



Tax News & Views

Health care edition

The Inflation Reduction Act

On August 16, 2022 President Biden signed into law the [Inflation Reduction Act of 2022](#) (the “Act”). There are several provisions in the Inflation Reduction Act that may impact tax-exempt organizations and the health care industry.

Corporate minimum tax – the Inflation Reduction Act includes a book-minimum tax (AMT) that imposes a 15 percent minimum tax on “adjusted financial statement income” (AFSI) of applicable corporations over the “corporate AMT foreign tax credit for the taxable year.” An applicable corporation is 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 AFSI test, applied based on a three-year look-back period ending with the relevant taxable year. Under the proposed provisions, a corporation can first qualify as an applicable corporation in a taxable year ending after December 31, 2021.

Find it Fast

[The Inflation Reduction Act](#)

[Final regulations on disclosure of information to state officials regarding tax-exempt organizations](#)

[Did you know?](#)

[Deloitte Dbriefs](#)

Notably, the Act provides rules to adjust AFSI in the case of a tax-exempt entity, such that AFSI only takes into account income that is: (i) income of an unrelated trade or business under section 513, or (ii) income derived from debt financed property (as defined in section 514) to the extent that income from such property would be unrelated business taxable income.

Sustainability-related credits and incentives – the Inflation Reduction Act includes a variety of credits and incentives to promote climate change mitigation and clean energy. The expansive list of sustainability-related credits includes clean-energy tax incentives to bring down consumer energy costs and reduce greenhouse gas emissions, decarbonization provisions aimed at reducing emissions from energy production, transportation, industrial manufacturing, buildings, and agriculture, and other transportation and fuel incentives.

The Act added Section 6417 which allows an applicable entity to make an annual election to be treated as having made a payment against the tax imposed equal to the amount of certain applicable credits (“direct pay”) for the taxable year. An applicable entity includes certain tax-exempt organizations and state governmental entities.

Excise tax on certain pharmaceutical manufacturers – The Inflation Reduction Act includes a provision that, broadly speaking, would require pharmaceutical manufacturers to negotiate with the federal government to determine maximum prices for certain selected prescription drugs and insulin products offered under Medicare. Pharmaceutical manufacturers that do not participate in the mandatory price-setting program would be subject to a new “manufacturers excise tax” that would apply to all sales by a manufacturer, producer, or importer of those products that are subject to a negotiated price cap. The tax rate initially would be set at 65 percent and would increase incrementally, up to a maximum of 95 percent, for taxpayers that fail to meet certain compliance benchmarks that are laid out in the bill.

Additional Internal Revenue Service (IRS) funding – The Inflation Reduction Act calls for an \$80 billion investment toward boosting IRS resources, part of which will ensure that the IRS has certain funding in place to make investments with large fixed costs—such as modernizing information technology, improving data analytic approaches, and hiring and training agents dedicated to complex enforcement activities. The \$80 billion appropriations would be allocated across the four program areas: enforcement, operations support, business systems modernization, and taxpayer services. The largest portion of the additional funding will go towards enforcement, with enforcement funds used to address noncompliance in areas such as large corporate and global high-net-worth taxpayers, passthrough entities, and multinational taxpayers with international tax issues. The IRS is looking to put in place sophisticated, specialized teams that are able to review complex structures and identify areas of noncompliance.

While additional staffing will serve to focus enforcement scrutiny on high-income taxpayers and the businesses they own, the

individuals performing these examinations will require the necessary skills, training, and experience to analyze tax returns that are highly complex.

Detailed discussions of the following issues related to the new law are also available from Deloitte Tax LLP:

- [Sustainability-related tax provisions](#);
- [Book-minimum tax](#);
- [Stock buyback excise tax](#); and
- [Financial reporting considerations](#).

Final regulations on disclosure of information to state officials regarding tax-exempt organizations

On August 15, 2022 The Treasury Department (“Treasury”) and Internal Revenue Service (“IRS”) released final regulations ([T.D. 9964](#), the “Final Regulations”) under section 6104(c), which governs the circumstances under which the IRS may disclose to State officials certain information about organizations described in section 501(c)(3) of the Internal Revenue Code (“IRC”, the “Code”), including private foundations and other charitable organizations, organizations that have applied for recognition as organizations described in section 501(c)(3), certain other exempt organizations, and certain taxable persons. The Final Regulations were published in the Federal Register on August 16, 2022.

The Final Regulations provide guidance to states regarding the process by which they may obtain or inspect certain returns and return information for the purpose of administering State laws governing certain tax-exempt organizations and their activities. The Final Regulations amend existing regulations to reflect changes to the Code made by the Pension Protection Act of 2006 (PPA). The Final Regulations will affect tax-exempt organizations and certain taxable persons whose tax information may be disclosed where states obtain information from the IRS under these rules.

The Final Regulations allow for the IRS to disclose to an appropriate State officer (“ASO”) (or person designated by the ASO as provided in the Final Regulations) upon written request by an ASO, and only as necessary to administer State laws regulating charitable organizations, various returns and return information, including:

- A final or proposed refusal to recognize an organization’s exemption as a charitable organization;
- A final or proposed revocation of exemption as a charitable organization;
- A notice of deficiency or proposed notice of deficiency of tax imposed under section 507 (related to termination of private foundation status), Chapter 41 (related to consumer credit protection), or Chapter 42 (related to rules governing private foundations and other tax-exempt organizations) of the Code on the organization or on a taxable person; and
- Returns and/or return information regarding the items noted above.

The Final Regulations have expanded the application of the disclosure rules. Previously, only final determinations on such matters noted above could generally be disclosed. Additionally, whereas previously only charitable organizations exempt under section 501(c)(1) or (3) were subject to such disclosure rules, organizations described or formerly described in section 501(c) other than 501(c)(1) or (3), such as 501(c)(4) social welfare organizations and 501(c)(6) business leagues are subject to certain disclosure rules under the Final Regulations.

Additionally, the IRS may disclose to the ASO on their own initiative, without written request from the ASO, the returns and return information of a charitable organization or organization that has applied for tax-exempt status if the IRS determines that such information might constitute evidence of noncompliance with the laws under the ASO's jurisdiction regulating such charitable organizations. The Final Regulations also allow for sharing of information between State agencies or employees. In certain instances, an ASO who has been provided with a return or return information under the disclosure provisions may disclose such information to another State officer or employee who is personally and directly preparing for a civil proceeding directly applicable to the tax-exempt organization or for other taxable persons as defined in the Final Regulations.

Did you know?

IRS Interest rates increase beginning October 2022

[Revenue Ruling 2022-15](#) reports the interest rates on overpayments and underpayments of tax per Internal Revenue Code Section 6621 effective beginning October 1, 2022. The rates will be 6% for overpayments [5% in the case of a corporation], 3.5% for the portion of a corporate overpayment exceeding \$10,000, 6% for underpayments, 8% for large corporate underpayments.

IRS extends certain retirement plan amendment deadlines

[IRS Notice 2022-33](#) extends the deadlines for amending a retirement plan or individual retirement arrangement to reflect certain legislation. Under this notice, the extended amendment deadline for a qualified retirement plan or section 403(b) plan that is not a governmental plan, or an individual retirement arrangement is December 31, 2025.

Latest on Tax law changes

The Tax News & Views: Capitol Hills briefings provides [articles](#) and [podcasts](#) on the latest developments with tax legislation on capitol hill.

Upcoming Conferences & D-Briefs

Deloitte Dbriefs are live webcasts that give you valuable insights on important developments affecting your business. Register for the following webcasts or view archived recordings by clicking on the respective hyperlinked button below.



Global Mobility, Talent & Rewards

Staying compliant in the new era of remote work

Sept 7 | 12 p.m. ET | 16 GMT

Please join our panel discussion focusing on how companies are incorporating remote work practices into their talent strategy. As employers continue to allow employees to work remotely and expand their footprint into new jurisdictions, it's important to understand the relevant HR, tax, and regulatory considerations as they build the workforce of the future. Participants will learn practical approaches to managing remote workers.

Register



Tax Accounting and Provisions

Financial accounting and reporting for income taxes: Important updates

Sept 14 | 2 p.m. ET | 18 GMT

What income tax accounting matters should you be thinking about as we head into Q3 and year end? In this webcast. Participants will learn about these recent developments and explore their potential effects on financial reporting for income taxes.

Register



Contacts

Please contact your local Deloitte Tax LLP provider for more information on our services.

Rachel Becker

Milwaukee
rbecker@deloitte.com
+1 414 977 2567

Joan McMahon

San Francisco
jcmahon@deloitte.com
+1 415 783 5568

Fran Bedard

Nashville
fbedard@deloitte.com
+1 615 259 1811

Kristina Rasmussen

Minneapolis and Washington National Tax
krasmussen@deloitte.com
+1 612 397 4178

Jeff Frank

Indianapolis
jdf Frank@deloitte.com
+1 317 656 6921

Mary Rauschenberg

Chicago and Washington National Tax
mrauschenberg@deloitte.com
+1 312 486 9544

Anne Fulton

Minneapolis
anfulton@deloitte.com
+1 612 397-4242

John W. Sadoff, Jr.

Costa Mesa
jsadoff@deloitte.com
+1 714 913 1281

Alicia Janisch

Detroit
ajanisch@deloitte.com
+1 313 324 1442

Jim Sowar

Cincinnati
jsowar@deloitte.com
+1 513 784 7242

Christine Kawecki

New York and Boston
ckawecki@deloitte.com
+1 516 918 7138

The information contained in Tax News & Views: Health Care Edition is for general purposes only and Deloitte is not, by means of this newsletter, rendering accounting, business, financial investment, legal, tax, or other professional advice or services. This material 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 adviser. Deloitte shall not be responsible for any loss sustained by any person who relies on this newsletter. If you have questions about the content of Tax News & Views: Health Care Edition, contact Kristina Rasmussen at +1 612 397 4178 or at krasmussen@deloitte.com.

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 the legal structure of Deloitte LLP and its subsidiaries. Certain services may not be available to attest clients under the rules and regulations of public accounting.