limits

Current rule

Account balance less than $5,000

New rule

Account balance less than $7,000

Securing a Strong Retirement Act of 2022

Waiver of early withdrawal penalties for certain distributions

- 10% early withdrawal before age 59½ waived for the following:
  - Up to $1,000 per year for unforeseen personal or family emergency
  - Up to lesser of $10,000 or 50% of vested account balance for distributions in connection with domestic abuse
  - May repay over three years
- Additional emergency distributions are prohibited for three years unless repayment occurs

Securing a Strong Retirement Act of 2022

Starter 401(k) or 403(b) plans

1. Employee deferrals only
2. Automatic enrollment at 3% – 15% of compensation
3. Annual contribution limit is the same as for IRAs
4. Exempt from most nondiscrimination rules

Securing a Strong Retirement Act of 2022

Other provisions effective in 2024

- Eliminate RMDs for Roth 401(k) and Roth 403(b) Plans
- Surviving spouse can elect to be treated like deceased participant for RMD purposes
- Can retroactively amend plan to increase benefits
- 403(b) hardship distribution rules conform to 401(k) rules
- Establishment of Emergency Savings Accounts
  - Funded with after-tax Roth salary deferrals up to $2,500 (indexed)
  - Up to one withdrawal per month
  - Employers can automatically enroll employer at no more than 3%

Securing a Strong Retirement Act of 2022

Provision generally effective for plan years beginning on or after December 31, 2024

Securing a Strong Retirement Act of 2022

Changes to 401(k) and 403(b) plans

Current rule

Automatic enrollment is optional

New rule

- Required for new plans after 12/29/22
- Start between 3% – 10% of compensation
- Mandatory increases of 1% until reaching 15%

Securing a Strong Retirement Act of 2022 – Effective for 2025

Changes to long-term part-time employee participation

Current rule

Three years/500 hours

Proposed rule

- Two years/500 hours
- Disregards pre-2021 service for eligibility and vesting

State Retirement Plan Rules

Maine’s Small Business Retirement Marketplace Act

- Requires employee contributions to state-run program
  - If employer does not offer a retirement plan
- Payroll deduction to Roth IRA
- All employees aged 18 or older
- 5% automatic enrollment contribution
- Delayed effective date – January 1, 2025

Questions?

Matthew Litz
207.541.2361
mlitz@berrydunn.com

Kristin Courtemanche
207.541.2224
kcourtemanche@berrydunn.com

BerryDunn