

CHECKPOINT BRIEFING PACKAGE

Build Back Better Bill: Executive Summary

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This briefing package is a high-level executive summary of the Nov. 3 version of the Build Back Better (BBB) bill's individual, business, and other tax provisions, as summarized by the Joint Committee on Taxation (JCT) and the House Rules Committee (HRC). Congress and the president are in the process of negotiating the final scope and cost of the bill. The Senate has not voted on the bill yet. Where the current version of the bill differs from the JCT and HRC summary, this briefing package follows the JCT and HRC summary.

Checkpoint will release updates if and when new bill text is released.

The BBB is the latest in a series of bills proposed and enacted over the past 18 months in response to the COVID-19 pandemic and resulting economic impacts. This measure includes tax provisions that impact both individuals and businesses.

The provisions in the BBB cover tax incentives for:

- Child care
- Higher education
- Prescription drugs
- Health care
- Housing

The BBB also provides tax incentives for:

- Workplace training
- Clean energy
- Investments in teachers and schools

Individual Provisions

Certain comprehensive paid leave benefits excluded from gross income

The proposal provides that any amount that a taxpayer receives as part of the newly created comprehensive paid leave provided under the Social Security Act is not included in the taxpayer's gross income.

This section is effective as of the date of enactment. (Bill section 130004. New Code Sec. 139J)

Modification of limitation on deduction for state and local taxes, etc.

The proposal increases the SALT deduction cap to \$72,500 (\$36,250 in the case of an estate, trust, or married individual filing a separate return) from \$10,000 through 2031.

This section is effective for tax years beginning after December 31, 2020. (Bill section 137601. Code Sec. 164)

Extension of period of limitation for certain legally married couples

The proposal, among other things, extends the time to file certain returns for same-sex couples that were recognized by the IRS to be married for federal income tax purposes under Rev Rul 2013-17.

This section is effective as of the date of enactment. (Bill section 138508. Affects Code Sec. 6013 and Code Sec. 6511)

Exclusion of amounts received from State-based catastrophe loss mitigation programs

The proposal excludes from gross income any amount that an individual receives as a qualified catastrophe mitigation payment under a program established by a State or a political subdivision or instrumentality of a State for the purpose of making these payments.

This section is effective for tax years beginning after December 31, 2020. (Bill section 135403. Affects Code Sec. 139)

Credit for qualified wildfire mitigation expenditures

The proposal provides a credit against income tax for 30% of the qualified wildfire mitigation expenditures paid or incurred by a taxpayer with respect to real property that the taxpayer owns or leases.

This section applies to expenditures paid or incurred after the date of enactment, in tax years ending after that date. (Bill section 136306. New Code Sec. 28)

Extension and modification of child tax credit, modification of other dependent credit, and advance payment

For tax year 2021, the proposal makes several modifications to the child tax credit and advance payment rules. First, recapture is allowed without taking into account the safe harbor amount for a child if the Secretary determines that the child was taken into account in determining the annual advance amount due to fraud by the taxpayer or intentional disregard of rules and regulations by the taxpayer. For this purpose, intentional disregard of the rules and regulations includes, with respect to any child taken into account in determining the annual advance amount of a taxpayer, such taxpayer entering into a plan or other arrangement with, or expecting, another taxpayer to take the child into account in determining the credit for the tax year.

The proposal also provides a rule regarding advance payments with respect to a joint return by treating half of such payment as being made to each individual filing the return.

For tax year 2022, the proposal extends many of the ARPA expansions that otherwise expire after 2021 through tax year 2022. These extensions include (i) full refundability for taxpayers who have a principal place of abode in the U.S. for more than one-half of the year or who are bona fide residents of Puerto Rico for the tax year, (ii) the increase in the age limit of a qualifying child for purposes of the child tax credit to include children who have not attained age 18, (iii) the increase in child tax credit amount to \$3,000, and \$3,600 for qualifying children who have not attained the age of 6, (iv) the application of the initial phaseout to the increased child tax credit amount at the following applicable threshold amounts: \$150,000 for taxpayers filing jointly or surviving spouses, \$112,500 for head of household taxpayers, and \$75,000 for all other taxpayers, and (v) certain rules regarding payments to the territories and payments directly to the territory residents with respect to the child tax credit.

The proposal modifying the child tax credit rules for 2021 is effective for tax years beginning, and payments made, after December 31, 2020. The proposal providing a one-year extension of the ARPA expansions of the child tax credit (i.e., for 2022) is effective for tax years beginning, and payments made, after December 31, 2021. (Bill section 137101 and Bill section 137102. Affects Code Sec. 24)

Refundable child tax credit after 2022

For tax years after 2022, the child tax credit under Code Sec. 24 is made fully refundable for taxpayers who have a principal place of abode in the U.S. for more than one-half of the tax year or are a bona fide resident of Puerto Rico. There is no provision for advance payments after 2022.

This section is effective for tax years beginning after December 31, 2022. (Bill section 137103. Affects Code Sec. 24)

Certain improvements to the earned income tax credit extended through 2022

This provision extends, through 2022, the reduction in the minimum age to claim the childless EITC from 25 to 19 (except for certain full-time students) and eliminates the upper age limit for the childless EITC.

For 2022, the provision also includes the American Rescue Plan provision allowing a taxpayer to use their prior year earned income for purposes of computing the EITC, if a taxpayer's earned income in the current tax year has fallen. This provision allows consistency in the value of the EITC for taxpayers who may have lost a job, or whose income has fallen temporarily.

This section applies to tax years beginning after December 31, 2021. (Bill section 137201. Affects Code Sec. 32)

Funds for administration of EITC in the territories

Under the proposal, for each calendar year beginning in 2021, Puerto Rico, the mirror Code territories and American Samoa are awarded funds to pay for the reasonable administrative costs of implementing Earned Income Tax Credits (EITCs) in their jurisdictions.

This section is effective on the date of enactment for payments made for calendar years beginning after December 31, 2021. (Bill section 137202. Affects Code Sec. 7530)

Treatment of federal Pell grants for income tax purposes

Under this proposal, Federal Pell grants that are used for expenses that are not qualified tuition and related expenses, such as room and board, are excluded from gross income.

In addition, under the proposal, the amount of expenses eligible for the American Opportunity Tax Credit (AOTC) or the Lifetime Learning Credit isn't reduced by any amount paid for the benefit of an individual as a Federal Pell grant.

This section applies to tax years beginning after December 31, 2021. (Bill section 137502. Affects Code Sec. 117)

Repeal AOTC denial because of felony drug conviction

This proposal repeals the disallowance of the American Opportunity Tax Credit (AOTC) for qualified tuition and related expenses for a student's enrollment or attendance for any academic period because the student has been convicted of a Federal or State felony drug possession or distribution offense before the end of the tax year with or within which the academic period ends.

This section applies to tax years beginning after December 31, 2021. (Bill section 137503. Affects Code Sec. 25A)

Applies NIIT to trade or business income of certain high-income individuals

This provision amends Code Sec. 1411 to expand the net investment income tax (NIIT) to cover net investment income derived in the ordinary course of a trade or business for taxpayers with greater than \$400,000 in taxable income (single filer) or \$500,000 (joint filer), as well as for trusts and estates. The provision clarifies that this tax is not assessed on wages on which FICA is already imposed.

This section applies to tax years beginning after December 31, 2021. (Bill section 138201. Affects Code Sec. 1411)

Limits excess business losses of noncorporate taxpayers

This provision amends Code Sec. 461(l) to permanently disallow excess business losses (i.e., net business deductions that exceed business income) for noncorporate taxpayers. The provision allows taxpayers whose losses are disallowed to carry those losses forward to the next tax year.

This section applies to tax years beginning after December 31, 2020. (Bill section 138202. Affects Code Sec. 461)

Surcharge on high income individuals, estates, and trusts

This provision adds Code Sec. 1A, which imposes a tax equal to the sum of 5% of a taxpayer's modified adjusted gross income that exceeds \$10,000,000 (\$5,000,000 for a married individual filing separately) plus 3% of the taxpayer's modified adjusted gross income that exceeds \$25,000,000 (\$12,500,000 for a married individual filing separately)

For this purpose, modified adjusted gross income means adjusted gross income reduced by any deduction allowed for investment interest (as defined in Code Sec. 163(d)) and business interest (as defined in Code Sec. 163(j)).

This section applies to tax years beginning after December 31, 2021. (Bill section 138203. New Code Sec. 1A)

Deduction for certain employee trade or business expenses

The provision allows for up to \$250 in dues to a labor organization to be claimed as an above-the-line deduction.

This section is effective for tax years beginning after December 31, 2021. (Bill section 138514. Affects Code Sec. 62)

Business Provisions

Corporate alternative minimum tax

The corporate alternative minimum tax (AMT) proposal imposes a 15% minimum tax on corporations with adjusted financial statement income (AFSI) in excess of \$1 billion. Under the proposal, an applicable corporation's minimum tax is equal to the amount by which the tentative minimum tax exceeds the corporation's regular tax for the year. Tentative minimum tax is determined by applying a 15% tax rate to the AFSI of the corporation for the tax year (after accounting for the AMT foreign tax credit and the financial statement net operating losses).

For these purposes, AFSI is the net income or loss of the taxpayer stated on the taxpayer's applicable financial statement with certain modifications. Generally, an applicable financial statement is a corporation's form 10-K filed with the Securities and Exchange Commission, an audited financial statement, or other similar financial statement.

This section is effective for tax years beginning after December 31, 2022. (Bill section 138101. Affects Code Sec. 55, New Code Sec. 56A)

Excise tax on repurchase of corporate stock

The provision imposes a 1% excise tax on a publicly traded U.S. corporation for the value of any of its stock that is repurchased by the corporation during the tax year. The term repurchase means a redemption within the meaning of Code Sec. 317(b) regarding the stock of such corporation, and any other economically similar transaction as determined by the IRS.

The provision applies to repurchases of stock after December 31, 2021. (Bill section 138102. New Code Sec. 4501)

Buildings designated to serve extremely low-income households

The proposal adds a new set-aside requirement to the low-income housing tax credit for certain buildings with extremely low-income households. The proposal requires that at least 8% of a State's housing credit ceiling be allocated to certain buildings with extremely low-income households. Such buildings are buildings where 20% or more of the residential units are rent-restricted (determined as if the imputed income limitation applicable to such units were 30% of area median gross income), which have been designated by the taxpayer for occupancy by households the aggregate household income of which does not exceed the greater of (1) 30% of area median gross income, or (2) 100% of an amount equal to the Federal poverty level ("extremely low-income buildings").

This section is effective for allocations, and determinations, of housing credit dollar amount after December 31, 2021. (Bill section 135103. Affects Code Sec. 42)

Repeal of qualified contract option

The proposal eliminates the qualified contract exception for buildings receiving allocations after January 1, 2022, with regards to the low-income housing tax credit.

This section is generally effective date of enactment. (Bill section 135104. Affects Code Sec. 42)

Modification and clarification of rights relating to building purchase

In general, the proposal changes the right of first refusal safe harbor into an option safe harbor with regards to the low-income housing tax credit.

The proposal to change the right of first refusal safe harbor into an option safe harbor is effective for agreements entered into or amended after the date of enactment. (Bill section 135105. Affects Code Sec. 42)

New markets tax credit for Tribal Statistical Areas

For purposes of the Code Sec. 45D new markets tax credit, the proposal broadens the definition of low-income community to include an area used for a project that serves a significant population of Tribal or Alaska Native Village members who are residents of a low-income community.

This section applies to the new markets tax credit limitation determination for calendar years after December 31, 2021. (Bill section 135302. Affects Code Sec. 45D)

Inclusion of Indian areas as difficult development areas for purposes of certain buildings

For purposes of the Code Sec. 42 low-income housing credit, the proposal amends the definition of difficult development area to include any Indian area for the purpose of determining eligible basis. An Indian area is defined to be an area in which a Federally recognized tribe or a State recognized tribe ("Indian tribe"), or a tribally designated housing entity that is authorized by one or more Indian tribes, provides assistance for affordable housing, including permanent housing for homeless persons with disabilities, transitional housing, and single room occupancy housing.

This section applies to buildings placed in service after December 31, 2021. (Bill section 135303. Affects Code Sec. 42)

Neighborhood homes credit

The proposal adds a new neighborhood homes credit as part of the general business credit. In general, the credit may be provided to (1) taxpayers that develop or rehabilitate property that will be sold to an eligible purchaser who will use the property as the purchaser's principal residence, or (2) taxpayers that rehabilitate certain owner-occupied property.

Generally, the credit amount for a tax year with respect to a qualified residence sold by a taxpayer in an affordable sale is the lesser of (1) the excess (if any) of (i) the reasonable development costs paid or incurred by the taxpayer with respect to the qualified residence, over (ii) the sale price of the qualified residence (reduced by any reasonable expenses paid or incurred by the taxpayer in connection with such sale); or (2) 35% of the lesser of (i) the eligible development costs paid or incurred by the taxpayer with respect to the qualified residence, or (ii) 80% of the national median sale price for new homes.

This section is effective for tax years beginning after December 31, 2021. (Bill section 135201. New Code Sec. 42A)

Possessions' economic activity credit

The provision creates a new economic activity credit related to active businesses conducted in a U.S. possession or possessions. The new credit is a general business credit equal to 20% of, for wages, the sum of qualified possessions wages and fringe benefits paid or incurred by a qualified domestic corporation for a tax year. For purposes of this credit, "possessions" include the fiscally autonomous territories of American Samoa, Guam, Commonwealth of Northern Marianas, Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

This section is effective, in general, for tax years beginning after date of enactment. (Bill section 135401. New Code Sec. 45V)

Tax treatment of certain assistance to farmers, etc.

The proposal would provide, in part, that assistance for outstanding indebtedness on direct farm loans to socially disadvantaged and economically distressed direct farm loan borrowers is not income to those borrowers and that no deduction shall be denied, no tax attribute shall be reduced, and no basis increase shall be denied, by reason of this exclusion from gross income.

This section is effective on date of enactment. (Bill section 135402)

Advanced manufacturing investment credit

The proposal creates an investment tax credit (ITC) worth up to 25% for advanced manufacturing facilities. All taxpayers are eligible for an ITC of at least 5%. Taxpayers paying prevailing wages and utilizing registered apprenticeship programs are eligible for an elevated ITC of 25%.

The ITC apply to property placed in service after December 31, 2021, and, for any property the construction of which begins prior to January 1, 2022, the ITC only applies to the extent of the basis thereof attributable to the construction, reconstruction, or erection after December 31, 2021. (Bill section 136503. New Code Sec. 48E)

Advanced manufacturing production credit

The provision provides a production credit for each eligible component that is produced and sold in the U.S. Eligible components include solar polysilicon, wafers, cells, and modules, and wind blades, nacelles, towers, and offshore foundations. The credits are generally provided on a mass or watt-capacity basis.

The credit amount allowed for eligible components is increased by 10% if the final assembly of such components is at a facility in the U.S. that operates under a union-negotiated collective bargaining agreement.

The credit is provided for eligible components produced and sold after January 1, 2021. The credit begins to phase out for components sold in 2027 and is unavailable for components sold after 2029. (Bill section 136504. New Code Sec. 45AA)

Qualified Environmental Justice Program Credit

The proposal creates a new refundable tax credit for eligible educational institutions that incur costs during the tax year as part of a qualified environmental justice program that receives a credit dollar allocation from the IRS. The proposal establishes an application process by which eligible institutions apply to the IRS for an allocation of credit for an applicable percentage of costs incurred with respect to their qualified environmental justice programs. The applicable percentage is 30% or 20%, depending on the type of institution that is applying.

This section is effective on January 1, 2022. (Bill section 136601. New Code Sec. 36G)

Reinstatement of Superfund

The Hazardous Substance Superfund financing rate is reinstated at 16.4 cents per barrel. The tax is annually indexed for inflation beginning with calendar year 2023.

This section is effective on July 1, 2022. (Bill section 136701. Affects Code Sec. 4611)

Credit for public university research infrastructure

The proposal adds a new public university research infrastructure credit as part of the Code Sec. 38 general business credit. The credit for a tax year is an amount equal to 40% of the qualified cash contributions made by a taxpayer during the tax year.

This section applies to qualified cash contributions made after December 31, 2021, and before January 1, 2034. (Bill section 137501. New Code Sec. 45AA)

Limits deduction for interest expense

This provision adds Code Sec. 163(n), which limits the interest deduction of certain domestic corporations that are members of an international fiscal reporting group to 110% of the net interest expense.

The interest limitation applies only to domestic corporations whose average excess interest expense over interest includible over a three-year period exceeds \$12,000,000.

The above limitation does not apply to any small business exempted under Code Sec. 163(j)(3). Nor to any S corporation, real estate investment trust, or regulated investment company.

However, this provision also modifies Code Sec. 163(j)(4), which limits the deductibility of business interest of partnerships and S corporations. Under the provision, Code Sec. 163(j) will apply to a partner or shareholder, rather than to the partnership or S corporation as an entity.

This section applies to tax years beginning after December 31, 2022. (Bill section 138111. Affects Code Sec. 163)

Credit for clinical testing of orphan drugs limited to first use or indication

This provision limits the credit for qualified clinical testing expenses to expenses related to the first use or indication of an orphan drug as designated under Section 526 of the Federal Food, Drug, and Cosmetic Act. Additionally, the provision provides that clinical testing expenses for any drug that has received a marketing approval for any use or indication (either for use in rare disease or condition or nonrare disease or condition) do not qualify for the credit.

This section applies to tax years beginning after December 31, 2021. (Bill section 138141. Affects Code Sec. 45C)

Modifications to treatment of certain losses

This provision amends Code Sec. 165(g) so that losses with respect to securities are treated as realized on the day that the event establishing worthlessness occurs. In addition, the provision provides that partnership indebtedness is treated in the same manner as corporate indebtedness. The provision also amends Code Sec. 165 to provide that a loss on a worthless partnership interest is subject to the same rules as a loss in a sale of a partnership interest.

This provision applies for tax years beginning after December 31, 2021.

The provision also changes the treatment of taxable liquidations of corporate subsidiaries. Under the provision, a loss incurred in a taxable liquidation is deferred until the property received in the liquidation is sold to a third party.

This provision applies to liquidations on or after the date of enactment. (Bill section 138142. Affects Code Sec. 165)

Adjusted basis limitation for divisive reorganizations

This provision amends Code Sec. 361 to provide that a distributing corporation in a divisive reorganization recognizes gain to the extent of controlled corporation debt securities transferred to the creditors of the distributing corporation exceeds the basis in assets (reduced by amounts paid by the controlled corporation to the distributing corporation) transferred from the distributing corporation to the controlled corporation in the transaction.

This section applies to reorganizations occurring on or after the date of enactment. (Bill section 138143. Affects Code Sec. 361)

Rents from prison facilities not qualified income for purposes of REIT income tests

This provision amends Code Sec. 856 to provide that income received with respect to property primarily used as a prison or other detention facility does not qualify for the purpose of Real Estate Investment Trust (REIT) income tests.

This section applies to tax years beginning after December 31, 2021. (Bill section 138144. Affects Code Sec. 856)

Modifications to exemption for portfolio interest

This provision modifies the definition of a “10% shareholder,” whose interest is exempt from portfolio interest. The provision provides that, in the case of an obligation issued by a corporation, any person who owns 10% or more of the total vote or value of the stock of such corporation is not eligible for the portfolio interest exemption.

This section applies to obligations issued after the date of enactment of this Act. (Bill section 138145. Affects Code Sec. 871)

Certain partnership interest derivatives

The provision amends Code Sec. 871(m) to provide that a payment made pursuant to a sale-repurchase agreement, specified notional principal contract, or any other similar payment with respect to publicly traded partnerships and other partnerships (as provided in regulations) are treated as a dividend equivalent. The provision also applies withholding rules like those in Code Sec. 1446(f).

This section applies to payments made after December 31, 2022. (Bill section 138146. Affects Code Sec. 871)

Limitations on certain special rules for Section 1202 gains

This provision amends Code Sec. 1202(a) so that the special 75% and 100% exclusion rates for gains realized from certain qualified small business stock will not apply to taxpayers with adjusted gross income equal or exceeding \$400,000. The baseline 50% exclusion in Code Sec. 1202(a)(1) remains available for all taxpayers.

This section applies to sales and exchanges after September 13, 2021, subject to a binding contract exception. (Bill section 138149. Affects Code Sec. 1202)

Constructive sales

This provision includes digital assets in the constructive sale rules, anti-abuse rules already applicable to other financial assets. The constructive sale rules in Code Sec. 1259 treat the adoption of certain offsetting positions to previously owned positions as sales of the previously owned position. These rules prevent taxpayers from locking in investment gains without realizing taxable gain.

This section applies, in general, to constructive sales after the date of enactment. (Bill section 138150. Affects Code Sec. 1259)

Rules relating to common control

The provision provides that a taxpayer engaged in any activity in connection with a trade or business or any for-profit activity is subject to the aggregation rules under Code Sec. 52(b).

This section applies to tax years beginning after December 31, 2021. (Bill section 138151. Affects Code Sec. 52)

Wash sales by related parties and of specified assets

This provision includes commodities, currencies, and digital assets in the wash sale rule, an anti-abuse rule already applicable to stock and other securities. The wash sale rule in Code Sec. 1091 prevents taxpayers from claiming tax losses while retaining an interest in the loss asset.

This section applies to sales, dispositions, and terminations after December 31, 2021. (Bill section 138152. Affects Code Sec. 1091)

Application of backup withholding to third-party network transactions

This provision amends Code Sec. 3406(b) to add to the list of reportable payments any payments in settlement of third-party network transactions, but only if:

- (1) the aggregate annual payment made by the third-party settlement organization to the payee equals or exceeds \$600,
- (2) the third-party settlement organization was required under Code Sec. 6050W to file a return for the preceding year with respect to the payee, or
- (3) during the preceding calendar year, the payment organization made reportable payments to the payee with respect to which amounts were required to be deducted and withheld by Code Sec. 3406(a).

While this provision applies to calendar years beginning after December 31, 2021, a transition rule for 2022 adds the requirement that the aggregate number of annual transactions between the third-party settlement organization and the payee exceeds 200. (Bill section 138402. Affects Code Sec. 3406)

Modified limitations on deducting excessive employee remuneration

This provision moves up the effective date of the amendment to Code Sec. 162(m) in the American Rescue Plan Act of 2021 (ARPA) to tax years following December 31, 2021. ARPA expanded the set of applicable employees under Code Sec. 162(m) to include the eight most highly compensated officers other than the principal executive and principal financial officers for a tax year, beginning in tax years after December 31, 2026.

The additional five employees scoped in under the ARPA amendment are not considered permanent covered employees for the purposes of the section. The provision also applies the Code Sec. 414 aggregation rules for covered health insurance providers to the general rule under Code Sec. 162(m), expands the IRS's regulatory authority under the general rule, and expands the definition of applicable employee remuneration.

This section is effective for tax years beginning after December 31, 2021. (Bill section 138501. Affects Code Sec. 162)

Extension of tax to fund black lung disability trust fund

This provision extends the tax to fund the Black Lung Disability Trust Fund through December 31, 2025.

This section applies to sales after December 31, 2021. (Bill section 138502. Affects Code Sec. 4121)

Temporary increase in employer-provided childcare credit

This provision provides a temporary increase in the employer-provided childcare credit for years beginning after December 31, 2021, and before January 1, 2026. Under this provision, the amount of qualified childcare expenses eligible for the credit increases from 25% to 50%, and the credit amount allowable for the year is increased to \$500,000.

This section is effective December 31, 2021. (Bill section 138515. Affects Code Sec. 45F)

Above-the-line deduction for employee uniforms

This provision provides an above-the-line deduction, through 2024, of up to \$250 for the cost of employee uniforms. An employee uniform is clothing that must be worn by a taxpayer when performing services as an employee that is not suitable for everyday wear.

This section applies to tax years beginning after December 31, 2021. (Bill section 138517. Affects Code Sec. 62)

Expenses in contingency fee cases

This provision allows the deduction of costs paid or incurred by an attorney that are contingent on a recovery. The deduction amount is determined by disregarding the possibility that the cost will be repaid, and the income attributable to any related recovery is not reduced by such amount.

This section applies to amounts paid, incurred, or received, in tax years beginning after the date of enactment. (Bill section 138518. Affects Code Sec. 162)

Increase in research credit against payroll tax for small businesses

This provision increases the research credit small businesses can claim against payroll tax.

This section is effective for tax years beginning after December 31, 2021. (Bill section 138519. Affects Code Sec. 41)

Research and experimental expenditures

This provision delays the effective date of section 13206 of the Tax Cuts and Jobs Act (PL 115-97), which provides for amortization of research and experimental expenditures for tax years beginning after December 31, 2021. Under this provision, the amortization of research and experimental expenditures will begin for amounts paid or incurred in tax years beginning after December 31, 2025.

This section is effective on the date of enactment. (Bill section 138153. Affects Code Sec. 174)

Imposition of tax on nicotine

The provision imposes excise taxes on “taxable nicotine,” and a floor stocks tax on cigarettes and small cigars, with a de minimis exemption amount of \$1,000.

This section applies to articles removed in calendar quarters beginning 180 days after the date of enactment of this Act. (Bill section 138520. Affects Code Sec. 5701)

Treatment of certain qualified sound recording productions

This provision amends Code Sec. 181 to permit taxpayers to treat as currently deductible expenses the cost of qualified sound recording productions not exceeding \$150,000 in a tax year. Qualified sound recording productions are certain sound recordings produced and recorded in the U.S.

This section applies to productions commencing in tax years ending after the date of the enactment. (Bill section 138505. Affects Code Sec. 181)

Payment to certain individuals who dye fuel

This provision creates a new refund mechanism for taxpayers who remove eligible indelibly dyed diesel fuel or kerosene from a terminal for nontaxable use and establishes to the satisfaction of the IRS that tax for such fuel under Code Sec. 4081 has already been paid.

This section is effective on the date of enactment. (Bill section 138506. New Code Sec. 6433)

Financial guaranty insurance companies treated as qualifying insurance companies under PFIC rules

This provision provides that a financial guarantee insurance company that satisfies certain conditions may include unearned premium reserves in its applicable insurance liability for purposes of determining whether it is a private foreign investment company (PFIC).

The provision clarifies that certain items on financial statement shall be reported separately, and provides regulatory authority to impose additional tax reporting requirements on financial guarantee insurance companies.

This section applies to tax years beginning after December 31, 2017, except for reporting provisions, which are effective for reports made after the date of enactment. (Bill section 138507. Affects Code Sec. 1297)

Energy Provisions

Extension of credit for electricity produced from certain renewable resources

Among other things, the proposal extends the Code Sec. 45 credit for electricity produced from certain renewable resources, for five years, through December 31, 2026. The proposal applies this extension to electricity produced from solar energy, which expired at the end of 2005. The proposal also extends for five years the election to claim an investment tax credit in lieu of this production tax credit for these facilities.

This section applies, in general, to facilities placed in service after December 31, 2021. (Bill section 136101. Affects Code Sec. 45)

Extension and modification of energy credit

Among other things, the proposal generally extends the enhanced credit rates and expiring portions of the Code Sec. 48 energy investment tax credit through December 31, 2026.

This section is generally effective for property placed in service after December 31, 2021. (Bill section 136102. Affects Code Sec. 48)

Increase in energy credit for solar facilities placed in service in connection with low-income communities

The proposal creates a bonus energy investment credit for certain property placed in service at a qualified solar facility in connection with low-income communities. The bonus credit is equal to either 10% or 20% of the investment, depending on the project specifications.

This section takes effect on January 1, 2022. (Bill section 136103. Affects Code Sec. 48)

Elective payment for energy property and electricity produced from certain renewable resources, etc.

The proposal permits taxpayers to elect a direct payment in lieu of the Code Sec. 30C credit for alternative fuel refueling property, the Code Sec. 45 renewable electricity production credit, the Code Sec. 45Q carbon oxide sequestration credit, the Code Sec. 48 energy investment tax credit, and the Code Sec. 48C qualifying advanced energy project credit.

This section applies to tax years beginning after December 31, 2021. (Bill section 136104. New Code Sec. 6417)

Investment credit for electric transmission property

The proposal creates a new 6% investment tax credit for investments in qualifying electric transmission property. For this purpose, qualifying electric transmission property is tangible depreciable property that is a qualifying electric transmission line or related transmission property, the construction, reconstruction, or erection of which is completed by the taxpayer, or which is acquired by the taxpayer if the original use of such property commences with taxpayer. The credit sunsets for property placed in service after December 31, 2031.

This section applies, in general, to property placed in service after December 31, 2021. (Bill section 136105. New Code Sec. 48D)

Modification of credit for carbon oxide sequestration

The provision, among other things, modifies the Code Sec. 45Q credit for carbon oxide sequestration to provide that the term 'qualified facility' means a facility which captures (A) in the case of a direct air capture facility, not less than 1,000 metric tons of qualified carbon oxide during the tax year, (B) in the case of an electricity generating facility, not less than 18,750 metric tons of qualified carbon oxide during the tax year and not less than 75% by mass of the carbon oxide that would otherwise be released into the atmosphere by such facility during such tax year, and (C) in the case of any other facility, not less than 12,500 metric tons of qualified carbon oxide during the tax year.

This section applies to facilities or equipment the construction of which begins after December 31, 2021. (Bill section 136106. Affects Code Sec. 45Q)

Green energy publicly traded partnerships

The proposal expands the rules governing publicly traded partnerships in Code Sec. 7704 to include income from the production of green energy as qualified income. Such income includes:

- Income from the generation of electric power or thermal energy exclusively using as its energy source wind, biomass, geothermal energy, solar energy, small irrigation power, municipal solid waste, qualified hydropower, and marine and hydrokinetic renewable energy.
- Income from the operation of energy investment credit property without regard to any date by which the construction of such property must begin.
- Income from accepting or processing open-loop biomass or municipal solid waste and the conversion of such biomass into renewable fuel.
- Income from the production, storage, or transportation of any fuel which (1) uses as its primary feedstock carbon oxides captured from an anthropogenic source or the atmosphere, (2) does not use as its primary feedstock carbon oxides deliberately released from naturally occurring subsurface springs, and (3) is determined by the IRS to achieve a reduction of not less than a 60% in lifecycle greenhouse gas emissions.
- Income from the operation of a facility that qualifies under Code Sec. 45Q(d) (without regard to any sunset date).

This section is effective for tax years beginning after December 31, 2021. (Bill section 136107. Affects Code Sec. 7704)

Zero-emission nuclear power production credit

The proposal creates, in general, a new 0.3 cents per kilowatt-hour credit for electricity produced at a qualified nuclear power facility and sold to an unrelated person. The credit expires for tax years beginning after December 31, 2026.

This section is effective for electricity produced and sold after December 31, 2021, in tax years beginning after that date. (Bill section 136108. New Code Sec. 45W)

Extension of incentives for biodiesel, renewable diesel, and alternative fuels

The proposal extends the biodiesel and renewable diesel tax incentives (income tax credit, excise tax credit, and related payment provision) through December 31, 2026. In addition, the proposal extends the alternative fuel credit and related payment provision through December 31, 2026. The alternative fuel mixture credit is also extended through December 31, 2026.

This section applies to fuel sold or used after December 31, 2021. (Bill section 136201. Affects Code Sec. 40)

Extension of second-generation biofuel incentives

The proposal extends the income tax credit for second generation biofuels through December 31, 2026.

This section applies to qualified second-generation biofuel production after December 31, 2021. (Bill section 136202. Affects Code Sec. 40)

Sustainable aviation fuel credit

The provision provides a new general business credit, the sustainable aviation fuel credit. This credit is equal to the product of the number of gallons of sustainable aviation fuel in a qualified fuel mixture multiplied by (1) a base credit amount of \$1.25 plus (2) the applicable supplementary credit amount. The applicable supplementary credit amount is one cent for every percentage point above 50% for which the aviation fuel is certified to reduce emissions as in comparison with petroleum jet fuel. The maximum applicable supplementary amount is 50 cents.

This section applies to qualified fuel sold or used after December 31, 2022. The sustainable aviation fuel credit does not apply to any sale or use after December 31, 2026. (Bill section 136203. New Code Sec. 40B)

Clean hydrogen production credit

The proposal creates a new credit for hydrogen, the “clean hydrogen production credit.” For any tax year, the credit is an amount equal to the product of (1) the applicable amount multiplied by (2) the kilograms of qualified clean hydrogen produced by the taxpayer at a qualified clean hydrogen production facility during the ten-year period beginning on the date the facility was placed in service.

The “applicable amount” is, in general, equal to the applicable percentage of \$0.60. The “applicable percentage” ranges from 8.4% to 100%, depending on the amount of carbon dioxide emitted as the hydrogen is.

This section applies to clean hydrogen produced after December 31, 2021. (Bill section 136204. New Code Sec. 45X)

Extension, increase, and modifications of nonbusiness energy property credit

Among other things, the proposal extends the Code Sec. 25C credit for nonbusiness energy property for ten years, through December 31, 2031. The proposal also increases from 10% to 30% the credit rate for qualified energy efficient improvements. The proposal replaces the lifetime credit limitation with an annual limitation of \$1,200. The limit for windows is changed to a maximum of \$600 per tax year. The limit for an exterior door is changed to \$250 for any tax year, \$500 with respect to all exterior doors.

This section is generally effective for property placed in service after December 31, 2021. (Bill section 136301. Affects Code Sec. 25C)

Residential energy efficient property

The proposal extends the Code Sec. 25D residential energy efficient property credit for ten years, through December 31, 2033. The credit also modifies the phaseout rules.

The proposal also adds “qualified battery storage technology expenditures” to the list of expenditures eligible for the residential energy efficiency property credit.

This section is generally effective for expenditures made after December 31, 2021. (Bill section 136302. Affects Code Sec. 25D)

Energy efficient commercial buildings deduction

The proposal temporarily modifies the Code Sec. 179D energy efficient commercial buildings deduction. The modifications are in effect for tax years beginning after December 31, 2021, and ending before January 1, 2032. Among other things, the proposal reduces, from 50% to 25%, the amount by which a building must increase its efficiency relative to a reference building to be eligible for the Code Sec. 179D deduction. Under the proposal, in general, the maximum energy efficient commercial buildings deduction is changed to an amount equal \$0.50 per square foot increased (but not above \$1.00) by \$0.02 for each percentage point by which the total annual energy and power costs for the building are certified to be reduced by a percentage greater than 25%.

The provision also provides an alternative deduction for energy efficient retrofit property.

This section is effective for tax years beginning after December 31, 2021. (Bill section 136303. Affects Code Sec. 179D)

Extension, increase, and modifications of new energy efficient home credit

Among other things, the proposal (1) extends for ten years, through December 31, 2031, the Code Sec. 45L credit for new energy efficient homes; (2) replaces the existing credit amounts with a \$2,500 credit for new homes that meet certain energy efficiency standards and a \$5,000 credit for new homes that are certified as zero-energy ready homes; and (3) changes the credit for multifamily dwelling units.

This section applies to dwelling units acquired after December 31, 2021. (Bill section 136304. Affects Code Sec. 45L)

Modification to income exclusion for conservation subsidies

The proposal expands the Code Sec. 136 income exclusion for energy conservation subsidies to exclude from income the following items:

- Amounts provided (directly or indirectly) by a public utility to a customer, or by a State or local government to a resident of such State or locality, for the purchase or installation of any water conservation or efficiency measure;
- Amounts provided (directly or indirectly) by a storm water management provider to a customer, or by a State or local government to a resident of such State or locality, for the purchase or installation of any storm water management measure; or
- Amounts provided (directly or indirectly) by a State or local government to a resident of such State or locality for the purchase or installation of any wastewater management measure, but only if such measure is with respect to the taxpayer's principal residence.

This section is effective for amounts received after December 31, 2018. (Bill section 136305. Affects Code Sec. 136)

Refundable new qualified plug-in electric drive motor vehicle credit for individuals

The proposal creates a new Code Sec. 36C credit that effectively extends and modifies the Code Sec. 30D credit for new qualified plug-in electric drive motor vehicles (the "EV credit"). The proposal eliminates the limitation on the number of credit eligible EVs each manufacturer can sell. Beginning January 1, 2022, the proposal makes the EV credit a refundable personal income tax credit for vehicles acquired on or after that date. The proposal also repeals Code Sec. 30D.

This section is, in general, effective for vehicles acquired after December 31, 2021. (Bill section 136401. New Code Sec. 36C)

Credit for previously owned qualified plug-in electric drive motor vehicles

The proposal creates a new credit for each previously owned qualified plug-in electric drive motor vehicle placed in service by a qualified buyer (the "previously owned EV credit"). The base amount of the credit is \$2,000.

This section is effective for vehicles acquired after December 31, 2021. (Bill section 136402. New Code Sec. 36D)

Qualified commercial electric vehicles

The proposal creates a new credit for each qualified commercial electric vehicle (“qualified commercial EV”) placed in service by the taxpayer. Generally, the credit amount is the lesser of 15% (30% in the case of a vehicle not powered by a gasoline or diesel combustion engine) of the basis of a qualified vehicle or the incremental cost of the vehicle.

This section applies to vehicles acquired after December 31, 2021. (Bill section 136403. New Code Sec. 45Y)

Qualified fuel cell motor vehicles

The proposal extends the sunset date for the credit for new qualified fuel cell motor vehicles in Code Sec. 30B for ten years (through December 31, 2031). The definition of a new qualified fuel cell motor vehicle is modified such that the vehicle may not be of a character subject to an allowance for depreciation.

This section is effective for property placed in service after December 31, 2021. (Bill section 136404. Affects Code Sec. 30B)

Alternative fuel refueling property credit

In general, the proposal extends the sunset date for the alternative fuel refueling property credit for ten years (through December 31, 2031). The proposal also modifies the credit amount for certain fuel refueling property.

This section is effective for property placed in service after December 31, 2021. (Bill section 136405. Affects Code Sec. 30C)

Reinstatement and expansion of employer-provided fringe benefits for bicycle commuting

The proposal restores and modifies the exclusion for qualified bicycle commuting reimbursements.

This section is effective for tax years beginning after December 31, 2021. (Bill section 136406. Affects Code Sec. 132)

Credit for certain new electric bicycles

The proposal creates a new refundable credit for each qualified electric bicycle placed in service by a taxpayer (the “electric bicycle credit”). The credit amount is 30% of the cost of a qualified electric bicycle.

This section applies to property placed in service after December 31, 2021, in tax years ending after that date. The credit does not apply to bicycles placed in service after December 31, 2025. (Bill section 136407. New Code Sec. 36E)

Extension of the advanced energy project credit

The proposal amends and extends the current advanced energy project credit. The proposal provides for additional credit allocations and changes the annual credit limitations.

This section is effective on January 1, 2022. (Bill section 136501. Affects Code Sec. 48C)

Labor costs of installing mechanical insulation property

The proposal creates a new general business credit equal to 2% of the mechanical insulation labor costs paid or incurred by the taxpayer during a tax year.

This section is effective for amounts paid or incurred after December 31, 2021, in tax years ending after that date. (Bill section 136502. New Code Sec. 45Z)

Clean electricity production credit & clean electricity investment credit

These provisions create an emissions-based incentive that would be neutral and flexible between clean electricity technologies. Taxpayers can choose between a production tax credit (PTC) under section 45BB or an investment tax credit (ITC) under section 48F, which is provided based on the carbon emissions of the electricity generated – measured as grams of carbon dioxide equivalents (CO₂e) emitted per kilowatt hour (KWh) generated. Any power facility of any technology can qualify for the credits, so long as the facility's carbon emissions are at or below zero.

The PTC applies to facilities placed in service after December 31, 2022. (Bill section 136801. New Code Sec. 45BB) The ITC applies to property placed in service after December 31, 2026, and, for any property the construction of which begins prior to January 1, 2027, the ITC applies only to the extent of the basis thereof attributable to the construction, reconstruction, or erection after December 31, 2026. (Bill section 136802. New Code Sec. 48F)

Increase in clean electricity investment credit for facilities placed in service in connection with low-income communities

This provision provides an enhanced incentive for facilities qualifying for the Code Sec. 48F ITC (not including certain facilities that produce electricity through combustion or gasification) with respect to which the IRS makes an allocation of environmental justice capacity limitation. This is similar to the enhanced incentive under Code Sec. 48 for solar and wind facilities placed in service in connection with low-income communities.

The annual capacity limitation is 1.8 gigawatts for each calendar year 2027 through 2031 and zero for calendar years thereafter.

This section is effective on January 1, 2027. (Bill section 136803. New Code Sec. 48F)

Cost recovery for qualified facilities, qualified property, and grid improvement property

This provision provides that any facility described in the clean electricity production credit and any qualified property or grid improvement property described in the clean electricity investment credit shall be treated as five-year property under the general depreciation system (GDS) for purposes of Code Sec. 168.

This provision applies to facilities and property placed in service after December 31, 2026. (Bill section 136804. Affects Code Sec. 168)

Clean fuel production credit

The provision, among other things, creates a technology-neutral incentive for the domestic production of clean transportation fuels. Fuels may qualify for the credit if the fuel's lifecycle emissions meet the qualifications in the provision. Zero emission fuels qualify for a base incentive of at least \$.20 per gallon or gallon equivalent. Sustainable aviation fuel that meets certain ASTM standards, and is not derived from palm oil, qualifies for a base incentive of \$.35 per gallon or gallon equivalent.

This section applies to transportation fuel produced after December 31, 2026. (Bill section 136805. New Code Sec. 45CC)

International Tax Provisions

Modification of deduction for FDII and GILTI

This provision reduces the Code Sec. 250 deduction with respect to both foreign-derived intangible income (FDII) (to 24.8% from 37.5%) and global intangible low-taxed income (GILTI) (to 28.5% from 50%).

If the Code Sec. 250 deduction with respect to GILTI or FDII exceeds taxable income, the excess is allowed as a deduction, which will increase the net operating loss for the tax year. A transition rule is provided for tax years that include but do not end on December 31, 2021.

This section applies to tax years beginning after December 31, 2022. (Bill section 138121. Affects Code Sec. 250)

Repeal of election for one-month deferral in determination of tax year of specified foreign corporations

This provision strikes Code Sec. 898(c)(2), which allowed the choice of a tax year beginning one-month earlier than the majority U.S. shareholder year.

This section applies to tax years of specified foreign corporations beginning after November 30, 2022. (Bill section 138122. Affects Code Sec. 898)

Modifications of foreign tax credit rules applicable to certain taxpayers receiving specific economic benefits

Dual capacity taxpayers are U.S. companies that are both subject to levy in, and receive certain benefits from, a foreign country or possession of the U.S.

To ensure dual capacity taxpayers cannot claim foreign tax credits for payments that are not deemed to be income taxes, this provision provides that any amount paid by a dual capacity taxpayer to a foreign country will not be considered a tax to the extent it exceeds the generally applicable income tax of that country.

This section applies to taxes paid or accrued in tax years beginning after the date of enactment. (Bill section 138123. Affects Code Sec. 901)

Modified foreign tax credit limitations

This provision amends Code Sec. 904 to require foreign tax credit determinations on a country-by-country basis for purposes of Code Secs. 904, 907, and 960.

The provision limits the carryforward of excess foreign tax credit limitation to five succeeding tax years (compared with 10 years under current law). The carryback of such foreign tax credit limitation is repealed (compared with one-year carryback under current law).

This section applies generally to tax years beginning after December 31, 2022. (Bill section 138124. Affects Code Secs. 904, 250, 907, and 864)

Foreign oil and gas extraction income and foreign oil related income to include oil shale and tar sands

The provision expands the definition of foreign oil related income in Code Sec. 907(c)(2)(A) to include oil shale or tar sands in addition to oil and gas wells.

This section applies to tax years of foreign corporations beginning after December 31, 2021. (Bill section 138125. Affects Code Sec. 907)

Modified GILTI inclusion

Under the provision, a U.S. shareholder's global intangible low-taxed income (GILTI) is the sum of the amounts of GILTI determined separately with respect each country (country-by-country or CbC) in which any controlled foreign corporation (CFC) taxable unit of the U.S. shareholder is a tax resident.

Other items and amounts including net CFC tested income, net deemed tangible income return, qualified business asset investment (QBAI), and interest expense shall be determined on a CbC basis as well. The definition of CFC taxable unit is found in new Code Sec. 904(e)(2)(B).

The provision changes the amount of allowable net deemed tangible income return by replacing 10% of QBAI with 5% of QBAI. This reduction does not apply to CFC taxable units in the territories of the U.S.

This section applies tax years of foreign corporations beginning after December 31, 2022, and to tax years of United States shareholders in which or with which such tax years of foreign corporations end. (Bill section 138126. Affects Code Secs. 951A and 382)

Modified determination of deemed paid credit for taxes properly attributable to tested income

The provision substantially reduces the 20% haircut on foreign tax credits by increasing from 80% to 95% the deemed paid credit for taxes attributable to GILTI (80% to 100% in the case of taxes paid or accrued to U.S. territories).

This section applies to tax years of foreign corporations beginning after December 31, 2021, and to tax years of U.S. shareholders in which or with which such tax years of such foreign corporations end.

This provision also ensures that a corporation is treated as a controlled foreign corporation only if it has direct U.S. shareholders and applies special rules to foreign owned U.S. shareholders.

This section applies to tax years of foreign corporations beginning after December 31, 2017. (Bill section 138127. Affects Code Sec. 960 and 904)

Deduction for foreign source dividends limited to CFCs

Among other things, the provision amends Code Sec. 245A so that the 100% participation exemption applies to foreign portions of dividends received only from controlled foreign corporations (CFCs). This provision also provides an election to be treated as a CFC for certain foreign corporations with U.S. shareholders.

This section applies generally to distributions made after the date of enactment. (Bill section 138128. Affects Code Sec. 245A and adds New Code Sec. 951B)

Limits on foreign base company sales and services income

The provision limits foreign base company sales and services income to residents of the U.S. and passthrough entities and branches in the U.S. The section applies to tax years beginning after December 31, 2021.

This provision also closes loopholes that cause shareholders of a controlled foreign corporation to avoid tax on some income from their controlled foreign corporations.

This section applies to tax years of foreign corporations beginning after December 31, 2021, and to tax years of United States shareholders in which or with which such tax years of foreign corporations end. (Bill section 138129. Affects Code Sec. 954, 245A, 951B, 957, and 958)

Modified base erosion and anti-abuse tax

This provision makes modifications to the Base Erosion and Anti-Abuse Tax (BEAT). First, the provision amends the BEAT rate in Code Sec. 59A(b)(1)(A). Second, the provision requires the BEAT amount to be determined by taking into account tax credits.

The provision also modifies the rules in Code Sec. 59A(c) for determining modified taxable income and amends base erosion payments to include certain amounts paid to a foreign-related party. A safe harbor is available to deem base erosion payments attributable to indirect costs of foreign related parties as 20% of the amount paid to the related party.

Finally, the provision provides a limited exception for payments subject to U.S. tax, and for payments to foreign parties if the taxpayer establishes that such amount was subject to an effective rate of foreign tax not less than the applicable BEAT rate.

This section applies to tax years beginning after December 31, 2021. (Bill section 138131. Affects Code Sec. 59)

Adjustments to earnings and profits of CFCs

Currently, a special rule in Code Sec. 952(c)(3) for determining earnings and profits of a controlled foreign corporation (CFC) has limited application with respect to subpart F income. This provision relocates this rule to Code Sec. 312(n) so that it is more generally applied in determining the earnings and profits of controlled foreign corporations, in this case without regard to LIFO inventory adjustments, installment sales, and completed contract method of accounting.

This section applies to tax years of foreign corporations beginning after the date of enactment, and to tax years of U.S. shareholders in which or with which such tax years of foreign corporations end. (Bill section 138147. Affects Code Sec. 312)

Certain dividends from controlled foreign corporations to U.S. shareholders treated as extraordinary dividends

Under this provision, any disqualified CFC dividend is treated as an extraordinary dividend without regard to the period the taxpayer held the stock to which such dividend relates.

For purposes of this new rule, a disqualified CFC dividend means any dividend paid by a controlled foreign corporation to a U.S. shareholder of such foreign corporation if such dividend is attributable to earnings and profits which were earned, or are attributable to gain on property which accrued, while such foreign corporation was not a controlled foreign corporation, or such stock was not owned by a U.S. shareholder.

This section applies to dividends paid (or amounts treated as dividends) after the date of enactment. (Bill section 138148. Affects Code Sec. 1059)

Clarifies treatment of DISC gains and distributions of certain foreign shareholders

This provision clarifies that gains from the sale or exchange of, and distributions by a domestic international sales corporation (DISC) or foreign sales corporation (FSC) to a foreign shareholder are treated as effectively connected with the conduct of a trade or business conducted through a permanent establishment deemed to be had by the shareholder in the U.S.

This section applies to gains and distributions on or after December 31, 2021. (Bill section 138504. Affects Code Sec. 996)

Bond Provisions

Increases in State low-income housing tax credit allocations

The proposal modifies the population component of the Code Sec. 42 State housing credit ceiling. For 2022, the population component of the State housing credit ceiling is equal to the greater of (1) \$3.14 multiplied by the State population, or (2) \$3,629,096. For 2023, the population component of the State housing credit ceiling is equal to the greater of (1) \$3.54 multiplied by the State population, or (2) \$4,081,825. For 2024, the population component of the State housing credit ceiling is equal to the greater of (1) \$3.97 multiplied by the State population, or (2) \$4,582,053. For 2025, the population component of the State housing credit ceiling is equal to the greater of (1) \$2.65 multiplied by the State population, or (2) \$3,120,000. These amounts are adjusted for inflation in calendar years 2026, 2027, and 2028.

This section is effective for calendar years beginning after December 31, 2021. (Bill section 135101. Affects Code Sec. 42)

Tax-exempt bond financing requirement of the low-income housing tax credit

The proposal modifies the rule which allows a low-income housing tax credit on the entire eligible basis of a building without an allocation from the State or local housing credit agency and at no charge to the States' housing tax credit cap as long as more than 50% of the aggregate basis is financed with certain tax-exempt bonds. The percent limitation is lowered from 50% to 25% for buildings which are financed by the proceeds of certain tax-exempt bonds issued in calendar year 2022, 2023, 2024, 2025, and 2026.

This section applies to buildings placed in service in tax years beginning after December 31, 2021. (Bill section 135102. Affects Code Sec. 42)

Treatment of Indian tribes as States with respect to bond issuance

The proposal allows Indian tribal governments to issue governmental bonds and private activity bonds on a basis similar to State and local governments, but with certain location and gambling facility restrictions applicable to private activity bonds.

This section is effective for obligations issued in calendar years beginning after the date of enactment. (Bill section 135301. New Code Sec. 7871)

Health Provisions

Reduce health insurance premium costs

The proposal, among other things, extends through 2025 the expansion in ARPA of eligibility for the premium assistance credit to individuals and families with household incomes above 400% of Federal Poverty Level (FPL) for a family of the size involved, provided the other eligibility criteria are met.

The proposal extends through 2025 the repeal of indexing of the individual or household's share of premiums used in determining the premium assistance credit.

This section applies to tax years beginning after December 31, 2021. (Bill section 137301. Affected Code Sec. 36B)

Treatment of lump-sum Social Security benefits in determining household income

For purposes of determining household income with respect to the premium assistance credit, the proposal excludes from the definition of modified AGI any portion of a lump-sum payment of Social Security benefits received during the tax year that is attributable to months ending before the beginning of the tax year.

A lump-sum payment of Social Security benefits means any payment of Social Security benefits that constitutes more than one month of benefits. A taxpayer may elect not to exclude the portion of a lump-sum payment of Social Security benefits allowed to be excluded under the proposal.

The proposal applies with respect to the amount of Social Security benefits includible in gross income and the amount of Social Security benefits not includible in gross income (but included in modified AGI for purposes of the premium assistance credit).

This section applies to tax years beginning after December 31, 2021. (Bill section 137303. Affects Code Sec. 36B)

Temporary expansion of health insurance premium tax credits for certain low-income populations

The proposal provides temporary rules for the premium assistance credit for certain low-income taxpayers.

First, the proposal temporarily expands eligibility for the premium assistance credit to individuals and families with household incomes below 100% of FPL for a family of the size involved.

Second, the proposal temporarily expands eligibility for the premium assistance credit to certain low-income employees who are offered an affordable employer-sponsored health plan.

Third, the proposal temporarily reduces the recapture limitation for a taxpayer whose household income is less than 200% of FPL for a family of the size involved from \$650 (for 2021) to \$300 (\$150 for an unmarried individual who is not a surviving spouse or filing as a head of household).

Finally, the proposal provides special rules for certain taxpayers whom the Exchange has determined are low-income.

This section applies to tax years beginning after December 31, 2021. (Bill section 137304. Affects Code Sec. 36B)

Exclusion of certain dependent income for purposes of premium tax credit

This provision excludes certain dependent income from the calculation of household income for purposes of determining Code Sec. 36B premium tax credit amounts.

This section applies to tax years beginning after December 31, 2022. (Bill section 137307. Affects Code Sec. 36B)

Ensuring affordability of coverage for certain low-income populations

This provision amends Section 1402 of the Patient Protection and Affordable Care Act (PPACA) to provide temporary enhanced PPACA Marketplace cost-sharing reduction assistance to individuals with household incomes below 138% of the PFL. Individuals who qualify for government sponsored insurance, such as Medicaid, would not qualify for the temporary cost-sharing assistance.

This section is effective on the date of enactment. (Bill section 30601. Affects Act section 1402 of the PPACA)

Establishment of a health insurance affordability fund

The provision makes \$10 billion available annually to states, for states to establish a state reinsurance program or use the funds to provide financial assistance to reduce out-of-pocket costs. The provision also requires the Centers for Medicare and Medicaid Services (CMS) to establish and implement a temporary reinsurance program in states that are not expending amounts under the State plan for certain individuals.

This section is effective on the date of enactment. (Bill section 30602. New PPACA section 1351 et seq.)

Extension of special rule for individuals receiving unemployment compensation

The proposal temporarily extends the special rule enacted in American Rescue Plan Act (ARPA) for a taxpayer who has received, or has been approved to receive, unemployment compensation for an applicable week.

Under the proposal, for any week beginning after December 31, 2020, and before January 1, 2023, such taxpayer's household income is not taken into account to the extent it exceeds 150% of FPL for a family of the size involved.

This section applies to tax years beginning after December 31, 2021. (Bill section 137305. Affects Code Sec. 36B)

Permanent credit for health insurance costs

The proposal makes the health coverage tax credit permanent (instead of expiring for months beginning on or after January 1, 2022). It also increases the amount of the credit from 72.5% of the individual's premiums for qualified health insurance to 80%.

The section applies to coverage months beginning after December 31, 2021. (Bill section 137306. Affects Code Sec. 35)

Pathway to Practice Training Program for post-baccalaureate and medical students

The proposal creates a new refundable Pathway to Practice medical scholarship credit for qualified educational institutions. The credit amount for a tax year is equal to the aggregate amount paid or incurred by a qualified educational institution during the tax year pursuant to a Pathway to Practice medical scholarship voucher awarded to a qualifying student enrolled at the institution.

Upon scholarship acceptance, the student agrees to complete medical school (and a post-baccalaureate program, if applicable), complete residency, and practice for at least one year per scholarship year in a health professional shortage area, a medically underserved area, or a rural area.

This section generally applies to tax years ending after the date of enactment. (Bill section 137403. New Code Sec. 36G)

Requirements with respect to cost-sharing for certain insulin products

The proposal provides that for plan years beginning on or after January 1, 2023, a group health plan shall provide coverage of selected insulin products, and with respect to such products, shall not (1) apply any deductible; or (2) impose any cost-sharing in excess of the lesser of, per 30-day supply—(A) \$35; or (B) the amount equal to 25% of the negotiated price of the selected insulin product net of all price concessions received by or on behalf of the plan, including price concessions received by or on behalf of third-party entities providing services to the plan, such as pharmacy benefit management services.

This section is effective as of the date of enactment. (Bill section 137308. New Code Sec. 9826)

Oversight of pharmacy benefit manager services

The proposal provides for plan years beginning on or after January 1, 2023, a group health plan or an entity or subsidiary providing pharmacy benefits management services on behalf of such a plan shall not enter into a contract with a drug manufacturer, distributor, wholesaler, subcontractor, rebate aggregator, or any associated third party that limits the disclosure of information to plan sponsors in such a manner that prevents the plan, or an entity or subsidiary providing pharmacy benefits management services on behalf of a plan, from making certain reports described in new Code Sec. 9827(b).

This section is effective for plan years beginning on or after January 1, 2023. (Bill section 137309. New Code Sec. 9827)

Benefit Provisions

Expanded limitations period for IRA noncompliance

This provision expands the statute of limitations for IRA noncompliance related to valuation-related misreporting and prohibited transactions from 3 years to 6 years.

This section applies to taxes to which the current 3-year period ends after December 31, 2021. (Bill section 138312. Affects Code Sec. 6501)

IRS Administration Provisions

Modified procedural requirements for penalty assessments

This provision repeals a requirement that any assessment of penalties must be approved by a supervisor of the employee making such determination. This section applies to tax years ending after December 31, 2000.

This section applies to notices issued, and penalties assessed, after December 31, 2000 (that is, the effective date of section 3306 of the Internal Revenue Service Restructuring and Reform Act of 1998). (Bill section 138403. Affects Code Sec. 6751)

Self-employment information for paid leave administration

This provision amends Code Sec. 6103 to authorize disclosures of certain self-employment income to Treasury department employees for purposes of administering the paid family and medical leave program established under Subtitle A of the Budget Recommendations.

This section is effective on the date of enactment. (Bill section 130003. Affects Code Sec. 6103)