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# RECHARGE 2024

Annual Not-for-Profit Summit



## Tax and Renewable Energy Credit Opportunities: Creative Solutions for Financial Stability

Presenters: Scott Davis | Joe Byrne

# Presenters



**Scott Davis**

Principal, CPA, MSA



**Joe Byrne**

Senior Tax Manager, CPA



# Agenda

- ▲ **1** Renewable energy
- ▲ **2** Resources
- ▲ **3** Unrelated business income
- ▲ **4** IRS updates
- ▲ **5** ME sales tax



# Learning objectives



- ▶ Learn about opportunities to reduce energy costs through renewable investments
- ▶ Understand the administrative process and tax compliance associated with the Investment Tax Credit
- ▶ Understanding unrelated business income, and general tax updates on IRS activity and ME Sales Taxes.

# Polling question #1





# Section 1

Renewable energy

# Tax credits



Production Tax Credit



Investment Tax Credit



Carbon Oxide Sequestration



Advanced Energy Project Credit



Credit for Commercial Clean Vehicles

# Investment Tax Credit

Qualified energy property

**1**

**Biogas**

**2**

**Combined heat and power**

**3**

**Energy storage system**

**4**

**Geothermal**

**5**

**Solar**

**6**

**Wind**





# Investment Tax Credit

Prevailing wages and apprenticeship requirements

- ▲ 6% Base Credit increased to 30% Credit
- ▲ Exempt if less than 1MW system
- ▲ Exempt if construction began before January 29, 2023



# Investment Tax Credit

Additional credits available for specific projects

**10%**  
Energy  
Community

**10%**  
Domestic  
Content

## Low-Income Community

- **10%** Located in Low-Income Community or on Indian Land
- **20%** Low-Income Residential Building or Low-Income Economic Benefit Project



# Direct pay provisions

## Filing requirements



### Application

#### Specific credits

Low-Income Community  
Bonus Credit  
Advanced Energy Project  
Credit



### Registration

IRS Portal



### Tax Reporting

**Form 3468** –  
Investment Tax Credit  
**Form 3800** –  
General Business Credit  
**Form 990-T** –  
Exempt Organization  
Business Income Tax Return



## Supporting project documents

- ▲ Financial model
- ▲ Organization structure
- ▲ Financial reporting requirements
- ▲ Tax compliance



# Polling question #2





# Section 2

## Resources

# IRS resources and guidance

- ▲ **Publication 5817-G** – Elective Pay Eligible Tax Credits
- ▲ **Publication 5884** – Inflation Reduction Act and CHIPS Act of 2022 – Prefiling Registration Tool User Guide and Instructions
- ▲ **Notice 2022-61** – Prevailing Wage and Apprenticeship Initial Guidance
- ▲ **Notice 2023-29** – Energy Community Bonus Credit Amounts
- ▲ **Notice 2024-41** – Domestic Content Bonus Credit Amounts



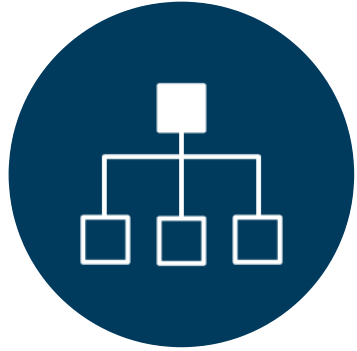


## ▲ Section 3

Unrelated business income



# Unrelated business income



## The “Three-Legged Stool” (must be all three to be UBI)

- Trade or business
- Regularly carried on
- Not substantially related to exempt purpose



## Siloing – §512(a)(6)

- Based on two-digit NAIC code – allows for some grouping of similar activities
- NOL Tracking Required
  - Pre-2018 NOLs can be used to offset all activities in aggregate
  - Be aware of the 80% NOL limitation on Post-2017 NOLs

# Unrelated business income



## ▲ Expense allocations

- Direct expenses are generally easily identifiable, still awaiting guidance on allocation for indirect expenses

## ▲ Tax payments

- FED payments must be made via EFTPS
  - Setup can take a while (at least 7 – 10 business days)
  - Payments should be initiated a couple of days in advance
- Don't forget about states!

## ▲ Very fact-specific – lots of exclusions/exceptions

- Investment/rental income generally not UBI (unless debt-financed)
- Infrequent or Limited Commercial Activity could meet criteria for not regularly carried on



# Section 4

IRS updates



# IRS updates

Continued backlog/processing delays

Per March 2024 TIGTA (Treasury Inspector General for Tax Administration) Report:

- ▲ Approx. 4.5 million returns awaiting processing or other resolution as of 12/31/22
- ▲ Concerns remain with:
  - Inventory of amended returns (significantly above pre-pandemic levels)
  - Inventory of suspended returns (rejects, etc.)
  - Refund Delays (121,449 Tax Year 2020 accounts with overpayments totaling \$783.3 million) delayed due to programming errors

# IRS updates

## TE/GE Priorities for FY2024

### Smarter enforcement:

- ▲ Continued cross-collaboration with other IRS divisions to refine EO exam case selection using advanced modeling techniques
- ▲ Focus on highly complex areas and emerging issues (including but not limited to):
  - Unrelated business income
  - Tax-exempt hospitals (HIGHLY ACTIVE)
  - Focuses on Community Benefit Standards and 501(r) compliance
  - Worker classification (employee vs. independent contractor)
  - Excise Tax on excess compensation (21% tax on remuneration > \$1M)

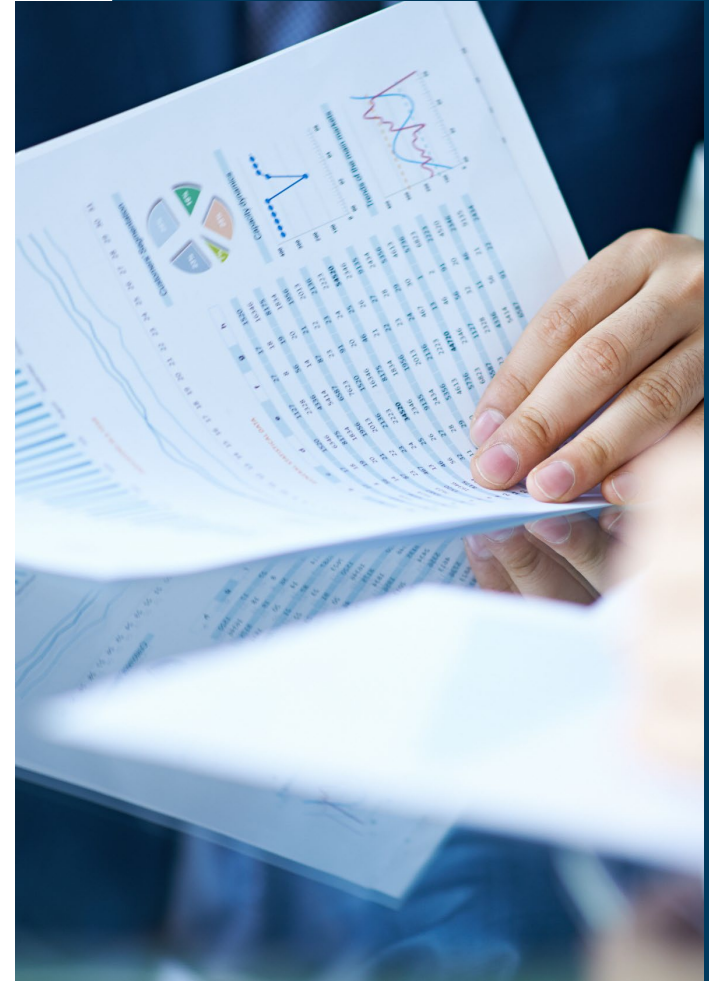


# IRS updates

## FY2022 IRS statistics/updates

### Examinations:

- ▲ 3,009 examinations started; 3,425 examinations closed
  - 78% of closed examinations resulted in a tax change
  - Compliance strategies (see previous slide) – 85.9% Change Rate
  - Date-driven exams – 84.4% Change Rate
    - Based on “compliance query data” from review of Form 990s
    - UBI issues most prominent
  - Referrals, claims, and other casework – 72.8% Change Rate





# Polling question 3





# Section 5

ME sales tax



# ME Sales Tax

On April 22nd, Gov. Janet Mills signed a bill that provides a blanket sales tax exemption for all 501(c)(3) organizations.

- Effective January 1, 2025
- Exemption is not automatically granted – must complete an application (TBD – not available yet)
- Purchases must be used primarily toward exempt mission/purpose
- Includes all 501(c)(3) organizations – including those from out of state
- Determination Letter needed – if you need a copy, complete Form 4506-B
- Sales made by 501(c)(3)s still require sales tax withholding as applicable
  - Gift shops, etc.
  - Casual or infrequent sales still qualify for sales tax exemption.



# Questions?



**Scott Davis**

**Joe Byrne**

# Break

**Next session:**

Navigating Employee Benefits

**Begins at**

**12:20pm**

**Presenter:**



**Bill Enck**

