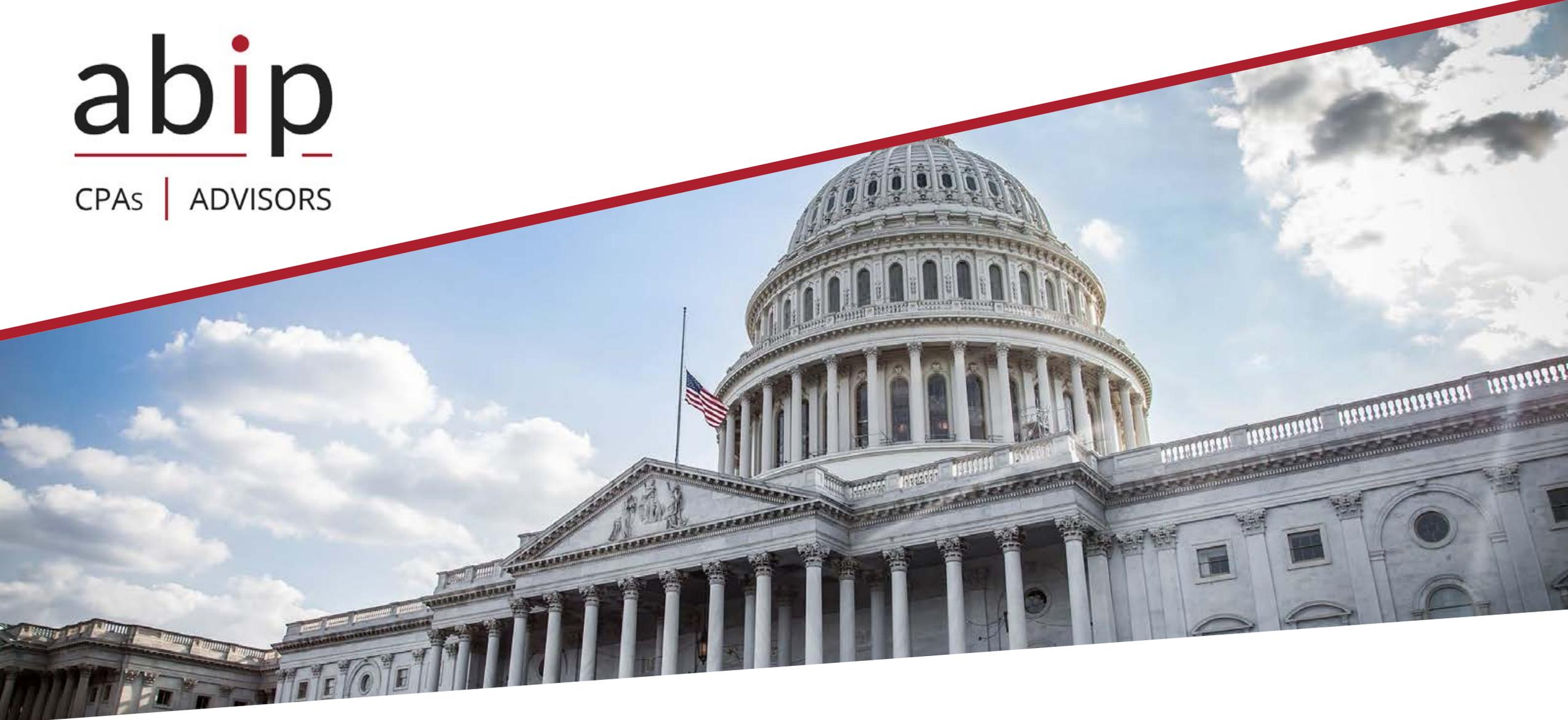


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Post Election Tax Planning & Strategies

January 28, 2021

Disclaimer

The materials presented are for informational purposes only and not for the purpose of providing tax or legal advice.

It is not designed to be, and should not be used as, the sole source of information when analyzing and resolving a business issue.

You should contact your accountant or attorney to obtain advice with respect to any particular issue or problem.





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A photograph of Joe Biden speaking at a podium, with multiple American flags in the background. The image is overlaid with a semi-transparent red filter. The text "Biden Tax Plan" is centered over the image in white.

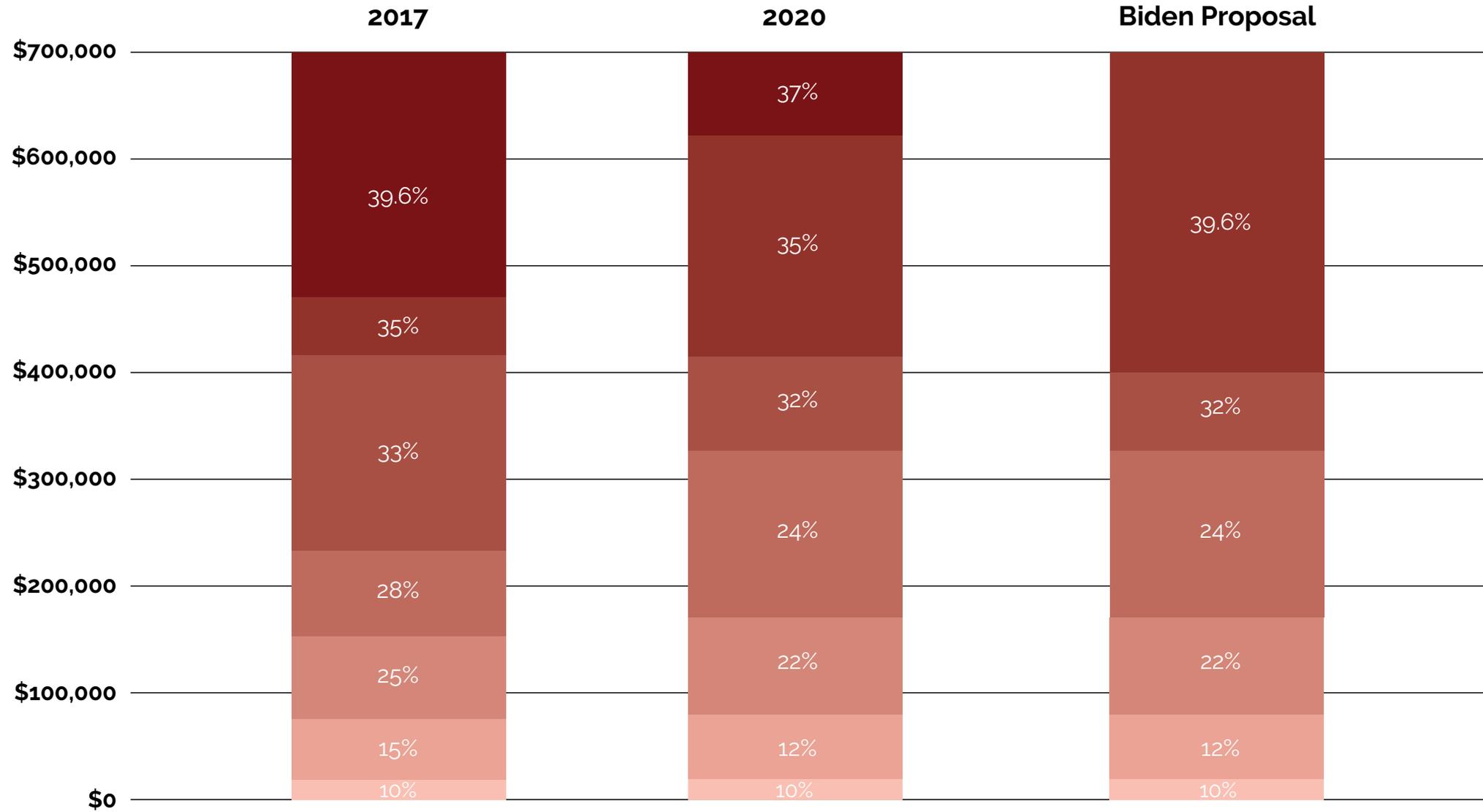
Biden Tax Plan

Biden's Tax Plan From Campaign

- Corporate Tax Rate Increase to 28%
 - Up From 21% Under TCIA
- Increase Top Marginal Tax Rate From 37% to 39.6% (For Individuals)
- Phase Out 199A Deduction on Incomes Over \$400k
- Raise Capital Gains Rates to 39.6%
- Impose 12.4% Social Security Payroll Tax on Income Over \$400k
- Decrease in Estate Tax Exemption and Eliminate “Step Up” in Basis



Married Filing Jointly

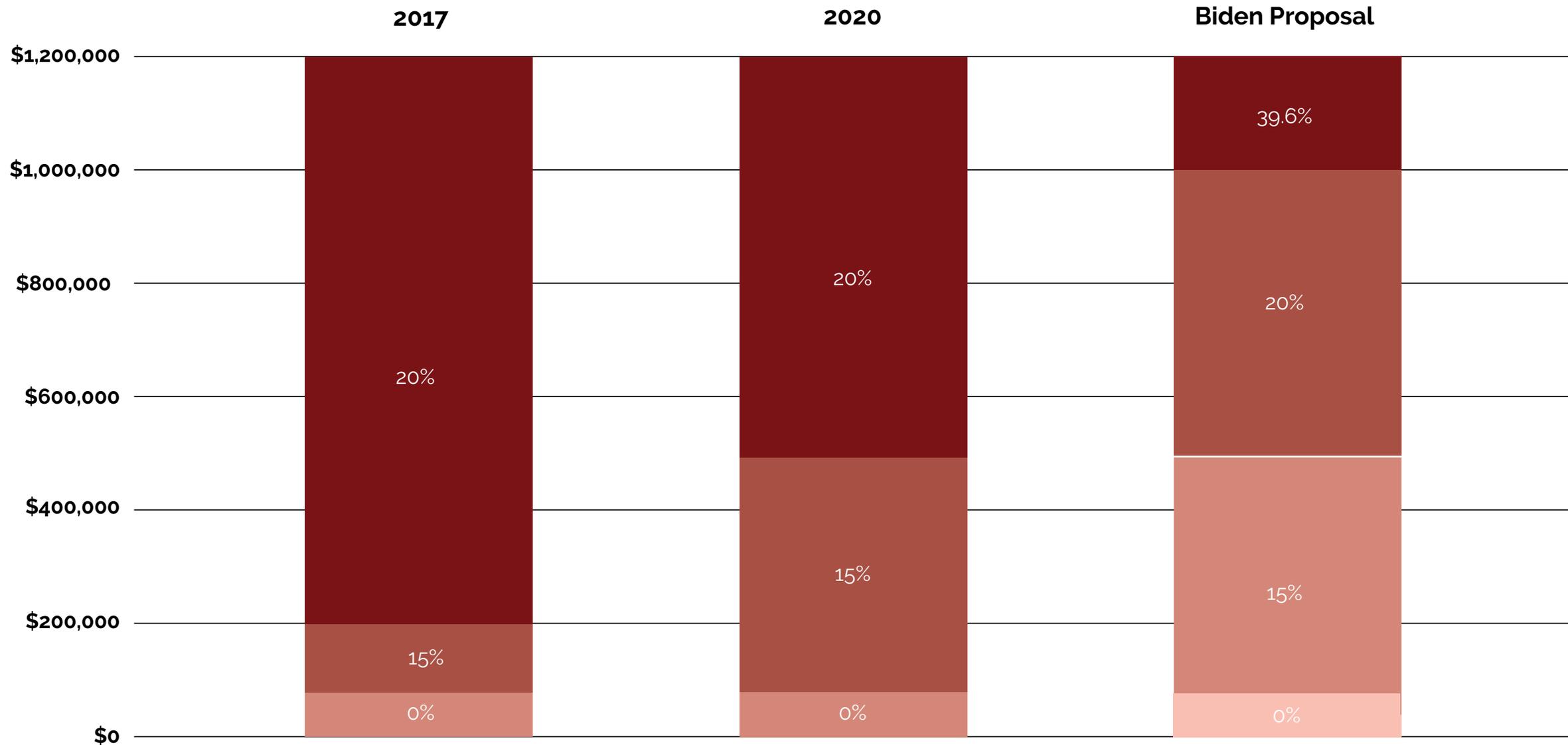


Biden Tax Plan – Real Estate

- Capital Gain Increase
- Repeal 1031 Exchange
 - For Taxpayers Making Over \$400k
- Eliminate 754 Step-up in Basis



Married Filing Jointly – Capital Gain & Qualified Dividend Rates



Biden Tax Plan – Family Tax Credits

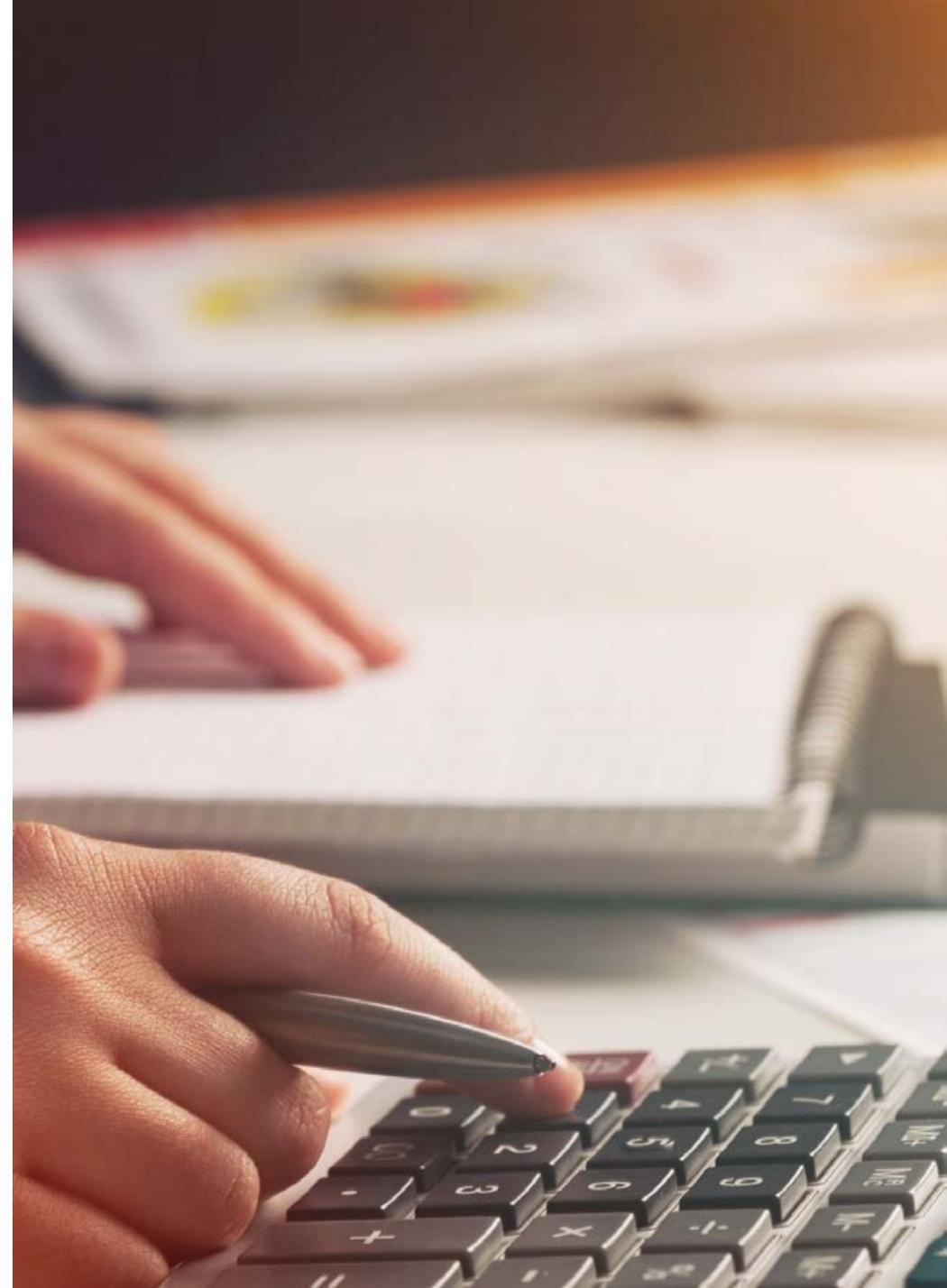
- Expand Child Tax Credit (CTC)
 - Only for 2021 or as Conditions Require Due to COVID
- Tax Credit for Health Insurance (Capping Costs at 8.5% of Income)
- Tax Credits for Childcare of up to \$8,000
- Tax Credits for Caring for Aging Relatives (Limited Details)
- Tax Credit to Buy First Homes up to \$15,000
- Tax Breaks for Low and Middle-Income to Save for Retirement (Limited Details)



Corporate Taxation

Current Law: TCJA Reduces the Corporate Rate From a Max of 35% to a Flat 21%

- Biden Would Raise the Corporate Rate to 28%
- Proposes Implementation of a New Form of the “Alternative Minimum Tax” on Corporations With Financial Statement Income in Excess of \$100 Million to, Pay Tax of 15%



Prospects

- Odds of Large Scale Tax Changes, are Unlikely in the Short Term
- Even with Democrats Winning Both Georgia Senate Seats, Large Tax Reform is Still Unlikely
- Would Require All 50 Democrats and Kamala Harris
- Would Require Balancing Progressive and Conservative Wings of Democrats
- Policies Would Have to be Tempered to Pass



Planning Opportunities

- Five-year NOL Carrybacks for 2020
 - Allows for NOL Carryback to Pre-TCJA Rates
 - Corporate Tax Rate of 35% in 2015, 2016, and 2017
- Companies Will Want a Strong Cash Position
 - Allows for Companies to Purchase Distressed Assets if Economy Falters
 - Provides Operating Capital Until COVID Crisis Fades
- Cash Generating Tax Credits
 - R&D Tax Credits
 - Employee Retention Credits





PPP & The Employee Retention Credit

2021 Tax Updates

- **CARES Act** – Coronavirus Aid, Relief, and Economic Security Act. Signed into Law March 27, 2020. PL 116-136
- **Consolidated Appropriations Act** - Follow up to CARES Act. Signed into Law December 27, 2020. PL 116-260



Employee Retention Credit

- Who is Eligible

CARES Act

- Employers were eligible for the employee retention credit if business operations were either (1) fully or partially suspended by a COVID-19 lockdown order, or (2) for a quarter in 2020, gross receipts were less than 50% of gross receipts for the same quarter in 2019.
- Essential businesses or businesses that were able to continue operations via telework will generally not qualify under the suspension factor.



Employee Retention Credit

- Who is Eligible

Consolidated Appropriations Act

- Employers are now eligible for the employee retention credit in 2021 if business operations are either (1) fully or partially suspended by a COVID-19 lockdown order, or (2) for a quarter in 2021, gross receipts are less than 80% of gross receipts for the same quarter in 2019.
- Essential businesses or businesses that were able to continue operations via telework will generally not qualify under the suspension factor



Employee Retention Credit

- What Dates Qualify

CARES Act

- The employee retention credit was available for qualified wages (defined below) paid between March 12, 2020 and January 1, 2021

Consolidated Appropriations Act

- The employee retention credit was extended and is now available for qualified wages paid before July 1, 2021



Employee Retention Credit

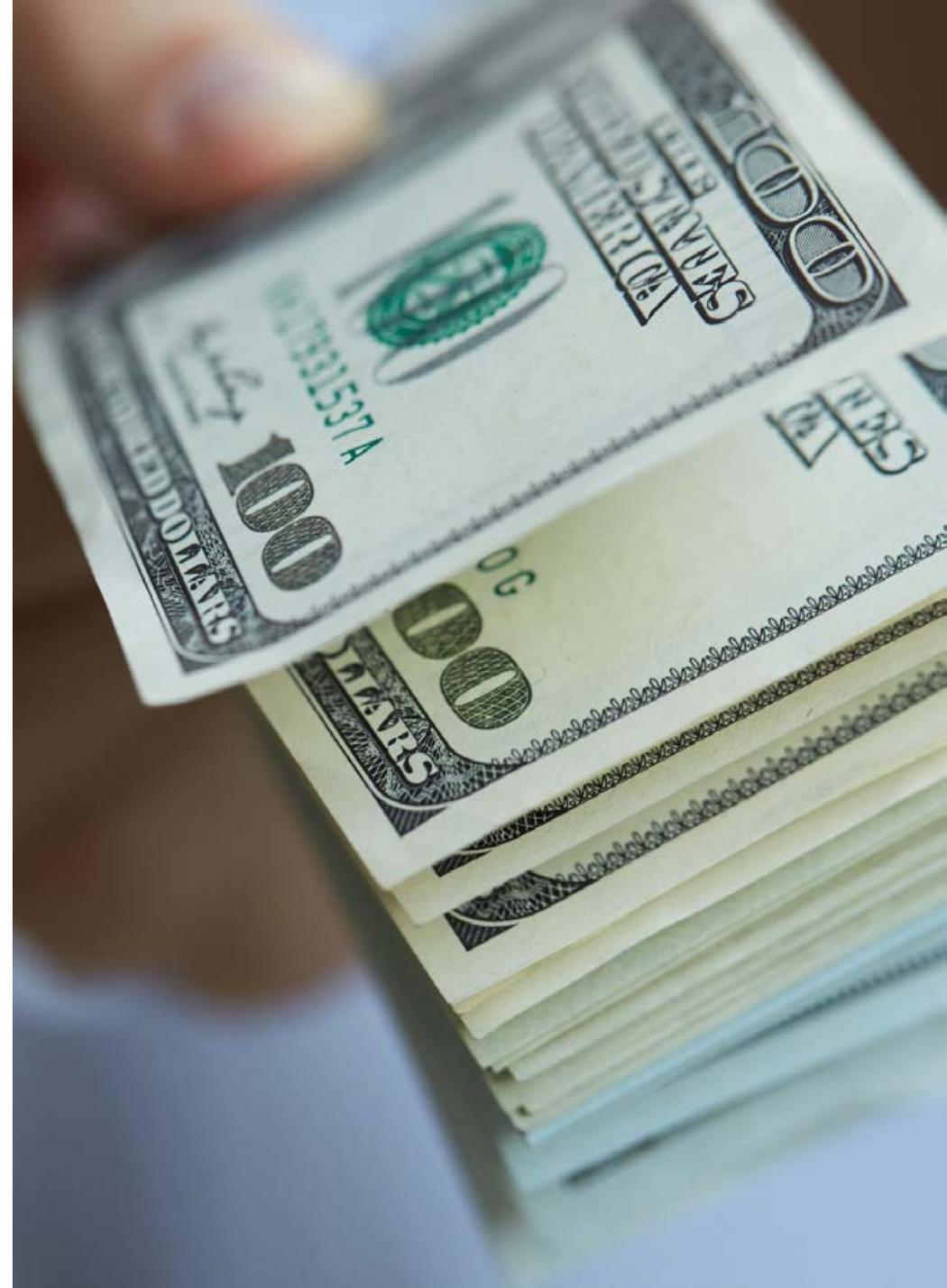
- How Much is the Credit

CARES Act

- Eligible employers could take an immediate and refundable credit against the employer portion of their Social Security payroll tax equal to 50% of qualified wages. The maximum credit available per employee was up to \$5,000 for all qualified wages (per employee) paid during 2020.

Consolidated Appropriations Act

- Eligible employers may now take an immediate and refundable credit against the employer portion of their Social Security payroll tax equal to 70% of qualified wages. The maximum credit available per employee is now up to \$7,000 per quarter for all qualified wages (per employee) paid during 2021



Employee Retention Credit

- Qualified Wages

CARES Act

- “Qualified wages” for an eligible employer who averaged 100 full-time employees or less were any wages paid to employees, regardless of whether the employees were working (e.g., wages to furloughed employees and working employees were qualified wages).
- “Qualified wages” for eligible employers who averaged more than 100 full-time employees were wages paid to employees who were not working (e.g., wages to furloughed employees were qualified wages and not wages paid to employees who were still working).



Employee Retention Credit

- Qualified Wages

Consolidated Appropriations Act

- The threshold was raised to 500 employees. Thus, qualified wages for eligible employers who average 500 or less full-time employees are now wages paid to employees, regardless of whether the employees are working. While qualified wages for eligible employers who averaged more than 500 full-time employees are wages paid to employees who are not working



Employee Retention Credit

- ERC and PPP Loan

CARES Act

- An employer who received a Paycheck Protection Program (PPP) loan was ineligible for the employee retention credit. The CAA now allows the credit retroactive to March 2020. This is generally claimed on an amended Form 941

Consolidated Appropriations Act

- Employers who took a PPP loan are no longer prohibited from claiming the employee retention credit. However, double-dipping is not allowed – meaning, an employee retention credit may not be claimed for wages paid with the proceeds of a forgiven PPP loan



PPP Loan 2nd Draw

- Eligibility

- Borrower has 300 or fewer employees;
- Borrower experienced a 25 percent or greater revenue reduction in 2020 relative to 2019
- Borrower previously received a First Draw PPP Loan; and
- Borrower has used, or will use, the full amount of the First Draw PPP Loan on or before the expected date on which the Second Draw PPP Loan is disbursed to the borrower
- An entity that is ineligible to receive a First Draw PPP Loan under the CARES Act is also ineligible for a Second Draw PPP Loan.
- March 31, 2021 application deadline.



PPP Loan 2nd Draw

- Revenue Reduction Requirement

- The borrower must have experienced a revenue reduction of 25% or more in gross receipts of the comparable quarter amount in 2019, or annual comparison decline.
- Generally includes all income from any source including sales of product or services, interest, dividends, rents, royalties, fees or commissions but excluding net capital gains and losses.



PPP Loan 2nd Draw

Amount of Loan = 2.5 X Average Monthly Payroll

- The Second Draw IFR also includes tailored payroll calculation methodologies for seasonal businesses, new entities that did not exist for the full twelve-month period preceding the Second Draw PPP Loan, and borrowers assigned a NAICS code beginning with 72 at the time of disbursement. Additionally, the Second Draw IFR includes tailored calculation methodologies for self-employed individuals and partnerships.
- The documentation required to substantiate an applicant's payroll cost calculations is generally the same as documentation required for First Draw PPP Loan
- \$2 million maximum



PPP Loan and ERC Planning

- Eligibility

PPP Loan

- All small businesses with 300 or fewer employees and some businesses in certain industries with more than 300 employees. This includes self-employed individuals, independent contractors, sole proprietorships, nonprofits, veterans organizations, and tribal businesses.

ERC

The employer size does not matter. However qualified wages are determined by:

- For 2020, If you averaged fewer than 100 FTEs, your tax credit is based on wages paid to all employees during the period of suspended operations or gross receipts decline. If you averaged more than 100 FTEs in 2019, the tax credit is based on wages paid to employees who did not work during the period of suspended operations or gross receipts decline.



ERC Planning

- Eligibility and Revenue Test

ERC

- For 2020 - Fully or partially suspended operations due to COVID-19-related government orders OR gross receipts drop below 50% of the comparable quarter amount in 2019, or annual comparison decline
- For 2021 through 6/30/21, fully or partially suspended by a COVID-19 lockdown order, OR gross receipts dropped below 20% of the comparable quarter in 2019, or annual comparison decline
- Example for Government order or shutdown – Orders, proclamations or decrees from federal, state or local government. Non-essential business that was able to continue via telework will not be considered suspended due to government order.

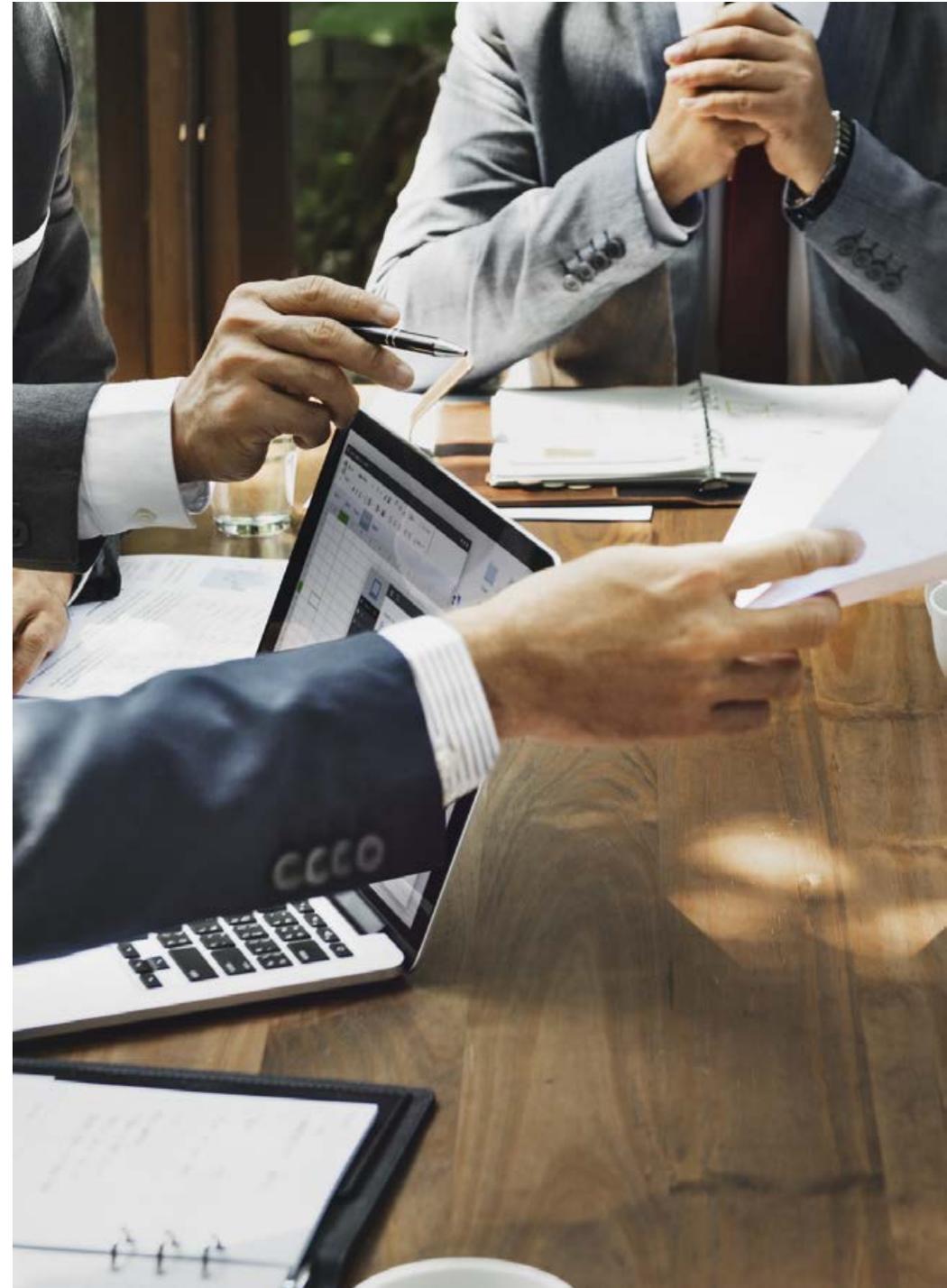


ERC Planning

- Amounts

ERC

- The maximum credit available per employee was up to \$5,000 for all qualified wages paid during 2020, up to 50% of each employee's qualifying wages . The maximum credit available per employee is now up to \$7,000 per quarter for all qualified wages paid during 2021, up to 70% of each employee's qualifying wages



Tax Footnotes

Other notables from the Consolidated Appropriations Act.

- Medical Expense deduction – Reduces deduction floor from 10% to 7.5%
- Work opportunity tax credit – Extended through 2025. Was scheduled to expire 2020.
- Business meals deduction – 100% deduction for business meals provided by a restaurant.
 - Take out or dine in
 - Same substantiation requirements
 - Taxpayer claiming the deduction must be present at the meal.
 - After Dec 31, 2020 but before Jan 1, 2023



Tax Footnotes

IRS Notice 2021-13

- Beginning in 2020, Partnership Form 1065 requires partnerships to report partner capital accounts on a tax basis method.
- Section 6698 penalty - \$195 per month per partner





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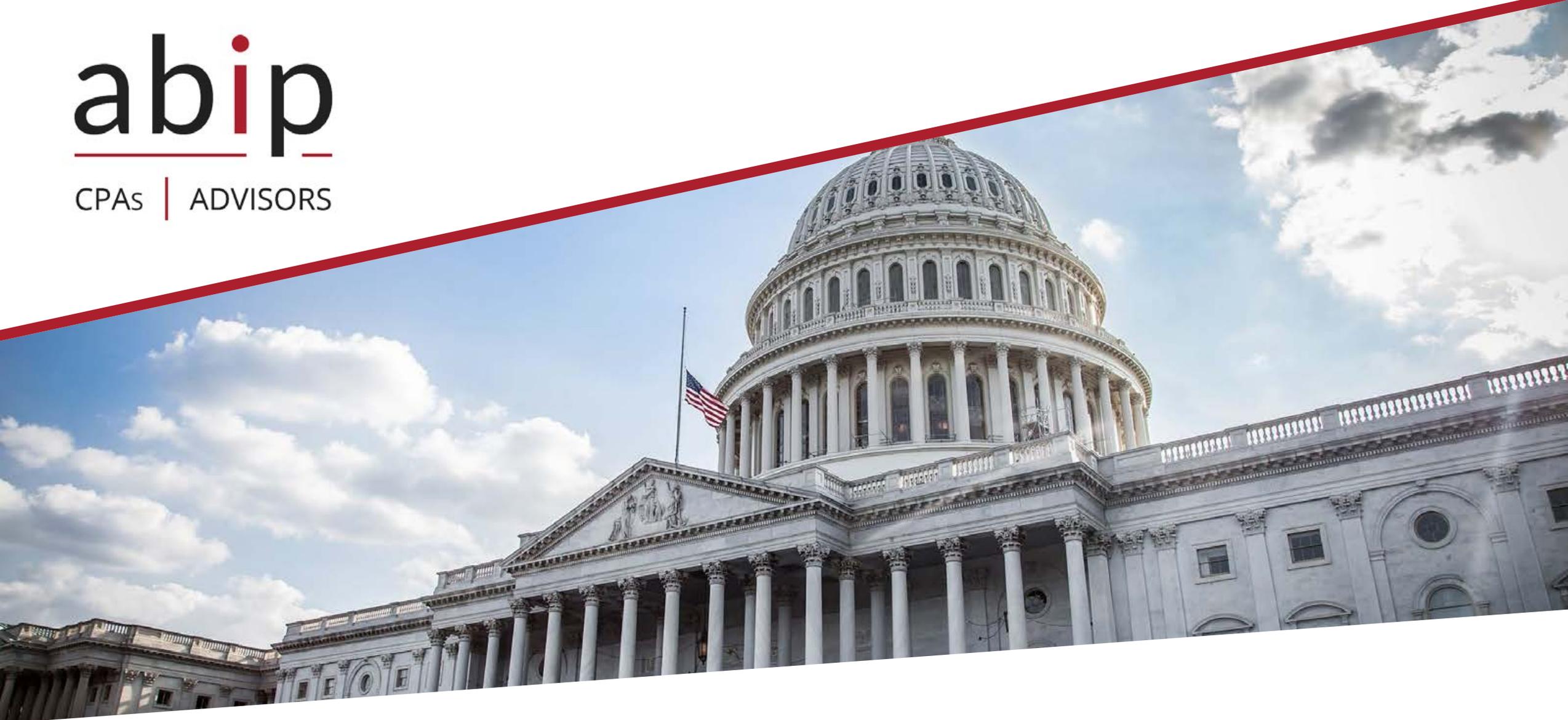
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