



MULTISTATE TAX

Potential state tax implications of the Inflation Reduction Act

Tax Alert

Overview

On August 16, 2022, President Biden approved the Inflation Reduction Act (“IRA”), which includes a new minimum tax on certain large corporations, an excise tax on stock buybacks, a significant increase in funding for the Internal Revenue Service (“IRS”), incentives to promote climate change mitigation and clean energy, and provisions to promote health care affordability.

This Tax Alert summarizes certain potential state tax implications of the IRA.

Minimum tax on book income

The legislation amends section 55 of the Internal Revenue Code (“IRC”) to impose an alternative minimum tax (“AMT”) on the adjusted financial statement income (“AFSI”) of certain large corporations effective for tax year 2023. Applicable corporations subject to the book income AMT include any corporation (other than an S corporation, regulated investment company, or a real estate investment trust) that meets the \$1 billion three-year average annual adjusted financial statement income test defined under section 55. An applicable corporation’s minimum tax would be equal to the amount by which the tentative minimum tax exceeds the sum of the corporation’s regular income tax for the year and the corporation’s BEAT liability under section 59A.

Because the vast majority of states use federal taxable income as the basis for determining state taxable income and do not conform to the federal AMT regime, the enactment of the book income AMT will not likely have a direct impact in any of these states. However, there are a small number of states that do impose an AMT with reference to section 55:

- Florida – 3.3% tax on Florida apportioned alternative minimum taxable income defined by section 55(b)(2). A corporation is liable for Florida AMT if is subject to federal AMT, either as a separate filer or part of a federal consolidated return. Thus, even if a separate company filer did not have sufficient AFSI to be subject to the minimum tax on a separate company basis, it could still be liable for Florida AMT if it was part of a federal consolidated group that did meet those requirements.

Note that Florida, as a static conformity state, will not automatically conform to this federal change but will pick up the change when it updates its federal conformity date, unless the legislature chooses to specifically decouple from this change.

- Alaska – Tax imposed equal to 18% of Alaska apportioned federal AMT defined in reference to sections 55 – 59.

While California also imposes an AMT, which relies upon section 55, the state adopts the IRC in effect as of January 1, 2015, which would not include the amendments to section 55 by the IRA absent legislative action to update conformity. Additionally, Iowa and Maine repealed their AMTs for tax years beginning on or after January 1, 2021, and January 1, 2018, respectively.

Excise tax on corporate stock buy

The IRA adds section 4501 to the IRC to impose a 1% tax on the fair market value of certain share repurchases by a corporation. Because this change does not affect federal taxable income, it is not anticipated that this would have a material state tax impact, unless states moved to enact similar types of excise taxes in the future.

Credits and incentives

The IRA offers taxpayers a number of new credits and incentives related to green energy. Because states generally begin their taxable income calculation with federal taxable income, and do not conform to most federal tax credits, the federal credits generally do not impact state taxes. However, state statutory credits may be available related to the types of expenditures covered under the IRA. Companies may want to consider the availability of state credits and incentives that are either designed to encourage similar activities or that are simply designed to more broadly encourage in-state economic activity (employment and investment). We anticipate instances where companies may simultaneously qualify for federal and state credits or state incentives, and thus, considering the state economic incentives could be an important exercise.

To the extent expenses are not deductible against federal taxable income due to an applicable federal credit, those expenses may not be deductible for state tax purposes, depending on state rules, even if the taxpayer does not get any state tax benefit of the federal credit.

Additionally, certain green energy expenditures may qualify for sales and use tax and/or property tax exemptions in certain states, which may produce a further state tax benefit.

It is recommended that companies consult on the specific state tax impact of any new federal credit when considering whether to undertake certain projects, including impacts such as disallowed deductions or basis reductions associated with the federal credits or the availability of similar state specific incentives.

Excise taxes and fuel credits

The IRA extends multiple existing fuel credits now available to taxpayers through 2024 and establishes new credits to accelerate the production and use of low-emission fuels. Furthermore, the IRA reinstates certain excise taxes on crude oil production and the import of petroleum products. See our recent [Tax Alert](#) on IRA excise tax credits for more information.

Funding for IRS enforcement

The IRA invests \$80 billion toward boosting IRS resources in an effort to strengthen tax collection and enforcement on large corporations and high-income earners. The appropriated funds are designed to rebuild the IRS over the next decade, and approximately \$46 billion will be allocated to IRS enforcement efforts. The additional enforcement funds will be used to put in place teams to review complex structures and identify areas of noncompliance with a focus towards large corporate and global high-net-worth taxpayers, passthrough entities, and multinational taxpayers.

An increase in federal audit activity could generate additional state compliance obligations and costs to companies. When the IRS makes a change to federal taxable income, that change generally has to be reported by the taxpayer within a specified period of time (e.g., between 30 days and 180 days for many states) in all states where an income tax return was filed for the period in which the change relates. Many states may allow taxpayers to pursue claims for refunds identified during the examination, or alternatively, apply favorable identified offsets against adjustments where the statute of limitations for making claims for refund may be expired.

Additionally, an increase in federal change reporting could also lead to increased state audit activity. This increase in federal audit activity attributable to the IRA coincides with audits commencing under recent federal changes to the partnership audit regime associated with the BBA (the Bipartisan Budget Act of 2015) that are only now reaching full implementation.

Get in touch

[Valerie Dickerson](#)

[Joe Garrett](#)

[Edward Kenawell](#)

[Jesse McWhorter](#)

[Alexis Morrison-Howe](#)

[Ken Reichel](#)

[Amber Rutherford](#)

[Marshal Sulayman](#)



[Deloitte.com](#) | [Unsubscribe](#) | [Manage email preferences](#) | [Legal](#) | [Privacy](#)

30 Rockefeller Plaza
New York, NY 10112-0015
United States

This alert contains general information only and Deloitte is not, by means of this alert, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This alert is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this alert.

As used in this document, "Deloitte" means Deloitte Tax LLP, a subsidiary of Deloitte LLP. Please see www.deloitte.com/us/about for a detailed description of our legal structure. Certain services may not be available to attest clients under the rules and regulations of public accounting.

Copyright © 2022 Deloitte Development LLC. All rights reserved.