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To Our Clients and Friends:

2022 YEAR-END INCOME TAX PLANNING FOR BUSINESSES

INTRODUCTION

It's hard to believe we are already nearing the end of 2022. As we begin looking forward to the possibilities of a new year, it's important to take a moment to look back and review 2022 for possible tax planning opportunities for your business. We believe examining your 2022 tax situation could lead to tax savings when you file. To assist you in your planning, we have included our 2022 year-end income tax planning letter for businesses. We've included selected traditional as well as selected new planning ideas for you to consider. If you have any questions or want to discuss planning ideas not included in our letter, please call us.

Caution! The IRS continues releasing guidance on various important tax provisions. We closely monitor new tax legislation and IRS releases. Please call our firm if you want an update on the latest tax legislation, IRS notifications, announcements, and guidance or **if you need additional information concerning any item discussed in this letter.**

Be careful! Although this letter contains planning ideas, you cannot properly evaluate a particular planning strategy without calculating the overall tax liability for the business and its owners (including the alternative minimum tax) with and without the strategy. In addition, this letter contains ideas for Federal income tax planning only. **State income tax issues are not addressed.** However, you should consider the state income tax impact of a particular planning strategy. We recommend that **you call our firm before implementing any tax planning technique** discussed in this letter.

POSSIBLE LEGISLATION BEFORE YEAR-END

Each year we work to provide you with our year-end planning letter in time to allow implementation of possible tax saving strategies that may need to be completed before December 31st. As a result, it is possible Congress could pass new legislation between your receipt of this letter and December 31st. There are over 30 temporary tax provisions that expired at the end of 2021, many of which were energy related and were extended or changed by the Inflation Reduction Act of 2022. However, it appears a December omnibus spending package is the best chance for an extension of several expired or expiring provisions. Please contact our firm if you'd like an update on current legislation and how it could affect your business.

TRADITIONAL YEAR-END TAX PLANNING TECHNIQUES

Pay Special Attention To Timing Issues. For most businesses, the last several years have been difficult. The pandemic, disruptions in the supply chain, and difficulty hiring and retaining employees has caused many businesses to face unprecedented challenges. One of the traditional year-end tax planning strategies for businesses includes reducing current year taxable income by deferring taxable income into later years and accelerating deductions into the current one. This strategy has been particularly beneficial where the income tax rate on the business's income in the following year is expected to be the same or lower than the current year. For businesses that have done well during the pandemic, this strategy would still generally be advisable. **Caution!** In the following discussions we include "timing" suggestions as they relate to traditional year-end tax planning strategies that would cause you to accelerate deductions into 2022, while deferring income into 2023. However, for businesses that expect their taxable income to be significantly lower in 2022 than in 2023, the opposite strategy might be more advisable. In other words, for struggling businesses, a better year-end planning strategy could include accelerating revenues into 2022 (to be taxed at lower rates), while deferring deductions to 2023 (to be taken against income that is expected to be taxed at higher rates).

Planning With The First-Year 168(k) Bonus Depreciation Deduction. Traditionally, a popular way for businesses to maximize current-year deductions has been to take advantage of the **First-Year 168(k) Bonus Depreciation deduction.** Before the *"Tax Cuts and Jobs Act"* (TCJA), which was enacted in late 2017, the 168(k) Bonus Depreciation deduction was equal to 50% of the cost of qualifying **new** depreciable assets placed in service. TCJA temporarily increased the 168(k) Bonus Depreciation deduction **to 100%** for qualifying property acquired and placed in service **after September 27, 2017** and **before January 1, 2023.** **Planning Alert!** After 2022 the 100% §168(k) deduction is to be reduced as follows for property placed in service: **1)** during **2023 - 80%, 2)** during **2024 - 60%, 3)** during **2025 - 40%, 4)** during **2026 - 20%,** and **5) after 2026 - 0%** (with an additional year for long-production-period property and noncommercial aircraft). TCJA further enhanced the 168(k) Bonus Depreciation deduction by making the following changes:

- **"Used" Property Temporarily Qualifies For 168(k) Bonus Depreciation.** Before TCJA, only **"new"** qualifying property was eligible for the 168(k) Bonus Depreciation deduction. For qualifying property acquired and placed in service **after September 27, 2017 and before 2027,** the 168(k) Bonus Depreciation may be taken on **"new" or "used"** property. Therefore, property that generally qualifies for the 168(k) Bonus Depreciation includes **"new"** or **"used"** business property that has a depreciable life for tax purposes of **20 years or less** (e.g., machinery and equipment, furniture and fixtures, sidewalks, roads, landscaping, computers, computer software, farm buildings, and qualified motor fuels facilities).

- **Annual Depreciation Caps For Passenger Vehicles Increased.** Vehicles used primarily in business generally qualify for the 168(k) Bonus Depreciation. However, there is a dollar cap imposed on business cars, and on trucks, vans, and SUVs that have a **loaded vehicle weight of 6,000 lbs. or less.** More specifically, for qualifying vehicles placed in service **in 2022** and used 100% for business, the annual depreciation caps are as follows: **1st year - $11,200; 2nd year - $18,000; 3rd year - $10,800; fourth and subsequent years - $6,460.** Moreover, if the vehicle (new or used) otherwise qualifies for the 168(k) Bonus Depreciation, the first-year depreciation cap (assuming 100% business use) is increased by $8,000 (i.e., **from $11,200 to $19,200 for 2022).** Thus, a vehicle otherwise qualifying for the 168(k) Bonus Depreciation deduction with loaded **Gross Vehicle Weight (GVW) of 6,000 lbs. or less** used **exclusively for business** and **placed in service in 2022** would be entitled to a **depreciation deduction for 2022 of up to $19,200,** whether purchased new or used. If the vehicle continues to be used exclusively for business during the **second year** (i.e., during 2023), it would be entitled to a second-year depreciation deduction of **up to $18,000.** **Planning Alert!** Even better, if the same new or used business vehicle (which is used 100% for business) has a loaded GVW

over 6,000 lbs., 100% of its cost (without a dollar cap) could be deducted **in 2022** as a **168(k) Bonus Depreciation deduction.**

- **168(k) Bonus Depreciation Taken In Tax Year Qualifying Property Is "Placed In Service."** The 168(k) Bonus Depreciation deduction is taken in the tax year the qualifying property is "placed in service." Consequently, if your business anticipates acquiring qualifying 168(k) property between now and the end of the year, the 168(k) Bonus Depreciation deduction is taken in 2022 if the property is placed in service no later than December 31, 2022, if the business has a calendar tax year. Alternatively, the 168(k) Bonus Depreciation deduction can be deferred until 2023 if the qualifying property is placed in service in 2023. However, the 168(k) depreciation deduction is limited to 80% of the basis of the property if placed in service in 2023. Generally, if you are purchasing "personal property" (equipment, computer, vehicles, etc.), "placed in service" means the property is **ready and available** for use (this commonly means the date on which the property has been **set up and tested).** If you are dealing with building improvements (e.g., "Qualified Improvement Property"), the date on the **Certificate of Occupancy** is commonly considered the date the qualifying building improvements are placed in service. **Note!** Unlike the 179 Deduction (discussed next), the 168(k) Bonus Depreciation deduction is automatically allowed unless the business timely **elects out** of the deduction. However, the 179 deduction is not allowed unless the business makes an **affirmative election to take it.**

Planning With The Section 179 Deduction. Another popular and frequently-used way to accelerate deductions is by taking maximum advantage of the up-front Section 179 Deduction ("179 Deduction"). TCJA made several taxpayer-friendly enhancements to the 179 Deduction which include: **1)** substantially increasing the 179 Deduction limitation (up to **$1,080,000 for 2022), 2)** increasing the phase-out threshold for total purchases of 179 property **($2,700,000 for 2022),** and **3)** expanding the types of business property that qualify for the 179 Deduction. **Planning Alert!** To maximize your 179 Deductions for 2022, it is important for your business to determine which depreciable property acquired during the year qualifies as 179 Property. The following is a list of the types of business property that qualify for the 179 Deduction (as expanded by TCJA):

- **General Definition Of 179 Property.** Generally, "depreciable" property qualifies for the **179 Deduction** if: **1)** it is purchased **new or used, 2)** it is "tangible personal" property, **and 3)** it is used primarily for business purposes (e.g., machinery and equipment, furniture and fixtures, business computers, etc.). Off-the-shelf business software also qualifies. **Planning Alert! Before TCJA,** the 179 Deduction was not allowed for property used in **connection with lodging** (other than hotels, motels, etc.). TCJA removed this restriction, so the 179 Deduction **is now allowed** for otherwise qualifying property used in connection with lodging (e.g., the cost of furnishing a home that the owner is renting to others would now qualify).

- **Business Vehicles.** New or used business vehicles generally qualify for the 179 Deduction, provided the vehicle is **used more-than-50% in your business. Planning Alert!** As discussed previously in the 168(k) Bonus Depreciation segment, there is a dollar cap imposed on business cars and trucks that have a **loaded vehicle weight of 6,000 lbs. or less.** If applicable, this dollar cap applies to both the 168(k) Bonus Depreciation and the 179 Deduction taken with respect to the vehicle. Trucks, vans, and SUVs that **weigh over 6,000 lbs.** are exempt from the annual depreciation caps. In addition, these vehicles, if used more-than-50% in business, will also generally qualify for a **179 Deduction of up to $27,000** if placed in service in 2022 (if placed in service in 2023 the limit will be **$28,900**). **Note!** Pickup trucks with loaded vehicle weights over 6,000 lbs. are exempt from the $27,000 limit to the 179 Deduction if the truck bed is at least six feet long. **Planning Alert!** The $27,000 cap applies only for purposes of the 179 Deduction. This $27,000 cap **does not apply** with respect to the 168(k) Bonus Depreciation deduction taken on vehicles weighing over 6,000 lbs. **Planning Alert!** Neither the **179 Deduction** nor the 168(k) Bonus Depreciation deduction requires any proration based on the length of time that an asset is in service during the tax year. Therefore, your calendar-year business would get the benefit of the **entire 179 or 168(k) Deduction** for 2022 purchases, even if the qualifying property **was placed in service as late as December 31, 2022!**

Salaries For S Corporation Shareholder/Employees. For 2022, an employer generally must pay FICA taxes of 7.65% on an employee's wages up to $147,000 ($160,200 for 2023) and FICA taxes of 1.45% on wages in excess of $147,000 ($160,200 for 2023). In addition, an employer must withhold FICA taxes from an employee's wages of 7.65% on wages up to $147,000 ($160,200 for 2023), and 1.45% of wages in excess of $147,000 ($160,200 for 2023). Generally, the employer must also withhold an additional Medicare tax of .9% for wages paid to an employee in excess of $200,000. If you are a shareholder/employee of an S corporation,

this FICA tax generally applies only to your W-2 income from your S corporation. Other income that passes through to you or is distributed with respect to your stock is generally not subject to FICA taxes or to self-employment taxes. If the IRS determines that you have taken unreasonably low compensation from your S corporation, it will generally argue that other amounts you have received from your S corporation (e.g., distributions) are disguised "compensation" and should be subject to FICA taxes. **Caution!** Determining "reasonable" compensation for an S corporation shareholder is a case-by-case determination, and there are no rules of thumb for determining whether the compensation is "reasonable." However, Court decisions make it clear that the compensation of S corporation shareholders should be supported by independent data (e.g., comparable industry compensation studies), and should be properly documented and approved by the corporation. **Planning Alert!** Keeping wages low and minimizing your FICA tax could also reduce your Social Security benefits when you retire and the amount of contributions that can be made to your company's retirement plan on your behalf.

S Corporation Shareholders Should Check Stock And Debt Basis Before Year-End. If you own S corporation stock and you think your S corporation will have a tax loss this year, you should contact us as soon as possible. These losses will not be deductible on your personal return unless and until you have adequate "basis" in your S corporation. Any pass-through loss that exceeds your "basis" in the S corporation will carry over to succeeding years. You have basis to the extent of the amounts paid for your stock (adjusted for net pass-through income, losses, and distributions); **plus,** any amounts you have personally loaned to your S corporation. **Planning Alert!** If an S corporation anticipates financing losses through borrowing from an outside lender, the best way to ensure the shareholder gets **debt basis** is to: **1)** have the shareholder personally borrow the funds from the outside lender, and **2)** then have the shareholder formally (with proper and timely documentation) loan the borrowed funds to the S corporation. **Caution!** A shareholder cannot get debt basis by merely guaranteeing a third-party loan to the S corporation. **Please do not attempt to restructure your loans without contacting us first.**

MAXIMIZE YOUR 20% 199A DEDUCTION FOR QUALIFIED BUSINESS INCOME (QBI)

First effective in 2018, the 20% 199A Deduction has had a major impact on businesses. This provision allows qualified taxpayers to take a 20% Deduction with respect to **"Qualified Business Income," "Qualified REIT Dividends,"** and **"Publicly-Traded Partnership Income."** Of these three types of qualifying income, **"Qualified Business Income" (QBI)** has had the biggest impact by far on the greatest number of taxpayers.

- **"Qualified Business Income." "Qualified Business Income" (QBI)** that is generally eligible for the 20% 199A Deduction, is defined as the net amount of qualified items of income, gain, deduction, and loss with respect to **"any"** trade or business **other than: 1)** certain **personal service** businesses known as **"Specified Service Trades Or Businesses"** (described in more detail below), and **2)** the **Trade or Business** of performing services **"as an employee"** (e.g., W-2 wages). **Caution!** QBI also generally **does not include** certain items of income, such as: **1)** dividends, investment interest income, short-term capital gains, long-term capital gains, income from annuities, commodities gains, foreign currency gains, etc.; **2)** any **"guaranteed payment"** paid to a partner by the partnership; **3)** reasonable compensation paid by an S corporation to a shareholder; or **4)** **i**ncome you report as an independent contractor (e.g., sole proprietor) where it is ultimately determined that you should have been classified as a "common law" employee.

- **W-2 Wage And Capital Limitation On The 20% QBI Deduction.** Generally, your 20% QBI Deduction with respect to each Qualified Trade or Business may not exceed **the greater of: 1)** 50% of the allocable share of the business's W-2 wages allocated to the QBI of each "Qualified Trade or Business," or **2)** the sum of 25% of the business's allocable share of W-2 wages with respect to each "Qualified Trade or Business," plus 2.5% of the business's allocable share of unadjusted basis of tangible depreciable property held by the business at the close of the taxable year. **Note!** This limitation, to the extent it applies, is generally designed to ensure that the full 20% of QBI Deduction is available only to qualified businesses that have sufficient W-2 wages, sufficient tangible depreciable business property, or both.

- **Owners With Taxable Income Below Certain Thresholds Are Exempt From The W-2 Wage And Capital Limitation!** For 2022, an otherwise qualifying taxpayer is **entirely exempt** from the **W-2 Wage and Capital Limitation** if the Taxpayer's "**Taxable Income**" (computed without regard to the 20%199A Deduction) is **$170,050 or below ($340,100** or below if married filing jointly).

- **Business Income From "Specified Service Trade Or Businesses" (SSTBs) Does Not Qualify For The 20% 199A Deduction For Owners Who Have "Taxable Income" Above Certain Thresholds.** Based on your "Taxable Income" (before the 20% 199A Deduction), all or a portion of your qualified business income from a so-called "Specified Service Trade or Business" (i.e., certain service-type operations discussed in more detail below) **may not qualify** for the 20% 199A Deduction. More specifically, if your "**Taxable Income**" for 2022 (before the 20% 199A Deduction) is **$170,050 or below ($340,100 or below** if married **filing jointly),** "**all**" of the qualified business income from your "Specified Service Trade or Business" **(SSTB)** is eligible for the 20% 199A deduction. However, if for 2022 your "**Taxable Income**" is **$220,050 or more ($440,100 or more if married filing jointly), none** of your SSTB income qualifies for the 20% 199A Deduction. **Planning Alert!** A taxpayer with Taxable Income for 2022 of **$170,050 or less ($340,100 or less** if married **filing jointly)** qualifies for two major benefits: **1)** the taxpayer's SSTB income (if any) is fully eligible for the 20% 199A deduction, ***and*** **2)** the taxpayer is completely exempt from the W-2 Wage and Capital Limitation.

- **What Is A "Specified Service Trade Or Business" (SSTB)?** A ***Specified Service Trade or Business*** **("SSTB")** is generally defined as **1)** a trade or business activity involved in the performance of services in the field of: health; law; accounting; actuarial science; performing arts; consulting; athletics; financial services; or brokerage services; **2)** a trade or business involving the receipt of fees for celebrity-type endorsements, appearance fees, and fees for using a person's image, likeness, name, etc.; and **3)** any trade or business involving the services of investing and investment management, trading, or dealing in securities, partnership interests, or commodities. An "SSTB" **does not include** the performance of **architectural** or **engineering** services.

- **Evaluating Reasonable W-2 Compensation Levels Paid To S Corp Owner/Employees Is More Important Than Ever!** Even before the 20% 199A Deduction provision was enacted, S corporation shareholder/employees have had an incentive to pay themselves W-2 wages as low as possible because only the shareholder's W-2 income from the S corporation is subject to FICA taxes. Other income of the shareholder from the S corporation is generally not subject to FICA or Self-Employment (S/E) taxes. Traditionally, where the IRS has determined that an S corporation shareholder/employee has taken unreasonably **"low"** compensation from the S corporation, the IRS has argued that other amounts the shareholder has received from the S corporation (e.g., distributions) are disguised **"compensation"** and should be subject to FICA taxes. **Planning Alert!** If you want our firm to review the W-2 wages that your S corporation is currently paying to its shareholders in light of this 20% 199A Deduction, please contact us as soon as possible. We will be glad to evaluate your specific situation and make recommendations. **Caution!** The quicker you contact us on this issue, the better chance you have to take steps before the end of 2022 to increase your 20% deduction.

- **Payments By A Partnership To A Partner For Services.** A partner's pass-through share of **QBI** generally **"is eligible"** for the 20% 199A Deduction. Moreover, payments by the partnership to the partner that are properly classified as "distributions" neither reduce nor increase the partnership's QBI that passes through to its partners. However, the following types of payments to a partner by a partnership **do reduce** the **amount of QBI** otherwise generated by a partnership, and are also **"not eligible"** for the 20% 199A Deduction: **1)** any amount that is a **"guaranteed payment"** paid by the partnership to the partner, or **2)** any amount allocated or distributed by a partnership **to a partner** for services provided to the partnership where it is ultimately determined that the partner was **acting other than in** his or her capacity as a partner. **Caution!** It is not always clear whether specific payments to a partner will be classified as "distributions" (that generally do not reduce the amount of your 20% 199A Deduction), or alternatively fall into one of the two above-listed categories that are not eligible for the 20% 199A Deduction. Often partnerships call distributions to partners "guaranteed payments" when they are not technically guaranteed payments. Generally, guaranteed payments are payments made to partners without regard to the partnership's income. If payments to partners are merely distributions of profits or advance distributions of profits, they are probably not guaranteed payments and should not be classified as such and should not reduce the QBI of the partnership.

BE CAREFUL WITH EMPLOYEE BUSINESS EXPENSES

Un-Reimbursed Employee Business Expenses Are Not Deductible! For 2018 through 2025, "un-reimbursed" employee business expenses are not deductible at all by an employee. For example, you **may not deduct** on your income tax return any of the following business expenses **you incur as an "employee,"**

even if the expenses are necessary for your work - Automobile expenses (including auto mileage, vehicle depreciation); **Costs of travel, transportation, lodging and meals; Union dues** and expenses; **Work clothes and uniforms;** Otherwise qualifying **home office expenses; Dues** to a chamber of commerce; **Professional dues; Work-Related education expenses; Job search expenses; Licenses and regulatory fees; Malpractice insurance premiums; Subscriptions** to professional journals and trade magazines; and **Tools and supplies** used in your work.

An Employer's Qualified Reimbursement Of An Employee's Business Expenses Are Deductible By The Employer And Tax-Free To The Employee. Generally, employee business expenses that are reimbursed under an employer's qualified **"Accountable Reimbursement Arrangement" are deductible by the employer**, subject to the 50% (100% for 2021 and 2022 if purchased from a restaurant) limit on business meals, and the reimbursements are **not taxable to the employee.** However, reimbursements under an arrangement that is not a qualified "Accountable Reimbursement Arrangement" generally must be treated as compensation and included in the employee's W-2, and the employee would get no offsetting deduction for the business expense. **Planning Alert!** Generally, for a reimbursement arrangement to qualify as an **"Accountable Reimbursement Arrangement" - 1)** the employer must maintain a reimbursement arrangement that requires the employee to substantiate covered expenses, **2)** the reimbursement arrangement must require the return of amounts paid to the employee that are in excess of the amounts substantiated, and **3)** there must be a business connection between the reimbursement (or advance) and anticipated business expenses.

Deductions For Business Meals. Generally, only 50% of the cost of business meals (i.e., food and beverages) is deductible. However, for 2021 and 2022 otherwise deductible business food and beverages are 100% deductible if provided by a restaurant. **Note!** IRS says that **"a *taxpayer that properly applies the rules of Rev. Proc. 2019-48 may treat the meal portion of a per diem rate or allowance paid or incurred after December 31, 2020 and before January 1, 2023 as being attributable to food or beverages provided by a restaurant."*** Therefore, if a taxpayer uses the per diem rules to reimburse or to deduct away from home business meals, the taxpayer does not have to document the meal was provided by a restaurant to deduct 100% of the meal cost since Notice 2021-63 presumes the meal was provided by a restaurant. This special rule only applies – **1)** to employers who reimburse employees for meals while traveling away from home on business using the per diem reimbursement amounts allowed **and 2)** to self-employed individuals who use the meal per diem amounts allowed for self-employed individuals in determining meal deductions while traveling away from home on business. **Planning Alert!** The 100% deduction for otherwise deductible business food and beverages provided by a restaurant expires for restaurant meals paid or incurred after 2022.

OTHER SELECTED YEAR-END PLANNING CONSIDERATIONS FOR BUSINESSES

IRS Increases Standard Mileage Rates Effective July 1, 2022. The standard mileage rate was increased from 58.5 cents per mile (which was effective for business mileage beginning January 1, 2022) to 62.5 cents per mile effective July 1, 2022. **Planning Alert!** Be sure to keep proper records of business mileage for 2022 and future years.

Don't Overlook Simplified Accounting Methods For Certain Small Businesses. The Tax Cuts And Jobs Act (enacted in late 2017) provides the following accounting method relief provisions for businesses with **Average Gross Receipts (AGRs)** for the **Preceding Three Tax Years** of **$27 Million or Less (for 2022): 1)** generally allows businesses to use the cash method of accounting even if the business has inventories, **2)** allows simplified methods for accounting for inventories, **3)** exempts businesses from applying UNICAP, and **4)** liberalizes the availability of the completed-contract method. **Planning Alert!** The IRS has released detailed procedures to follow for taxpayers who qualify and wish to change their accounting methods in light of these new relief provisions. Please call our firm for more details.

Don't Forget To Properly Document And Provide Details For Charitable Contributions! Be sure to have the proper documentation for any contributions made during 2022 in order to deduct them against taxable income. The IRS recently denied Hobby Lobby's donations in the amount of $84.6 million because the FMV and basis of each item were not properly reported on Form 8283, when filed with its return. If you are concerned about what documentation you need to deduct a contribution, please call our firm for help.

SELECTED BUSINESS PROVISIONS THAT EXPIRED AFTER 9/30/21

Below are selected Covid-related provisions you should be aware of that expired after 9/30/21. Be sure to consider the impact of the expiration of these provisions on your business's year-end planning.

Payroll Tax Credit For Paid Sick Leave. The payroll tax credit for employers' payments to employees for qualified sick leave expired for sick leave taken after September 30, 2021.

Payroll Tax Credit For Paid Family Leave. The payroll tax credit for employers' payments to employees for qualified family leave expired for family leave taken after September 30, 2021.

Income Tax Credits For Sick Leave And Family Leave For Self-Employed Individuals. The sick leave and family credits for self-employed individuals provided by the American Rescue Plan Act (ARP) expired for qualifying sick leave or family leave days after September 30, 2021.

Employee Retention Credit Except For Recovery Startup Businesses. The employee retention credit expired for qualifying wages paid after September 30, 2021 except for qualifying wages paid by a recovery startup business for which the credit expired for wages paid after 12/31/21.

Planning Alert! If you didn't take the Employee Retention Credit on qualifying wages, you can amend Form 941 by filing Form 941-X. Generally, this form must be filed by the later of: 3 years from the date you filed your original return, or 2 years from the date you paid the tax. **Caution!** The IRS recently warned employers to be aware of organizations offering to help them claim the Employee Retention Credit (ERC) when they may not actually qualify. The IRS said in the warning –*"To be eligible for the ERC, employers must have:*

- *sustained a full or partial suspension of operations due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings due to COVID-19 during 2020 or the first three quarters of 2021,*
- *experienced a significant decline in gross receipts during 2020 or a decline in gross receipts during the first three quarters of 2021, or*
- *qualified as a recovery startup business for the third or fourth quarters of 2021."*

The IRS says, *"Some third parties are taking improper positions related to taxpayer eligibility for and computation of the credit. These third parties often charge large upfront fees or a fee that is contingent on the amount of the refund and may not inform taxpayers that wage deductions claimed on the business' federal income tax return must be reduced by the amount of the credit."* **Note!** If your company didn't take the ERC and you believe it may qualify, please let us know and we will review your information to determine if it does.

SELECTED RECENT DEVELOPMENTS

The Inflation Reduction Act Of 2022. On August 16, 2022, President Biden signed the Inflation Reduction Act of 2022 (act). The act, among other things, extends and creates various energy provisions for businesses and introduces: **1)** a 15% alternative minimum tax (AMT) and **2)** a 1% excise tax, both of which apply to specific corporations beginning in 2023. We want to make you aware of this new legislation, however many of the provisions of the act are effective after 2022. Therefore, we believe a detailed discussion of the act provisions affecting businesses are beyond the scope of this year-end planning letter. However, the following are a couple of changes made by the Inflation Reduction Act which may affect your year-end planning. If you would like more details about the Inflation Reduction Act of 2022, please let us know.

- **To Qualify For The 2022 EV Credit Final Assembly Must Occur In North America For Electric Vehicles Purchased After August 16, 2022.** The act made dramatic changes to the credit allowed for electric vehicles purchased after 2022. However, the act also changed the requirements to obtain a credit (of up to $7,500) for an electric vehicle (EV) purchased after August 16, 2022. For EVs purchased after August 16, 2022, the final assembly of the vehicle must occur in North America to qualify for the credit. However, this "final assembly requirement" does not apply where the taxpayer entered into a written binding contract to purchase a new qualifying EV before August 16, 2022, but took possession of the EV on or after August 16, 2022. **Planning Alert!** The IRS says, *"If you purchase and take possession of a qualifying electric vehicle after August 16, 2022 and before January 1, 2023, aside from the final assembly requirement, the rules in effect before the enactment of the Inflation Reduction Act for the EV credit apply (including those involving the manufacturing caps on vehicles sold)."*

- **New "Clean Vehicle Credit" For Vehicles Purchased After 2022 And Before 2033 (Code Section 30D).** Prior to the act, credits of up to $7,500 were provided for new "Qualified Plug-In Electric Drive Motor Vehicles" and for qualified fuel cell motor vehicles. The act provides a new revised credit for "Clean Vehicles" after 2022 and before 2033. A "Clean Vehicle" includes a qualified electric vehicle (EV) as outlined in Section 30D and a qualified fuel cell motor vehicle. **Planning Alert!** These credits for Clean Vehicles **apply to personal-use vehicles and to business vehicles. However, the new Clean Vehicle credit for commercial vehicles discussed next may only be used for depreciable property and may be less restrictive than these general "Clean Vehicle" credits.**

- **Credit For Qualified Commercial Clean Vehicles Acquired And Placed In Service After 2022 And Before 2033.** The credit for Commercial Clean Vehicles is the lesser of **1)** 30% of the vehicle's basis or **2)** the cost of the vehicle over the cost of a comparable gas or diesel vehicle, if the vehicle is 100% electric. The 30% credit amount is reduced to 15% if the vehicle has a gasoline or diesel component (i.e., if a hybrid). The maximum credit is $7,500 if the GVWR is less than 14,000 pounds and $40,000 if the GVWR is 14,000 pounds or more. **Planning Alert!** There are AGI limitations, limitations on the cost of the vehicle, and a requirement that final assembly of the vehicle must occur in North America to qualify for the Clean Vehicle credit discussed above. These limitations do not apply to the Commercial Clean Vehicle Credit. **Businesses planning on acquiring electric vehicles should consider this new 2023 credit for Commercial EVs and the Clean Vehicle Credit discussed above before acquiring an electric vehicle in 2022. It may pay to wait until 2023.**

Returns Extended To October 17, 2022 Are Now Due February 15, 2023 For Florida, South Carolina, And North Carolina Residents And Businesses. On October 5, 2022 the IRS announced that individuals and businesses in North Carolina and South Carolina have until February 15, 2023, to file various federal individual and business tax returns for 2021. The IRS made a similar announcement on September 29 for Florida residents and businesses. In addition, individuals and businesses in these states may deduct losses from Hurricane Ian since Ian has been declared a federal disaster. You have the option to deduct any Hurricane Ian loss not covered by insurance on either your 2021 income tax return or on your 2022 income tax return. You should generally take the deduction on the return which produces the most tax benefit.

FINAL COMMENTS

Please contact us if you are interested in a tax topic that we did not discuss. Tax law is constantly changing due to new legislation, cases, regulations, and IRS rulings. We closely monitor these changes. In addition, **please call us before implementing any planning idea discussed in this letter, or if you need additional information concerning any item mentioned in this letter.** We will gladly assist you. **Note!** The information contained in this material should not be relied upon without an independent, professional analysis of how any of the items discussed may apply to a specific situation.

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