Goldman Sachs

Senate Passes The Inflation Reduction Act

Highlights – August 9, 2022

On August 7th, the Senate narrowly passed *The Inflation Reduction Act* (H.R. 5376, "The Inflation Reduction Act of 2022") via the budget reconciliation process. The bill contains some tax proposals previously included in prior versions of *Build Back Better*. The House of Representatives reportedly intend to vote on the bill on or around August 12th. It should be noted, from a tax perspective, that while there are a few tax provisions that could impact clients, this draft reconciliation bill contains far fewer (and different) substantive changes than previous iterations, including the initial draft of the *Inflation Reduction Act*.

Key Tax Proposals Included

- Imposition of a 15% domestic corporate minimum tax on book income of corporations with over $1 billion in "average annual adjusted financial statement income." This proposal would be effective after December 31, 2022.
- Imposition of a 1% excise tax on a publicly traded US corporation for the value of its stock that is repurchased by the corporation during the tax year. This proposal would be effective for repurchases of stock after December 31, 2022.
- A two-year extension of the excess business loss rules under Section 461(l), which generally limit the business loss that can be taken on a joint return to $500,000 (adjusted for inflation) per year, extending them through 2028.
- The bill explicitly allocates approximately $45 billion to strengthen IRS enforcement activities. Note, the Bill also provides an additional approximately $25 billion that could also be used for IRS enforcement, but leaves discretion to the IRS on how to use that $25 billion.
- New and expanded credits for electric vehicles and certain improvements to homes:
  - Non-business Energy Property Credit
    - Name is changed to "Energy Efficient Home Improvement Credit."
    - Replaces the lifetime limitation of $500 with an annual limit of $1,200 per year, with additional limits on certain components, like windows and doors, as well as certain exclusions, such as with roofs.

Goldman Sachs

        - Increases the percentage of credit to 30% (currently 10%) on “qualified energy efficiency improvements” and “residential energy property.”
        - Also allows 30% of the cost of home energy audits to qualify for the credit, up to $150 per year.
        - The changes would generally be effective for property installed beginning in 2023.
        - Extended to December 31, 2032.

    - Residential Energy Efficient Property (REEP) credit
        - Name is changed to Residential Clean Energy Credit.
        - Extends provisions in Code Section 25D set to expire on December 31, 2023 to December 31, 2034.
        - Additionally, the phaseout dates for the various credit percentage limitations are modified and extended:
            - Current provision
                - 2020-2022: 26% credit for qualifying expenditures.
                - 2023: 22% credit;
                - 2024: 0% credit; credit expires.
            - Bill provision
                - 2020-2021: 26% credit.
                - 2022-2032: 30% credit.
                - 2033: 26% credit.
                - 2034: 22% credit;
                - 2035: credit expires.

    - New Qualified Plug-In Electric Drive Motor Vehicle credit
        - Name is changed to Clean Vehicle credit.
        - Modifies the requirements that must be satisfied in order for a vehicle to qualify for the maximum $7,500 credit.
        - Imposes a requirement that final assembly of qualifying vehicles occur in North America.
        - Eliminates the per-manufacturer cap on the number of qualifying vehicles.
        - Imposes an AGI cap on taxpayers eligible to claim the credit ($300,000 of modified AGI in either the current or prior year for joint returns).
        - Imposes price caps on the vehicles which can qualify for the credit.
        - Allows a taxpayer’s credit to be transferred to the dealer selling the car in exchange for a price concession at sale.
        - Proposed changes would generally be effective beginning in 2023
        - Extends the credit through 2032.

    - Previously-Owned Clean Vehicle Credit
        - New credit available for purchasers of used electric vehicles equal to the lesser of $4,000 or 30% of the purchase price.
        - Limited to taxpayers with modified AGI below set caps ($150,000 in current or previous year for joint returns).
        - Effective for vehicles purchased in 2023 through 2032.

Goldman Sachs

Key Tax Proposals Omitted

- All changes with respect to carried interests that are “applicable partnership interests” (APIs); specifically, gone from this version of the bill are all of the provisions that would have extended the holding period required for long-term capital gain treatment to five years, delayed the starting of the holding period, and expanded the scope of the short-term capital gain recharacterization.
- A specific proposal addressing the limit on state and local income, property, and sales tax (SALT) deductions.
- The 5% surcharge on modified AGI over $10 million, or the additional 3% surcharge on modified AGI over $25 million.
- Increases to top ordinary income and long-term capital gains rate.
- Application of the 3.8% Net Investment Income Tax to active trade or business income not subject to Federal self-employment taxes.
- Changes to the child tax credit.
- Reduction of the federal transfer tax exclusion amount.
- Changes to existing grantor trust rules.
- Restrictions on IRAs holding private placements and certain other investments.
- Contribution restrictions and distributions requirements for high-income taxpayers with large ($10 million and up) retirement plan balances.
- Elimination of Roth conversions for high-income taxpayers, or the elimination of back-door Roth IRA contributions.
- Any expansion of the wash sale rule to cover more types of assets.
- Capping the amount of the Section 199A deduction.

Keep in mind, these are only highlights of the current proposed reconciliation bill. This draft of the bill has only passed one chamber of Congress (the Senate), and while commentators are not expecting substantive changes to the bill, it could potentially change when taken up by the House.

Conclusion

We will continue to monitor potential changes to the tax legislation and will provide timely updates and additional planning commentary when necessary. Goldman Sachs does not provide legal or tax advice and we strongly recommend you consult with your legal and tax advisors before taking action.

Please contact your advisor with questions.

Goldman Sachs

This material is intended for informational and educational purposes only and is provided solely on the basis that it will not constitute investment advice and will not form a primary basis for any personal or plan's investment decisions. The information provided should not be construed as personal financial planning, investment, tax or legal advice. No investment decisions should be made using this data. While it is based on information believed to be reliable, no warranty is given as to its accuracy or completeness and it should not be relied upon as such. Information and opinions provided herein are as of the date of this material only and are subject to change without notice.

Advisory services offered by Goldman Sachs & Co. LLC. (GS&Co.) and the Ayco Company, L.P. d/b/a Goldman Sachs Ayco Personal Financial Management ("Ayco Personal Financial Management" or "Ayco") (collectively referred to here as "GS"), each a registered investment adviser and a subsidiary of The Goldman Sachs Group, Inc. Brokerage services are offered through GS&Co. and Mercer Allied Company, L.P. (a limited purpose broker-dealer and affiliate of Ayco), both members FINRA/SIPC. GS is not a fiduciary with respect to any person or plan by reason of providing the material herein.

Articles were commissioned and approved by GS, but may not reflect the institutional opinions of Goldman Sachs Group, Inc., Goldman Sachs Bank USA or any of their affiliates, subsidiaries or divisions. GS has no obligation to provide any updates or changes to this data.

GS does not provide legal, tax, or accounting advice to its clients, unless explicitly agreed between the client and GS. As part of GS services, GS may, upon your request, discuss with you various aspects of financial planning. The scope of such planning services will vary among clients and may only include episodic and educational consultations that should not be viewed as tax advice, unless explicitly agreed upon in writing. Financial planning does not address every aspect of a client's financial life and the fact that a topic is not discussed with you does not indicate that the topic is not applicable to your financial situation. GS may review with you the general income tax consequences of your investments, estate planning, philanthropic endeavors, real estate holdings, and certain other activities that may affect your income tax.

Any retirement planning information, including, but not limited to, information regarding your retirement account(s), included in this presentation is for informational and educational purposes only and is provided solely on the basis that it will not constitute investment or other advice or a recommendation relating to any person's or plan's investment or other decisions, and GS is not a fiduciary or advisor with respect to any person or plan by reason of providing the material or content herein including under the Employee Retirement Income Security Act of 1974, the Internal Revenue Code or Department of Labor Regulations. Unless GS has agreed in writing to provide discretionary investment management services to your retirement account, you understand that all investment decisions concerning your retirement accounts are made by you, without any advice or recommendations from GS.

Any projections based upon or discussions of pending legislation are not intended by GS to be relied upon as investment advice. Where materials and/or analyses are provided to you, they are based on the assumptions stated therein. In the event any of the assumptions used do not prove to be true, results are likely to vary substantially from the examples shown herein.

Prepared by Tax Policy & Research of The Ayco Company, L.P and the GS Family Office of GS&Co. as applicable.