

The background of the entire page is a photograph of a modern building with large glass windows. The sun is setting behind the building, creating a bright, warm glow and lens flare. The building's reflection is visible in the glass. In the foreground, there is a dark asphalt parking lot and a row of green bushes.

# 2022 Year-End Tax Planning Guide for Businesses

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# Year in Review

2022 has been a challenging year for most businesses, as evidenced by the tumultuous performance of U.S. stock markets this year. Business owners continue to face unprecedented uncertainty and stress, regardless of whether their businesses are publicly traded or closely held. The effects vary from business to business, so there's no universal tax planning strategy that's right for all organizations, but we do hope you find our guide helpful as you look ahead to 2023. Here's an overview of what could be on the horizon.

## Limited Tax Law Changes

Congress has failed to pass most of the landmark tax reforms that President Biden campaigned on in 2020. But a few provisions of the [Inflation Reduction Act \(IRA\)](#) will affect certain businesses starting in 2023. Examples of business-related tax changes under the new law include:

- Tax incentives for green commercial construction and renewable energy investments,
- A two-year extension of the limitation on business losses,
- A 1% excise tax on corporate stock buybacks, and
- An increase in the small business payroll tax credit for research costs.

The IRA also includes a 15% corporate minimum tax for companies that report over \$1 billion in profits. However, this change is expected to affect only about 150 of the largest, most profitable U.S. companies.

A congressional stalemate over tax law changes means that businesses and owners of pass-through entities aren't at risk for the proposed tax rate increases and estate tax provisions under the failed Build Back Better Act that may have adversely affected businesses and owners of pass-through entities. In addition, most business tax breaks provided under the Tax Cuts and Jobs Act (TCJA) are expected to remain on the books for 2022.

Moreover, House Republicans recently unveiled their "Commitment to America" plan, which vows to pursue "pro-growth tax policies," including making the qualified business income (QBI) break for pass-through businesses permanent. While the GOP gained control of the House in the midterm elections, given the fact that the Democrats retained control of the Senate and the general lack of bipartisanship in Congress, business owners can't bank on the House Republicans' plan coming to fruition.

That said, some legislators have shown interest in passing an extenders package in December, possibly with add-on provisions that would address [retirement issues](#) and retroactively suspend the TCJA requirement for businesses to capitalize R&D costs starting in 2022. As of this writing, however, it's currently uncertain whether any tax legislation will pass before year end and, if a law is enacted, when the changes would go into effect.

### Looming Recession

While the President's national emergency proclamation remains in effect for COVID-19, most businesses have returned to pre-pandemic operations. However, most industries face volatile market conditions, including historic levels of inflation, skyrocketing interest rates and geopolitical threats.

**The shortage of qualified labor** also remains a major challenge for most businesses. To help attract and retain skilled workers, some have increased wages and expanded benefits.

Others have cut their hours of operation or outsourced more work to third parties.

Businesses short on cash may resort to creative solutions — such as flexible scheduling, share-based awards and discounted benefit offerings that are paid for by employees — to help reduce employee turnover. After two consecutive quarters of contracting gross domestic product, many analysts are finally admitting that a recession is imminent — and businesses are tightening their purse strings in anticipation of what could lie ahead. In light of rising costs and waning demand, business owners are aggressively seeking ways to lower their tax obligations for 2022.

### Tax-Saving Moves

The traditional strategy of *deferring* revenue recognition and *accelerating* deductible expenses will be the right approach for most businesses that use cash-basis accounting for 2022. Unfortunately, cash-strapped businesses might not be in a position to make leasehold improvements or purchase equipment and vehicles to take advantage of bonus depreciation and Section 179 expensing for 2022.

If your business is fortunate enough to have excess cash on hand and strong growth prospects for 2023, you might decide to take advantage of limited-time tax-saving opportunities before they expire.

But remember that assets must be placed in service *before* year end to claim bonus depreciation and Sec. 179 expensing.

Notably, Congress passed legislation this year that will increase funding for the IRS by \$80 billion over the next 10 years. Some of these funds will be spent on additional staffing and technology that would increase the likelihood that your business will be audited. This underscores the importance of using a qualified tax professional to prepare your tax return to help substantiate any tax breaks claimed in 2022 and beyond.

### **We Can Help**

As we head into 2023, an underlying tone of uncertainty remains, making strategic planning more difficult.

Each situation is unique. Your tax advisor can assess what's right for you and your business in light of your current and expected income, future spending plans, relevant tax laws and legislative developments.

Here's a brief summary of tax planning opportunities for your business to consider before year end, as well as links to relevant blogs.



*"As 2022 comes to a close, business owners face a number of challenges due to the recent election, ongoing impacts of volatile market conditions and Inflation Reduction Act provisions set to take effect in 2023. Continuous planning for these challenges and how to take advantage of any pro-taxpayer benefits before they expire will be paramount for businesses as they look ahead to the new year. Additionally, we understand that staffing shortages are a common pain point for businesses as of late, which has likely made tax planning more difficult than normal. Our Year End Tax Planning Guide for Businesses dives into smart tax saving moves in light of these challenges, major tax law developments coming in 2023, capital investment strategies and more."*

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# Section 1: Tax Filing Deadlines

Tax Filing Deadlines for Calendar-year businesses – When Are Your 2022 Business Tax Returns Due?

Type of Return	Due Date for 2022 Original Returns
Form 1120 for C corps	Monday, April 17, 2023
Form 1065 for Partnerships	Wednesday, March 15, 2023
Form 1120S for S corporations	Wednesday, March 15, 2023

## Not a Calendar Year Entity?

Companies that use a fiscal year end face the following deadlines for tax years beginning in 2016 or later:

- Form 1120 for C corps: the 15th day of the fourth month after the close of the corporation's tax year.
- Form 1065 for partnerships and Form 1120S for S corporations: the 15th day of the third month after the close of the partnership's tax year.

For C corporations with a June 30 year end, these deadlines aren't effective until the 2026 tax return (remain due on September 15).

## Disaster Relief

The IRS is providing various types of tax relief for victims of Hurricanes Fiona and Ian, the Colorado and New Mexico wildfires, and other natural disasters. If you do business in affected areas, we can help you understand the extended tax filing deadlines and other tax relief provisions that may apply for 2022.

# Section 2:

## Major Tax Law Developments



Congress has passed surprisingly few tax law changes in 2022 — even though Democrats control both the House and Senate. The Inflation Reduction Act (IRA), which passed in August 2022, provided some business-related tax changes, including:

- Tax incentives for green commercial construction and renewable energy investments,
- A two-year extension of the limitation on business losses,
- A 1% excise tax on corporate stock buybacks, and
- An increase in the small business payroll tax credit for research costs.

The new law also includes a 15% corporate minimum tax for companies that report over \$1 billion in profits.

The Consolidated Appropriations Act (CAA), which was signed into law in late December 2020, extended the following business breaks that were set to expire at the end of 2020:

- 100% deduction for the cost of business meals provided by restaurants through 2022,
- The work opportunity tax credit to hire qualifying employees through 2025, and
- The new markets credit program and empowerment zone breaks to encourage businesses to invest in low-income communities.

**Important:** The IRS recently issued guidance on improperly forgiven Paycheck Protection Program (PPP) loans. It confirms that you must include in income the portion of the loan proceeds that were forgiven based upon misrepresentations or omissions. To comply with this guidance, some taxpayers may need to file an amended return and pay any additional taxes owed.

Additionally, starting in 2022, the 1099-K threshold decreased to \$600. Plus, there's no longer a minimum transaction requirement. So, businesses that receive payments via credit, debit and third-party payment networks (such as Paypal and Venmo) will likely receive many Form 1099-Ks and will need to report this income in 2022. The deadline for 1099-Ks for the 2022 tax year is March 31, 2023.

As of this writing, Congress is considering enacting legislation that would extend certain provisions of the tax code that had previously expired, along with possibly addressing retirement issues and suspending the TCJA requirement for businesses to capitalize R&D costs starting in 2022. If enacted, this legislation could impact tax planning for businesses and business owners for 2022.

It's currently unclear whether Congress will reach a consensus on the extender package and, if so, when any changes would go into effect. But you should be ready to respond to any changes up until year end.



# Section 3: Business Structure & Tax Rates

To Pass Through or Not to Pass Through?

## Business Structure

Many small businesses operate as sole proprietorships, partnerships, S corporations and other so-called "pass-through entities" to lower taxes. The TCJA temporarily levels the playing field between pass-through entities and C corporations, causing some businesses to question their current business structure.

Under the TCJA, a maximum effective tax rate of only 29.6% applies to pass-through entities that qualify for the full deduction for **qualified business income (QBI)**. But not all entities will qualify for the full amount.

## What's Your Income Tax Rate for 2022?

### C Corporations

- Federal income tax rate is *permanently* cut to a **flat 21%**.
- Tax rate cut is extended to **personal service corporations**.
- Corporate **AMT** is *permanently* repealed. Corporations with an average annual adjusted financial statement income exceeding \$1 billion for the preceding three years will owe a 15% AMT for tax years beginning after December 31, 2022.
- Corporate income is still **double taxed**: 1) at the entity level, and 2) when income is distributed to shareholders.

vs.

### Pass-Through Entities

- Federal income tax rates for individual owners are **slightly lower** through 2025.
- Income thresholds for application of individual rates **increased slightly** through 2025.
- Fewer individuals who own pass-through entities will be subject to the **AMT** through 2025.
- Owners may be eligible for the **QBI deduction** through 2025.
- No federal income tax is paid at the entity level.

Global businesses face complex tax rules since enactment of TCJA. The GILTI rules (Global Intangible Low-Taxed Income) require a 10% or greater U.S. shareholder of a controlled foreign corporation (CFC) to include in current income the shareholder's pro rata share of the [GILTI](#) income of the CFC. These rules apply to C and S corporations, partnerships and individuals.

### **SALT Workaround**

Since TCJA was passed, there has been a \$10,000 limit on state and local tax (SALT) deductions on personal tax returns. The IRS and Treasury have signaled their approval of certain state workarounds for this limitation.

There are currently over 20 states that have implemented a mandatory or voluntary pass-through entity (PTE) level state tax. Opting into these state taxes can provide a big federal tax benefit to the individual taxpayers. .

### **Are You Taking Full Advantage of the QBI Deduction?**

Pass-through businesses may deduct of up to 20% of their QBI. If taxable income for 2022 exceeds \$340,100 for married couples filing jointly (half that amount for others), the deduction may be phased out based on:

- Whether the taxpayer is engaged in a service-type business,
- W-2 wages paid by the business, and/or
- The unadjusted basis of qualified property.

These limits fully apply when 2022 taxable income exceeds \$440,100 for married couples filing jointly (half that amount for others).

Owners of pass-through entities who employ tax deferral strategies — such as claiming first-year depreciation deductions or making large deductible retirement plan contributions — can inadvertently reduce their allowable QBI deduction. While tax deferral merely creates a timing difference, the QBI deduction is a use it-or-lose-it proposition.

To maximize owners' QBI deductions, before year end, a business might need to:

- Increase W-2 wages, or
- Purchase additional assets

If you're thinking about buying or selling a business, taxes are an important consideration. M&A deals should be timed and structured to minimize taxes. Asset vs. stock sale, and timing in 2022 or 2023 are key considerations.

## Section 4: Timing Issues

Have you projected Income and Expenses for 2022 and 2023?

Traditionally, it's better to defer tax. But, if you expect tax rates to be higher next year, it might be better to shift income into the current tax year. However, this strategy might not be realistic for businesses with limited cash on hand to pay extra taxes for 2022.

Under current tax law, corporate and individual tax rates are expected to remain stable., some TCJA provisions are only temporary.

Compared to historical levels, the current rates are relatively low. If you believe that rates will remain stable through 2023, it makes sense to **delay income recognition** until next year and **accelerate deductible expenses** into the current year. This will lower taxable income for 2022.

### 4 Ways to Minimize Taxable Income for 2022

1. Defer billing for products or services (cash-basis businesses).
2. Defer delivery of products or services (accrual-basis businesses).
3. Charge expenses on a credit card (deductible in the year charged regardless of when the bill is paid).
4. Accrue bonuses for certain employees and pay them within 2.5 months of the tax year end (accrual-basis businesses).

If you believe that certain favorable tax provisions are likely to be reversed or the tax benefits will be reduced in 2023, consider taking the **reverse timing strategy** to maximize business income that will be taxed at today's favorable rates.



## Have You Projected Income and Expenses for 2022 and 2023?

For **pass-through entities**, income deferral strategies may reduce an owner's QBI deduction. In some cases, it may be necessary to **boost W-2 wages and purchase additional fixed assets** at year end to maximize your QBI deduction. The rules are complex. We can help evaluate your company's specific tax situation to determine the optimal timing for revenue and expense recognition.

## Got NOLs?

The TCJA limited deductions for net operating losses (NOLs) to 80% of taxable income (determined without regard to the deduction). The TJCA also repealed the two-year carryback provision (except for certain farming businesses) for losses incurred after 2017, but it generally allows NOLs to be carried forward indefinitely. In addition, there are unfavorable (but temporary) changes to the rules for deducting pass-through business losses. Under the IRA, the limitation on pass-through business losses is extended for two additional years, through 2028..

Small businesses with a loss for 2022 might consider reporting a small amount of taxable income for 2022, rather than take an NOL utilizing tax planning strategies. Doing so can reduce the base for your 2023 estimated tax installments.

To avoid an underpayment penalty, you generally must make estimated quarterly payments equal to the lesser of:

- 90% of the current year's tax.
- 100% of the previous year's tax (assuming prior year tax was greater than zero).

# Section 5: Last-Minute Capital Investments

Should You Buy Equipment and Other Assets Before Year End?

## Section 179 Expensing

Sec. 179 expensing allows businesses to **immediately deduct** the cost of eligible new or used assets, such as equipment and furniture. You may be able to lower taxable income by accelerating depreciation on assets placed in service before year end. But, remember, it's not enough to simply purchase these assets by year end; they must be up-and-running in 2022 to qualify for Sec. 179.

**\$1.08 million** is the Sec. 179 **expensing limit** for 2022.  
The Sec. 179 **phaseout limit** for 2022 starts at **\$2.7 million**.

## Bonus Depreciation

Under the [bonus depreciation program](#), companies can deduct the full cost of certain *new and used* capital expenditures in the year they're placed in service. This break isn't subject to any spending limits or income-based phaseout thresholds. It applies to:

- Qualifying property placed in service after September 27, 2017, and before January 1, 2023.
- Bonus depreciation will be gradually phased out, unless Congress extends it.

**Important:** Not all states allow for bonus depreciation or the higher Section 179 limits.

### First-Year Bonus Depreciation Percentages

<b>2018-2022</b>	<b>100%</b>
<b>2023</b>	80%
<b>2024</b>	60%
<b>2025</b>	40%
<b>2026</b>	20%

If you're planning to purchase assets within the next year, you might want to act before year end to take advantage of the bonus depreciation program. Starting in 2023, bonus depreciation is scheduled to fall to 80% of the cost of most qualifying assets. We can help evaluate what's right for your business.

Commercial buildings generally don't qualify for bonus depreciation or Section 179 expensing. But a cost segregation study can identify building components that qualify for these breaks. By carving out certain shorter-lived components — like cubicles, carpeting, decorative lighting, signage and parking lots — you can help reduce taxable income.

### Financing Considerations

The TCJA limited interest expense deductions to 30% of adjusted taxable income (ATI). The limitation applies to C corporations with average annual gross receipts above \$27 million for the three-tax-year period ending with the preceding tax year. Other exceptions for auto dealers, farmers and real estate businesses apply.

This limitation also applies to pass-through entities (such as partnerships and S corporations). It applies to these entities if there are losses in the current year being allocated more than 35% to limited partners or limited entrepreneurs (even if the entity's average income is under \$27 million).

The limitation on deducting business interest could affect your after-tax cost of capital and may cause you to **lease** (rather than purchase) assets.



# Section 6: Special Rules for Vehicle Purchases



## Do You Know the Limits that Apply to Deductions and Fleet Expansions?

The TCJA expands the **breaks for heavy vehicles** (above 6,000 pounds). New and used vehicles placed in service between September 28, 2017, and December 31, 2026, are now eligible for **100% first year bonus depreciation**, if they're used over 50% in your business. The limit for "luxury vehicles" has also been increased. For passenger vehicles acquired after September 27, 2017, and placed in service during 2022, you can deduct up to:

Year	Sec. 179	Bonus Depreciation	Total Deduction
1	\$11,200	\$8,000	\$19,200
2	\$18,000	-	\$18,000
3	\$10,800	-	\$10,800
4 and beyond	\$6,460	-	\$6,460

Under current law, these allowances are adjusted annually for inflation. Additional restrictions may apply if the vehicle is used for both business and personal purposes. If a vehicle is used less than **100% for business**, these allowances are cut back proportionately. If business use is **50% or less**, you must use the straight-line method and can't opt for Sec. 179 expensing. In addition, the **bonus depreciation program disappears after 2026**, unless it's extended by Congress.

**Important:** Instead of deducting your actual vehicle expenses, such as fuel, insurance, repairs and depreciation, you can use the **standard mileage rate**. The IRS adjusted this rate mid-year from 58.5 to 62.5 cents per mile to reflect increasing gas prices. The change went into effect on July 1, 2022.

# Section 7: Research Expenditures

## How Much Have You Spent on R&D?

The TCJA includes a provision that requires companies, for tax years starting in 2022, to [capitalize specified research or experimental costs](#) and amortize them over five years or 15 years for research conducted outside of the United States. Some legislators have proposed suspending this TCJA provision, however; unless Congress changes the tax law retroactively, you'll need to capitalize your research and experimental costs starting this tax year. Our tax advisors can help you implement this major change.

Fortunately, the TCJA also preserves the research tax credit.

### Research Tax Credit

The research tax credit isn't just for high-tech companies and science labs. Qualified research expenditures (QREs) include a variety of activities that develop or enhance product performance or functionality, manufacturing processes, or information technology.

But claiming this credit can be confusing.

### Calculating Your Credit

20% of the Excess  
of Annual QREs  
Over a "Base  
Amount"

+

University Basic  
Research Credit

+

20% of Qualified Energy  
Research Expenses  
Undertaken by an Energy  
Research Consortium

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= **Research Tax Credit**

The credit is generally for **increasing** your research spending. So, the first step is to calculate a fixed-base percentage, and then multiply by annual gross receipts over the preceding four tax years to arrive at your base amount.

Calculating Your Base Amount for Established Firms

Total QREs  
1984 – 1988

÷

Gross Receipts 1984  
– 1988

X

Average Annual Gross Receipts 2017 – 2021

Base Amount for 2022

Numerous rules and restrictions apply to this calculation, especially for businesses not in existence during this time. Contact us for more information.

Looking for a simpler way to compute your research tax credit? Consider the [alternative simplified credit](#).

Under prior law, businesses that were subject to the alternative minimum tax (AMT) generally couldn't offset the research credit against their AMT liability. Now, the TCJA has eliminated the corporate AMT, and caused fewer owners of pass-through entities to be subject to the individual AMT. So, unused research credits that have been carried forward from prior tax years can be offset against a corporation's tax liability and may even generate a refund (subject to certain restrictions).

**Important:** The Joint Committee on Taxation estimates that about 150 taxpayers will be subject to a [15% corporate minimum tax](#) annually under the IRA. These large corporations may not be eligible to offset the research credit against their AMT liability.

For Companies with Annual Receipts of	Research Tax Credit Can Be Taken Against
≤ \$50 million	Income or Alternative Minimum Tax (AMT) liabilities
< \$5 million	Income taxes, AMT or up to <a href="#">\$500,000 in payroll taxes</a> annually for up to 5 years



## Section 8: HR Decisions

Going forward, businesses will have to make important decisions about whether to continue to offer flexible working arrangements and whether to forgo bonuses and raises in anticipation of more financial struggles. Some businesses are still struggling to recover from the pandemic and resulting economic crisis, while others are currently in a strong financial position.. Some may even have plans to hire *additional* workers to keep up with *increased* demand.

Depending on where your business stands, current tax law includes various provisions related to compensation and benefits. Here are some of the major tax-related HR issues employers face today.

### **Paid Family and Medical Leave**

Through 2025, businesses that offer **paid family and medical leave** may qualify for a credit of up to 25% of wages paid during leave, if they meet the IRS requirements.

### **Repayment of Deferred Payroll Taxes**

Employers and self-employed individuals that chose to **defer employer social security taxes** in 2020 were required to pay 50% of the deferred amounts by December 31, 2021, and the remaining 50% due by December 31, 2022. Penalties and interest did not begin to accrue on the deferred amounts until January 1, 2022.

## Fringe Benefits

Businesses can no longer deduct the costs of **transportation fringe benefits and certain achievement awards** provided to employees. The limits on **deducting company vehicles** also have increased significantly under the TCJA.

Under current law, businesses can generally deduct only 50% of the costs of [meals provided on their premises](#). After 2025, the cost of meals provided through an on-premises cafeteria or otherwise on the employer's premises won't be deductible. However, any company outings, such as employee retreats, holiday parties and picnics, that you did host are still 100% deductible — if the entire staff was invited. [Business meals](#) provided by a restaurant that are paid or incurred in 2021 and 2022 are 100% deductible.

Employees must report **moving expense reimbursements** as taxable income. Consider grossing up moving allowances to account for the incremental taxes employees will owe.

## Expense Reimbursement

Employees can no longer claim itemized deductions for **unreimbursed business expenses**. If you don't already have an **accountable plan** in place to reimburse your employees for out-of-pocket business expenses — including costs incurred while working from home offices during the pandemic — consider implementing one before year end.

## Compensation Matters

Qualified employees can defer taxable income for up to five years from exercising a stock option or receiving restricted stock in certain cases by making a Section 83(i) election. **Stock-based compensation** can be an attractive perk, especially for firms that are strapped for cash.

Watch for state-specific guidance on telecommuting issues and how each state is responding to remote work assignments in terms of creating nexus for businesses, payroll issues, etc.

\$1 million is the **limit on annual officers' compensation for public companies** under current law. Amounts above this limit generally aren't deductible for federal tax purposes. But there are no longer exceptions for excess compensation attributable to commissions and performance-based compensation.

Employers may need to revise their compensation and benefits packages to comply with current law and ensure their offerings remain competitive in today's tight labor market. Some benefits that aren't deductible under the TCJA may need to be discontinued.



## Retirement Benefit Plans

Do you offer a **tax-favored retirement plan** to help owners and employees save for retirement? Current retirement plan rules allow for significant deductible contributions. From SEP-IRAs to 401(k) plans, there are a variety of options available, depending on the size and nature of your business.

The [SECURE Act](#) made changes to encourage employers to help workers save for retirement. Notably, the law requires employers to allow part-time workers who have either worked at least 1,000 hours in one year or three consecutive years of at least 500 hours to participate in retirement plans. It also increases the tax credits for eligible small employers that adopt a new qualified retirement plan, SIMPLE-IRA plan or Simplified Employee Pension (SEP) plan.

In addition, for tax years beginning after 2019, the SECURE Act creates a new tax credit of up to \$500 per year for small employers that establish new 401(k) plans or SIMPLE IRA plans that include an **automatic enrollment feature**. This credit is also available to small employers that modify existing plans to include an automatic enrollment feature.

The SECURE Act also **extends the deadline for setting up a retirement plan** to the due date (including any extensions) for the employer's return for the tax year for which you want the plan to become effective.

*There is one important exception: The deadline to establish a SIMPLE-IRA plan is still October 1 of the year for which the plan is to take effect.*

**Important:** The IRS issued [guidance](#) in 2022 that extends the deadlines for amending a retirement plan or individual retirement account and answers other questions that plan sponsors may have under the SECURE Act.

In addition, Congress is currently considering [legislation](#) that would build on the SECURE Act. If enacted, it would require employers to provide additional retirement savings opportunities to their employees. The bill also would provide tax breaks to encourage small businesses to expand their retirement plan offerings.

## Do You Qualify for the Work Opportunity Tax Credit (WOTC)?

[The WOTC](#) can significantly reduce your tax bill, if you hire workers from certain “target” groups before year end. This break has been extended through 2025.

### Common WOTC Target Groups

- Veterans
- Ex-felons
- Temporary Assistance for Needy Families (TANF) recipients
- Supplemental Security Income (SSI) recipients
- Food stamp recipients
- Individuals who have been unemployed for at least 27 weeks

### Credit Amounts

These dollar amounts apply for targeted individuals employed more than 400 hours. Some credits may apply for individuals working less than 400 hours.

\$2,400 is the typical WOTC for each qualifying new hire.

\$4,000 is generally available in the first year for hiring a long-term recipient of TANF.

\$4,800 is generally the maximum WOTC for hiring a disabled veteran.

\$5,600 is generally the maximum WOTC for hiring a nondisabled veteran who's been unemployed for six months or longer.

\$9,600 is the maximum WOTC for hiring a disabled veteran who's been unemployed for six months or longer.

# Section 9: ACA Compliance

## Could You Be Hit With Shared-Responsibility Provision Penalties?

The **Affordable Care Act (ACA)** remains the law, despite several repeal attempts in recent years. It imposes a penalty on “large” employers if just one full-time employee receives a premium tax credit. This credit is available to people who enroll in a qualified health plan through a government-run Health Insurance Marketplace and meet certain income requirements — but only if:

1. They don't have access to “minimum essential coverage” from their employer, or
2. The employer coverage offered is “unaffordable” or doesn't provide “minimum value.”

### Shared-Responsibility Requirements in 2022

<b>Full-time-employee (or equivalent) threshold for large employers</b>	50
<b>Percentage of full-timers that must be offered minimum essential coverage</b>	95%

#### If You Fail to Provide Minimum Essential Coverage ...

**\$2,750** is the 2022 penalty **per full-time employee *in excess of 30***.

#### If the Coverage You Offer Is Unaffordable or Doesn't Provide Minimum Value ...

**\$4,120** is the 2022 penalty **per full-time employee who has received a credit — or \$2,750 per full-time employee *in excess of 30***, if that amount is less.

## When Are ACA Filings Due?

**ACA Filings** - Send 2022 Forms 1095-B, *Health Coverage*, and 1095-C, *Employer-Provided Health Insurance Offer and Coverage Insurance*, to individuals by February 28, 2023.

File 2022 Forms 1094-B, 1095-B, 1094-C and 1095-C with the IRS by February 28, 2023, if not filing electronically, or March 31, 2023, if filing electronically.

## Do You Qualify for the Small-Business Health Care Credit?

Employers with 25 or fewer full-time equivalent employees (FTEs) may be eligible for the **Small-Business Health Care Credit** if certain conditions are met. Contact us to see if you qualify for 2022.

Various rules and restrictions apply.

**Other Health Benefits** - In addition to offering health care coverage, employers might want to consider offering other health-related benefits to workers, such as:

- Health savings accounts (HSAs)
- Flexible spending accounts (FSAs)
- Health reimbursement accounts
- Wellness programs

Besides benefiting from a healthier, more productive workforce, employers who provide these benefits may reap various tax breaks.



# Section 10: State Tax Issues

## Do You Sell Products Online?

States have the right to require online businesses with no physical presence in the state to register as a vendor and collect sales tax on their sales. Most states have enacted these types of laws to generate additional tax revenue and achieve parity with brick-and-mortar retailers.

Each state sets its own rules for establishing nexus. We can help you comply with these evolving regulations and discuss ways to minimize your exposure to back taxes on Internet sales.

## Multistate Tax Issues

If you do business in multiple states, ask yourself three questions:

1. Where do you derive sales and in which states do your customers benefit from the sale?
2. Where do your employees or subcontracted representatives or agents perform duties at your request?
3. Where do you own property?

## To Conform or Not to Conform?

Many states model their tax laws on the federal tax laws. But some states have decided to decouple from certain provisions of current tax law. One area that federal and state tax laws may not sync for businesses is the expanded Sec. 179 expensing and bonus depreciation deductions. Another is the complicated QBI deduction for pass-through entities. Some deductions at the federal level may not necessarily apply at the state level.

## Recent State and Local Business Developments

### Massachusetts

Earlier this year, the state of Massachusetts launched the HireNow grant program. It can provide employers up to \$4,000 for each eligible employee hired after March 23, 2022.

### Rhode Island

Effective January 1, 2023, employers in Rhode Island must comply with an amended equal pay law. Similar laws already apply in many of the neighboring states, including Connecticut, Massachusetts and Vermont.

In addition, certain small businesses in Rhode Island that lost revenue during the pandemic may qualify for the RI Rebounds Hospitality, Tourism and Events Grant Program. These grants are awarded based on an organization's net financial need, but the maximum award is limited to \$250,000.

The sunset dates for the following Rhode Island state tax credits were recently extended to:

- June 30, 2023, for the Historic Preservation Tax Credits 2013 program, and
- December 31, 2023, for the Rebuild Rhode Island Tax Credit and tax credits related to the Rhode Island Qualified Jobs Incentive Act of 2015 program.

**Important:** Don't forget that large business registrant taxpayers in Rhode Island are now required to electronically file returns and remit taxes. There are penalties for noncompliance!

# We're Here to Help

**December 31** is an important tax deadline that you might not be aware of: With a few exceptions, it's the date by which most of your tax planning strategies must be implemented to reduce your 2022 tax bill. **Important:** Because December 31 falls on a Saturday this year, December 30 is effectively the last business day of the 2022 tax year.

[Contact our tax team](#) to set up a meeting to brainstorm financial planning strategies to help your business succeed in the future — and minimize your tax obligations for 2022.



## **ABOUT THE AUTHOR: Loree B. Dubois, CPA, MBA**

Loree is Chair of the firm's Corporate Tax Group. She has over 25 years of experience providing tax advisory services to closely held, medium sized and publicly held businesses and has expertise in large to mid-size entity tax issues including ASC 740, tax planning and compliance.

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