



2023 Year-End Tax and Business Planning



Presented by



Laura Yalanis, CPA
Partner, Director of Tax Services



Anthony Mangiarelli, CPA
Partner, Director of Enterprise Solutions

Agenda



- Status of TCJA changes set to expire in 2026
- Update on Inflation Reduction Act tax changes
- Update on Secure 2.0 Act
- The latest on the Employee Retention Credit (ERC) Processing Halt
- BOI (beneficial ownership information) reporting effective 1/1/2024
- General tax planning suggestions
- What's in store for 2024 and beyond

A photograph of the U.S. Capitol dome in Washington, D.C., taken from a low angle looking up. The dome is white with many windows and is topped with a statue. The sky is filled with dramatic, orange and yellow clouds, suggesting a sunset or sunrise. An American flag is visible on a pole in front of the dome.

Status of TCJA Changes Set to Expire in 2026

A photograph of the U.S. Capitol dome in Washington, D.C., taken from a low angle looking up. The dome is illuminated by the warm, golden light of a sunset or sunrise, with the sky showing soft orange and yellow clouds. The American flag is visible on a pole in front of the dome's base. A solid green vertical bar is positioned to the right of the dome image.

Status of TCJA Changes

Expiring Provisions 12/31/2025 – Individuals

- Marginal Rates – will increase -
Highest rate of 39.6% will return
- Standard Deduction – will decrease
to less than ½ of current deduction
- Personal Exemptions – will return
- Child Tax Credit – Credit cut in half
income level phaseout significantly reduced
- Credit for Other Dependents – eliminated

A photograph of the U.S. Capitol dome in Washington, D.C., taken from a low angle looking up. The dome is illuminated by the warm, golden light of a sunset or sunrise, with the sky showing soft orange and yellow hues. The American flag is visible on a pole in front of the dome's base. A solid green vertical bar is positioned to the right of the dome image.

Status of TCJA Changes

Expiring Provisions 12/31/2025 – Itemized Deductions

- \$10k SALT Deduction limit – eliminated
- Mortgage interest – debt limit returns to \$1M plus \$100k home equity debt
- Misc. Itemized Deductions – reinstated
- Overall limitation on itemized deductions – reinstated based on AGI thresholds



Status of TCJA Changes

Expiring Provisions 12/31/2025 –
Alternative Minimum Tax

- Will revert to pre-TCJA levels
- Exemption amounts significantly reduced
- Exemption phaseouts begin at significantly lower income thresholds



Status of TCJA Changes

Expiring Provisions – Business Provisions

- 199A – Pass-through entity deduction will expire 12/31/2025
- Bonus Depreciation – phaseout – 80% in 2023; 60% in 2024; 40% in 2025; 20% in 2026; 0% in 2027

Other Provisions – Estate and Gift Tax

- 2024 Lifetime exemption - \$13,610,000
- After 12/31/2025 – scheduled to drop to \$5M and then adjusted for inflation

A hand is shown using a black calculator on a desk. The desk is covered with various papers, including one with a bar chart. In the background, a laptop is visible, and a small potted plant sits on a shelf. The scene is brightly lit, suggesting a sunny day. A semi-transparent white banner is overlaid across the middle of the image, containing the title text.

Update on Inflation Reduction Act Tax Changes



Inflation Reduction Act Tax Changes

- Expanded credits for home energy improvements
- Credits for new (up to \$7,500) and used (up to \$4,000) clean vehicles, now with income limitations and North America assembly requirement
- Credit for qualified commercial clean vehicles – up to 30% of cost (max \$40k)
- Some new credits are transferable
- AMT restored for higher-income corporations – 15% of corporations “adjusted financial statement income” – applies to corporations w/AFSI > \$1B

A background image showing a business meeting. In the foreground, a person's hand is on a laptop trackpad. The laptop screen displays a financial chart with green and blue bars. In the background, other people are seated at a table, and a window with a grid pattern is visible. A semi-transparent white banner is overlaid across the middle of the image.

Update on Secure 2.0



Secure 2.0 Tax Changes – 2024 impact

- RMD age increases to 73; 75 after 2033
- SIMPLE IRAs and SEPs can have Roth IRA contributions
- Penalty for failing to take RMDs drops from 50% to 25%
- Employers can match contributions to employees' student loan payments
- Amounts held in a 529 can be rolled over to a Roth IRA – but a lot of limitations / restrictions apply
- 401(k) catch-up contributions for participants earning > \$145k annually must be Roth contributions (however, there is a transition period allowed thru 12/31/2025.)



Secure 2.0 Tax Changes – 2025 impact

- Part-time employees will be eligible to participate in 401(k)/403(b) after 2 years of service
- Catch-up limit is increased for participants aged 60-63 (\$10k for 401k / \$5k for SIMPLE)
- Mandatory auto enrollment for most newly established 401(k) and salary reduction 403(b) plans

A background image showing a business meeting. Two people are seated at a table. One person, wearing a light-colored shirt, is holding a pen and writing on a notepad. The other person, wearing a dark shirt, is holding a tablet. The scene is brightly lit, suggesting a window in the background. A semi-transparent white banner is overlaid across the middle of the image, containing the title text.

Latest on Employee Retention Credit

Employee Retention Credit

Newsroom:

- [To protect taxpayers from scams, IRS orders immediate stop to new Employee Retention Credit processing amid surge of questionable claims; concerns from tax pros](#)
- IR-2023-169, Sept. 14, 2023 — Amid rising concerns about a flood of improper Employee Retention Credit claims, the Internal Revenue Service today announced an immediate moratorium through at least the end of the year on processing new claims for the pandemic-era relief program to protect honest small business owners from scams.
- [Red flags for Employee Retention Credit claims; IRS reminds businesses to watch out for warning signs of aggressive promotion that can mislead people into making improper ERC claims](#)
- IR-2023-170, Sept. 14, 2023 — The Internal Revenue Service continues to warn businesses to watch out for aggressive marketing by nefarious actors involving the Employee Retention Credit (ERC) and urged people to watch out for red flags that can signal trouble.
- [IRS announces withdrawal process for Employee Retention Credit claims; special initiative aimed at helping businesses concerned about an ineligible claim amid aggressive marketing, scams](#)
- IR-2023-193, Oct. 19, 2023 — As part of a larger effort to protect small businesses and organizations from scams, the IRS today announced the details of a special withdrawal process to help those who filed an Employee Retention Credit (ERC) claim and are concerned about its accuracy.



Employee Retention Credit Eligibility

Generally speaking, the ERC is available to businesses who meet the following criteria –

- The 1st criteria – You experienced a full or partial suspension of operations during 2020 or 2021 because of governmental orders limiting commerce and impacting your business.
- The 2nd criteria – You had at least a 50% decline in gross receipts in any calendar quarter in 2020 compared to the same quarter in 2019 (20% decline in gross receipts in any calendar quarter in 2021 (or Q4 2020) compared to the same quarter in 2019).

Generally speaking, must have less than 100/500 average full-time employees in 2019 to be eligible for the credit in 2020/2021.



Employee Retention Credit Shut Down Orders

1. Can't be voluntarily, needs to be govt order. (Government asking for social distancing does not count.)
2. If the work could be replaced by teleworking, you will not qualify.
3. Think reductions in capacity or complete closure orders from the government (Restaurants).
4. Does the shutdown order have a more than nominal effect on the business operations? The IRS considers revenues (or hours) in excess of 10% as the threshold to determine whether or not a shutdown order had a more than nominal effect.



Employee Retention Credit

ERC Processing Halt

Due to a surge in fraudulent claims for the ERC, the IRS placed an immediate halt on processing any new ERC claims received, effective September 14, 2023. This halt will continue through at least the end of 2023.

ERC withdrawal process

Due to a surge in fraudulent claims for the ERC, the IRS created a formal process for companies who believe they are ineligible but filed an ERC claim, to withdraw their refund filing and avoid repayment of amounts claimed and assessed interest and penalties.



Employee Retention Credit

Listen to the experts - If you had employees during the pandemic, you are eligible for \$26,000 in government refunds per employee!

On November 22, 2023, the US Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) in connection with the IRS Criminal Investigation division issued an alert identifying ERC scams that, to date, have resulted in 323 investigations and more than \$2.8 billion of potentially fraudulent claims.

What does this mean?????????



Employee Retention Credit

DOs & DON'Ts

- DO speak with your tax advisor about ERC!
- DO obtain/create a workbook documenting entity's eligibility and calculation of credit by quarter by employee!
- DO optimize ERC with PPP!
- DO include Health Insurance costs paid by company!
- DO aggregate all related parties!
- DON'T be overly aggressive with SHUT DOWN orders!
- DON'T claim ERC on owners' wages or related family members!
- DON'T double dip on PPP or other non eligible wages!



Department of the Treasury
Internal Revenue Service
Small Business/Self-Employed
 60 Quaker Lane
 Warwick, RI 02886-6110

Form 4564
 (Rev. September 2020)

Information Document Request

To (Name of Taxpayer and Company Division or Branch):

Request Number: 1

Subject: 941
 SSN Number: Substantive to:
 Date of Previous Request(s) (month/year):

Description of documents requested:
 Please provide the following documentation as specified in the 2020 employment tax instructions discussed in Letter 2020-10, 2021 or 2020-2.

1. General ledger, trial balance, payroll tax ledger, for 2020.
 2. Payroll register by employee with running balance or year end total. Records of wages, bonuses, awards and any other compensation paid in cash or in any other form.
 3. All tax returns for any related entities (if applicable) for 2020.
 4. Copy of Form 941-X for all four quarters of 2020 and 2021, if applicable.

Employee Retention Credit Related Items

5. Copy of Form 941 Worksheet that were used to compute the credits included on 941-X.
 6. Please provide a schedule to include the following details for 2020 and 2021 if applicable:
 A. A list of employees who were paid wages for which the Employee Retention Credit was claimed.
 B. The amount of wages paid to each employee for which the Employee Retention Credit was claimed.
 C. Whether or not any of the taxpayer's employees who received wages included in the Employee Retention Credit are related individuals (i.e., relatives of the employee).
 D. If applicable, documentation to show how the taxpayer determined the amount of qualified health plan expenses that the employer allocated to the Employee Retention Credit.
 7. Documentation that the taxpayer was eligible to claim the Employee Retention Credit. Whichever is applicable:
 A. If your operations were fully or partially suspended due to orders from an appropriate governmental authority, please provide a copy of the order.

Information due to: At Next Appointment X Mail in Date (month/year)

From: Office Location Employee ID Number Telephone Number

Call Log Number 23140K www.irs.gov Part 1 - Taxpayer's File Copy Form 4564 (Rev. 9-2020) Worksheet 01-1-1

Letter 3850 (Rev. 7-2020)
 Catalog Number 382339

Thank you for your cooperation, and I look forward to hearing from you by

Internal Revenue Agent-ET Specialist

Enclosure:
 Publication 1
 Notice 809
 Publication 5146

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IRS Letter Example

Form 4564
 (Rev. September 2020)

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 (Rev. September 2020)

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IRS Letter Example



Department of the Treasury
Internal Revenue Service
Small Business/Self Employed
60 Quaker Lane
Warwick, RI 02886-0110

Form 4564 (Rev. September 2006)	Department of the Treasury – Internal Revenue Service Information Document Request	Request Number 1
To (Name of Taxpayer and Company Division or Branch)		Subject 941
Page 3		SAIN Number Submitted to:

Description of documents requested

Please provide the following documentation as it pertains to the 2020 employment tax examination discussed on Letter 3850, 3851 or 3850-T.

1. General ledger, trial balance, payroll tax ledger, for 2020.
2. Payroll register by employee with running balance or year end total. Records of wages, bonuses, awards and any other compensation paid in cash or in any other form.
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PPP Loans (remember them???)

SBA Audit Notice Example

Page 1



SMALL BUSINESS ADMINISTRATION
WASHINGTON, DC 20416

7/2023

VIA FORGIVENESS PLATFORM

Re: Notification of Post Payment Paycheck Protection Program Loan Review
and Request for Documents

Borrower:

SBA Loan No.

Loan Approval Amount

Loan Approval Date:

Lender Forgiveness Decision Submission Date:

Dear,

As you are already aware, the above referenced PPP loan is under review by SBA. As part of this review, additional information is required and is outlined below in this letter. Without the benefit of the additional documentation requested, SBA will have to make a decision that might negatively impact the borrower.

Please communicate to the borrower within 5 days of the receipt of this letter, that a final determination will have to be made unless the requested documentation is provided within 20 days of the date of this letter. Such a decision may include referral to the Office of Credit Management and/or transfer of this matter (borrower and lender) to the Office of Inspector General.

If any of the requested documents were not already provided by the borrower, you must request them from the borrower and the borrower should respond to that request within 5 days of receipt.

The additional documentation required for this loan review is as follows:

We are doing a thorough review of all documentation provided for the above referenced PPP Post-Payment Review. Based on our preliminary findings of the review, we are considering recommending a Denial of the previously received forgiveness amount. Please understand our recommendation is preliminary and will undergo more processing before reaching a final

Page 2

decision. Please provide the following documentation in order for the review to be completed:

All payroll documentation used to calculate the loan origination:

- 2019 Detailed Payroll report/CARES Report
- 2019 W2 Statements
- 2019 940 & 941 Statements
- 2019 State Unemployment Taxes
- 2019 Benefits & Retirement Contributions
- Proof of payroll on
- Wages over \$100,000

All covered period payroll expenses and non-payroll costs:

- Detailed Payroll Summary/CARES Report
- 941 Statement for the covered period
- State Unemployment Taxes for covered period
- Benefits & Retirement paid for covered period
- Non-payroll expenses ex: phone, rent, utilities etc.

All of the following Identity Verification and Origination documentation:

- Valid (unexpired) Picture ID for all principals (Driver's License or State ID Card)
- Full filed and signed business tax returns for tax years 2018, 2019, and 2020
- Business IRS transcript for tax years 2018, 2019, and 2020
- Signed Business 4506-C
- Business Bank Statements: 8 months total of business bank statements, or 3 months if sole prop.
- 1099s if applicable (if a sole prop)
- Filed copy of the DBA documentation or Secretary of State filing (if the borrower owns a business)
- Business License (if the borrower owns a business)
- 2483
- Note



Beneficial Ownership Information – 1/1/24

BOI Details

- Corporate Transparency Act – enacted in 2021 - most businesses will be impacted
- Intent of Act is to help combat money laundering, financing of terrorism and other illicit activity
- Filed with FinCEN, not the IRS – filed electronically through FinCEN website
- Applies to any corporation, LLC or any similar entity created by filing a document with a Secretary of State or other similar office (this also applies to foreign entities formed under the law of a foreign country and registered to do business in US)



BOI Details

- Exemptions include
 - publicly traded companies
 - banks & credit unions
 - securities brokers/dealers
 - public accounting firms
 - tax-exempt entities and
 - certain “large operating entities”
- LOE = Employs more than 20 people in the US, has gross revenues > \$5M on prior year’s return **AND** is physically present in the US



BOI Details

- Beneficial owner = Exercise substantial control or owns or controls at least 25%
- New entities created after 12/31/23 – must file within 30 days (proposed ruling to extend that to 90 days)
- Entities existing prior to 1/1/2024 – must file by 1/1/2025
- Changes after initial filing – must file within 30 days of the change (i.e. – change in ownership, change in address, etc.)
- Penalties for not complying – civil penalties of \$500 per day, up to \$10,000 and CRIMINAL penalties - up to 2 years of jail time.



A hand is shown dropping a coin into a clear glass jar that is already filled with many coins. The jar sits on a wooden desk. In the background, a hand is using a calculator, and there are some papers and a pen. The scene is softly lit, creating a warm, focused atmosphere on the act of saving.

Tax Planning Strategies to Consider



Items for Consideration

- Business succession / Gifting strategies
- R&D Expenditures Tax Credit/Repeal of IRC §174 DID NOT happen – capitalize expenses and amortize over 5 years (15 years for foreign R&D)
- NOLs limited to 80% of taxable income
- 163(j) interest expense limited to 30% of adjusted taxable income (small business exemption - \$27M 3-yr average gross)
- Harvest capital losses
- Crypto scam losses

The background image is a soft-focus photograph of a workspace. In the foreground, a hand is seen pressing buttons on a black calculator. The calculator sits on a desk with several sheets of paper, some of which show bar charts. To the left, a portion of a laptop is visible. In the background, a small potted plant with green leaves sits on the desk, and a window with blinds is visible, letting in bright, natural light. The overall atmosphere is professional and focused on business or financial work.

Future Outlook



Your Questions Answered



Questions

- What personal tax strategies do you recommend?
- For high income wage earners, is a back-door Roth IRA contribution still allowed?
- Can I take bonus depreciation on vacation or secondary homes?
- Is ESOP a valid ownership structure for a professional services firm?
- Please review any changes to the Qualified Business Income Deduction?

Become future ready.

Our Mission

To help our clients and colleagues achieve success and drive growth by becoming future ready and embracing an innovative mindset in everything we do.

Our Vision

Our vision is to be the advisor of choice while remaining true to our core values, by empowering our colleagues to deliver exceptional insights, innovative strategies and solutions that foster success.

Integrity | Client-centric | Community | Collaboration | Innovation



We're Here to Help

Laura Yalanis, CPA

Partner, Director of Tax Services

lyalanis@kahnlitwin.com



Anthony Mangiarelli, CPA

Partner, Director of Enterprise Solutions

amangiarelli@kahnlitwin.com



888-557-8557



KahnLitwin.com

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Outsourcing



Envision
Technology Advisors, LLC



Become Future Ready

