



Year-End Tax Planning Webinar for A&E Firms

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DGC FIRM OVERVIEW

At DGC, our professional curiosity drives everything we do — how we work; how we advise; how we partner with and seek out value for our clients.

- ▶ Regional firm with over 200 employees including 24 Partners, many with Big 4 experience
- ▶ Offices in Boston and Woburn
- ▶ Significant Partner and Principal involvement in engagements
- ▶ Clients include privately-held businesses, their owners, and high net worth individuals
- ▶ Tax, Assurance, IT Risk and Business Advisory including valuation, forensic accounting, litigation support, arbitration, and transaction advisory services
- ▶ Access to global network through membership in Moore Global Network Limited



WELCOME



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AGENDA

▶ Federal Income Tax

- Biden's Tax Plan – What's been removed
- Meals & entertainment
- Employee Retention Credit
- R&D Credit
- Build Back Better Act proposals

▶ State Tax

- Remote worker planning
- SALT cap workaround for PTEs



The Cutting Room Floor





BIDEN'S TAX PLAN – REVISED/UPDATED FRAMEWORK

- ▶ No change to individual ordinary income tax rates for taxpayers with income (below \$10M)
- ▶ No change to individual capital gains/qualified dividend tax rates for taxpayers with income (below \$10M)
- ▶ No change to C corporation tax rates
- ▶ No change to 20% qualified business income deduction under IRC 199A

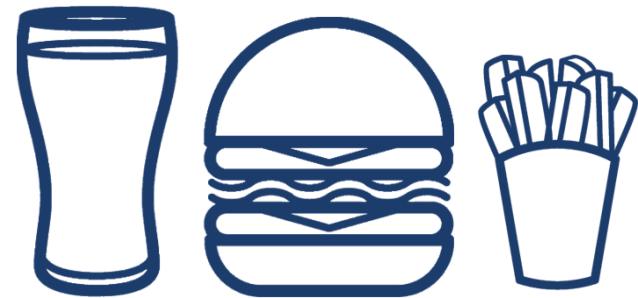
MEALS & ENTERTAINMENT

▶ General rule

- Meals expenses are subject to a 50% limitation
- Entertainment expenses are 100% disallowed

▶ Exception – Meals are 100% deductible *IF*

- Amounts are paid for food or beverage provided by a **restaurant**
- Amounts are paid or incurred **before January 1, 2023**

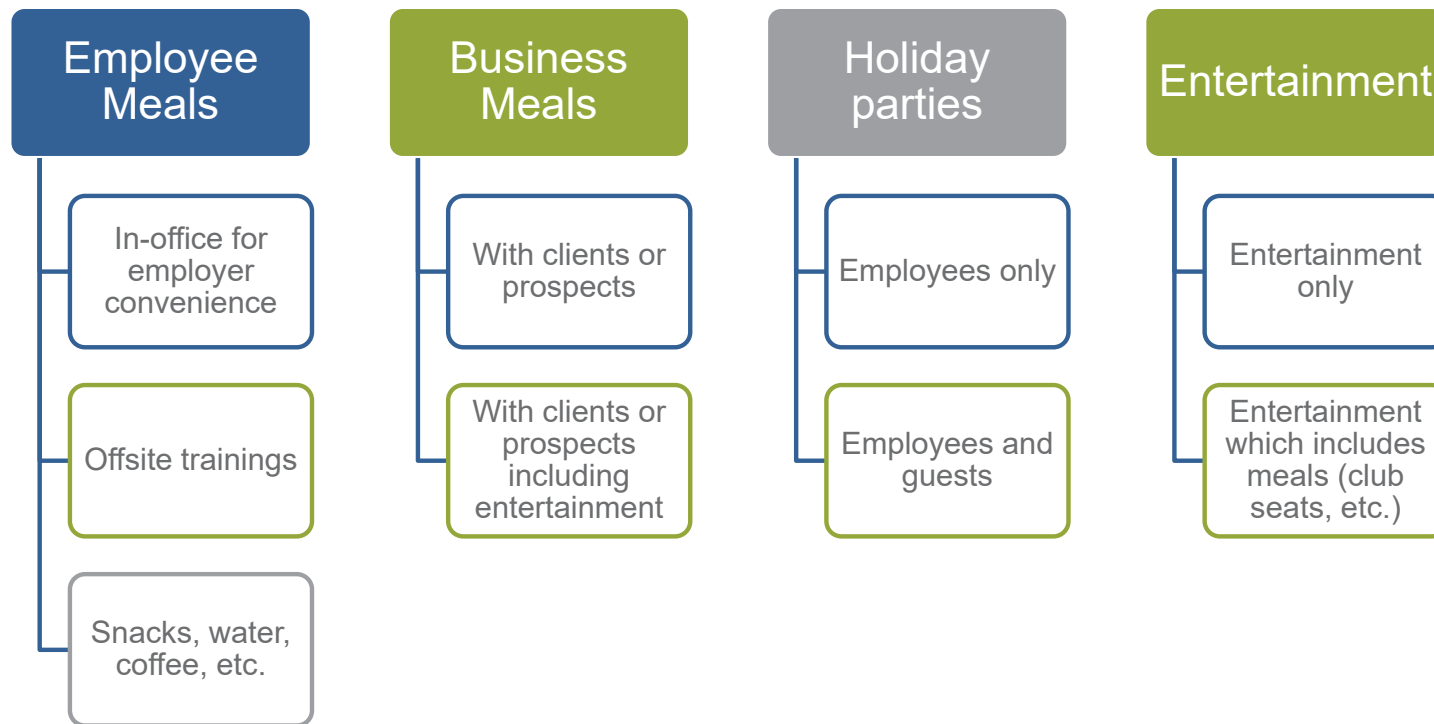


MEALS & ENTERTAINMENT (cont.)

	2017	2018 - 2020	2021 - 2022
Office parties (Holiday)	100% deductible	100% deductible	100% deductible
Entertaining clients	50% deductible	No deduction for entertainment expenses	No deduction for entertainment expenses
Business meals	50% deductible	50% deductible	100% deductible if purchased from restaurant (otherwise 50%)
Meals provided for convenience of employer	100% deductible	50% deductible	100% deductible if purchased from restaurant (otherwise 50%)
Employee meals, out of town for business purpose	50% deductible	50% deductible	100% deductible if purchased from restaurant (otherwise 50%)

PLANNING POINT

Don't leave deductions on the table. Begin to review your GL accounts now and separate the types of meals which qualify for 100% deduction into separate accounts.





EMPLOYEE RETENTION CREDIT

- ▶ Refundable credit which can be claimed on qualified wages paid to employees against payroll taxes in 2020 and 2021
- ▶ Amount of credit
 - 2020 – 50% of up to \$10,000 of qualified wages per employee per year
 - 2021 – 70% of up to \$10,000 of qualified wages per employee per quarter
- ▶ Interplay with PPP loans
- ▶ Credit terminated as of September 30, 2021



EMPLOYEE RETENTION CREDIT

► Eligible employers

- Operations suspended fully/partially due to governmental orders, **OR**
- Decline in gross receipts, **OR**
 - 2020 – decline of greater than 50% compared to same quarter in 2019
 - 2021 – decline of greater than 20% compared to same quarter in 2019
 - Prior quarter lookback available for 2021
- Recovery startup business



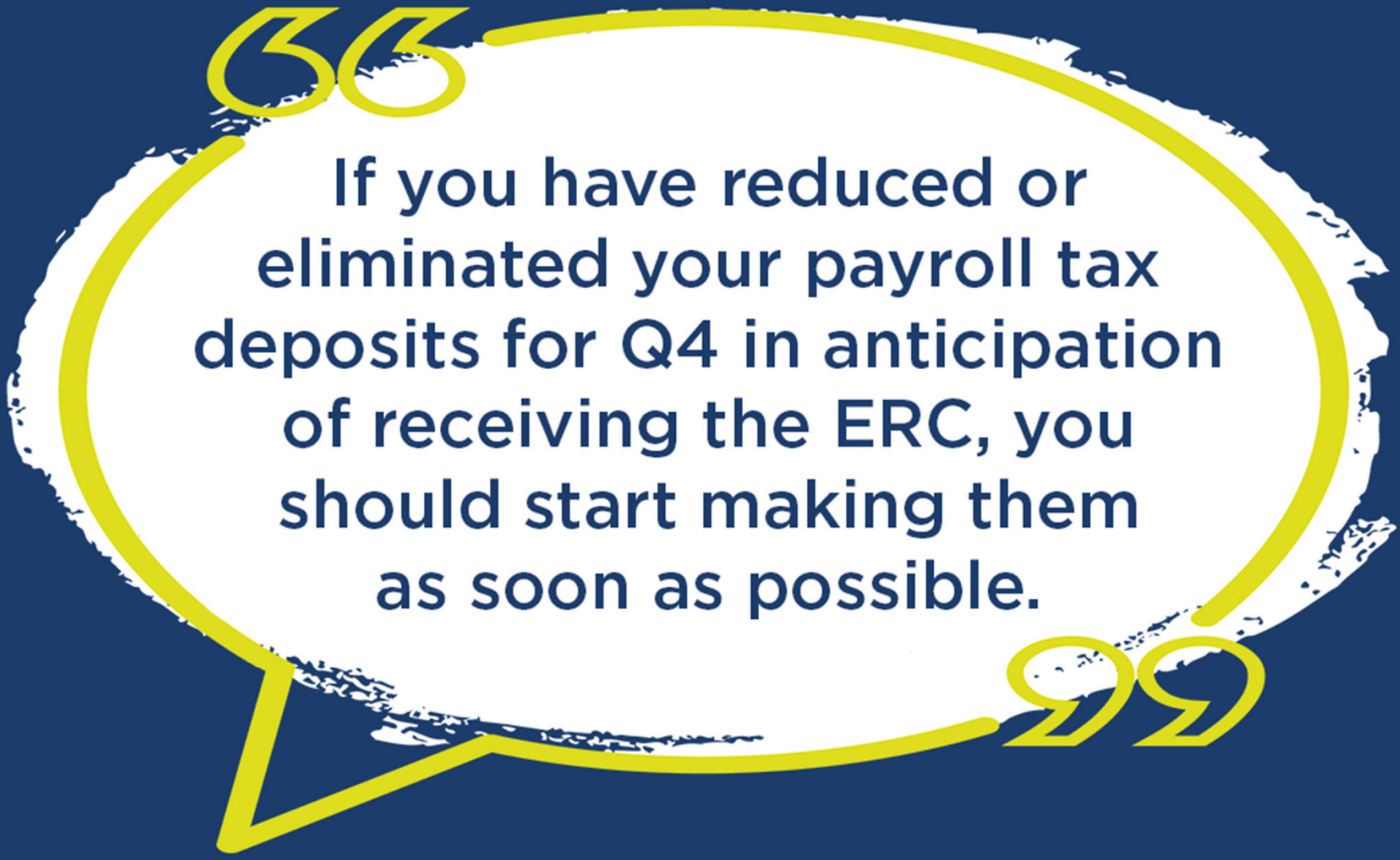
EMPLOYEE RETENTION CREDIT (cont.)

► Qualified wages

- 2020 – 50% of up to \$10,000 of qualified wages per employee per year
- 2021 – 70% of up to \$10,000 of qualified wages per employee per quarter
- Amounts paid for health insurance

EMPLOYEE RETENTION CREDIT (cont.)

Employee Retention Credit (ERC) Comparison of ERC thru CARES Act, CAA 2021, and Infrastructure Investment and Jobs Act			
Issue	As originally enacted by CARES Act	As amended by CAA 2021 and ARPA	As amended by IIJA
Effective date	March 12, 2020 through December 31, 2020	Extended to be effective for the period January 1, 2021 through December 31, 2021 with some provisions retroactive to March 12, 2020	Retroactive to apply to wages paid after June 30, 2021, and before October 1, 2021 (or in the case of a recovery startup business, wages paid after June 30, 2021, and before January 1, 2022).
Eligibility	- Business shut down by government order, or - Quarterly gross receipts declined by more than 50% compared to the same quarter in 2019	- Business shut down by government order, or - Quarterly gross receipts declined by more than 20% compared to the same quarter in 2019, or - Recovery startup business	- Business shut down by government order, or - Quarterly gross receipts declined by more than 20% compared to the same quarter in 2019, or - Recovery startup business
PPP loan interaction	Not eligible to claim credit if business took out a PPP loan	Qualifying businesses with PPP loans may claim credit (retroactive to March 12, 2020). However, same payroll dollars cannot be used for PPP loan forgiveness and ERC	Qualifying businesses with PPP loans may claim credit (retroactive to March 12, 2020). However, same payroll dollars cannot be used for PPP loan forgiveness and ERC
Amount of credit	50% of up to \$ 10,000 of qualified wages per employee (maximum annual credit of \$ 5,000 per employee per year)	70% of up to \$ 10,000 of qualified wages per employee per quarter (maximum credit of \$ 7,000 per employee per quarter, or \$ 28,000 for 2021)	70% of up to \$ 10,000 of qualified wages per employee per quarter (maximum credit of \$ 7,000 per employee per quarter, or \$ 21,000 for 2021)
Employee threshold	Qualifying businesses with 100 or less employees may claim the credit on all employees. Qualifying businesses with more than 100 employees may only claim the credit on employees NOT working	Qualifying businesses with 500 or less employees may claim the credit on all employees. Qualifying businesses with more than 500 employees may only claim the credit on employees NOT working	Qualifying businesses with 500 or less employees may claim the credit on all employees. Qualifying businesses with more than 500 employees may only claim the credit on employees NOT working



If you have reduced or eliminated your payroll tax deposits for Q4 in anticipation of receiving the ERC, you should start making them as soon as possible.



R&D CREDIT

- ▶ Qualification for credit (4-part test)
 - Must relate to a new or improved business component's function, performance, reliability, quality or composition
 - Technological in nature
 - Eliminate uncertainty
 - Process of experimentation

R&D CREDIT – AMENDED RETURNS

- ▶ Recent IRS guidance provides for additional documentation to be provided on an amended return to be considered a valid claim for refund
 - Must identify all business components to which the claim relates
 - For each business component, (i) identify all research activities performed; (ii) identify all individuals who performed each research activity; and (iii) identify all the information each individual sought to discover
 - Provide the total qualified research expenses
 - Taxpayer must provide a declaration signed under penalties of perjury verifying that the facts provided are accurate
 - Should provide the facts in a written statement. However, if documents (such as an R&D study) are provided, must specify the exact pages that supports a specific fact

A pair of hands with a blueish tint holds a crystal ball. The crystal ball is the central focus, containing the text. The background is dark, and the lighting is dramatic, highlighting the hands and the crystal ball.

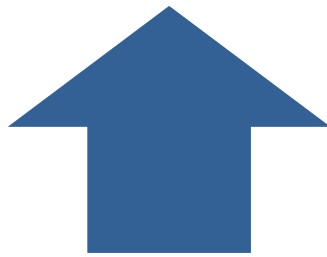
**Build Back
Better Act
Uncertainty**

BUILD BACK BETTER ACT

- ▶ State and local tax cap
 - Current law – \$10,000 cap enacted by the TCJA
 - Disproportionate impact to high tax states



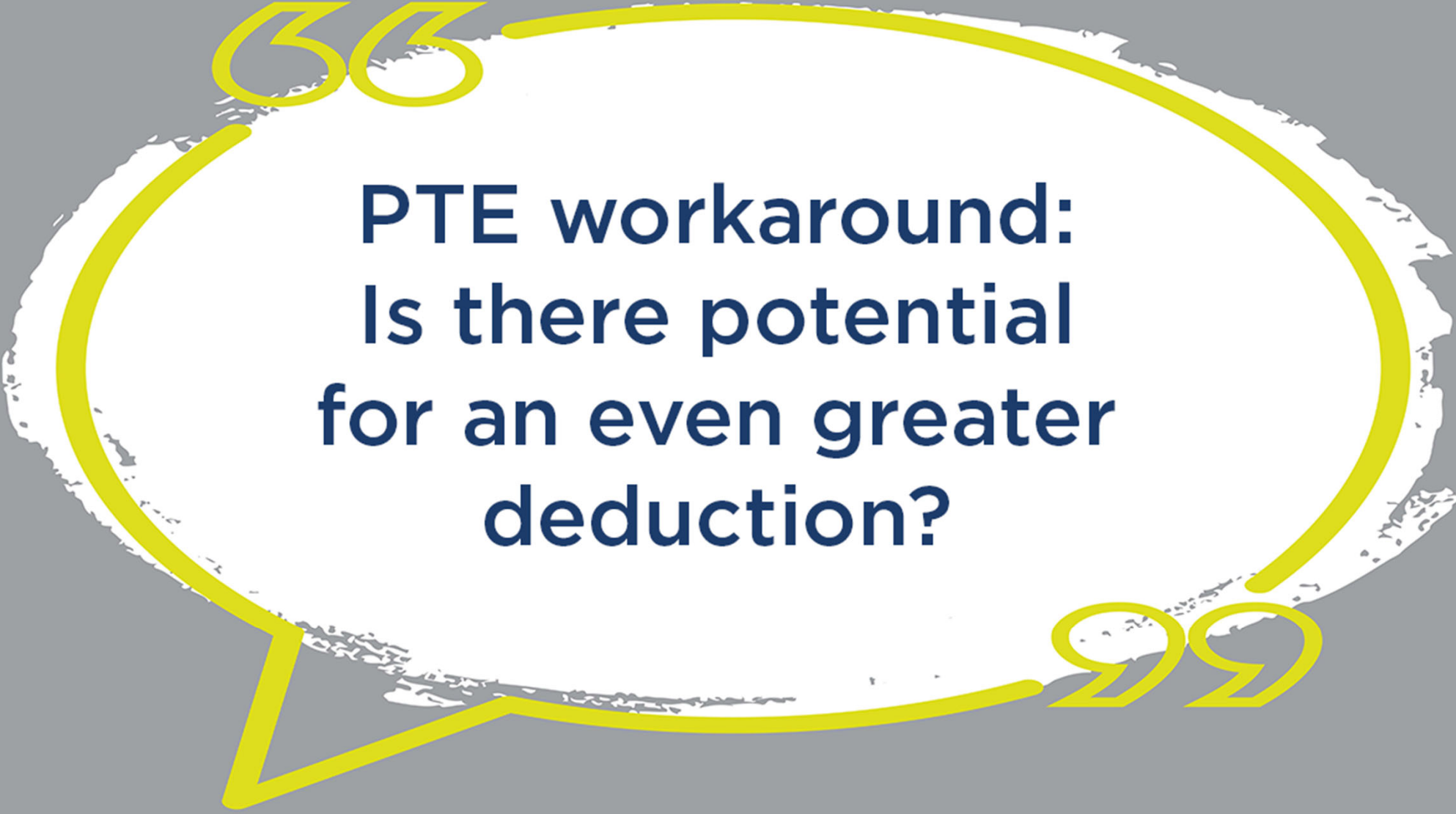
BUILD BACK BETTER ACT (cont.)



Proposed SALT deduction cap increase to \$80,000



AMT – Will the AMT return and mitigate benefits received from this increase?



**PTE workaround:
Is there potential
for an even greater
deduction?**

BUILD BACK BETTER ACT (cont.)

- ▶ Net Investment Income Tax – Current law
 - 3.8% surtax on net investment income
 - Net investment income
 - Interest
 - Dividends
 - Capital gains
 - Rental and royalty income
 - Income from businesses that are passive activities to the taxpayer
 - Income threshold for application – \$200,000 single (\$250,000 MFJ)

BUILD BACK BETTER ACT (cont.)

► Net Investment Income Tax – Proposed law

- Expanded definition of net investment income and income threshold
- Net investment income
 - Interest
 - Dividends
 - Capital gains
 - Rental and royalty income
 - Income from businesses that are passive activities to the taxpayer
 - Trade or business income if no self employment taxes paid on such income
- Income threshold for application of the new category of net investment income – \$400,000 single (\$500,000 MFJ)

BUILD BACK BETTER ACT (cont.)

- ▶ Energy efficient commercial buildings deduction (179D)
 - Current law
 - Eligible if the building efficiency is increased by 50% or more
 - Deduction of up to \$1.80 per sq ft
 - Proposed law
 - Eligible if the building efficiency is increased by 25% or more
 - Deduction base of \$0.50 – \$1.00 per sq ft with a bonus deduction based on a range of \$2.50-\$5.00 per sq ft

BUILD BACK BETTER ACT (cont.)

▶ Research and experimental expenditures (174)

- Current law
 - 2021 – Deductible in year paid or incurred
 - 2022 and forward – Capitalized and amortized over 5 years (domestic) or 15 years (foreign)
- Proposed law
 - 2021-2025 – Deductible in year paid or incurred
 - 2026 and forward – Capitalized and amortized over 5 years (domestic) or 15 years (foreign)



State and Local Tax

Planning for Remote Workers



INCOME AND FRANCHISE TAX APPORTIONMENT

Employee Movement Changes the Amount Each State May Tax

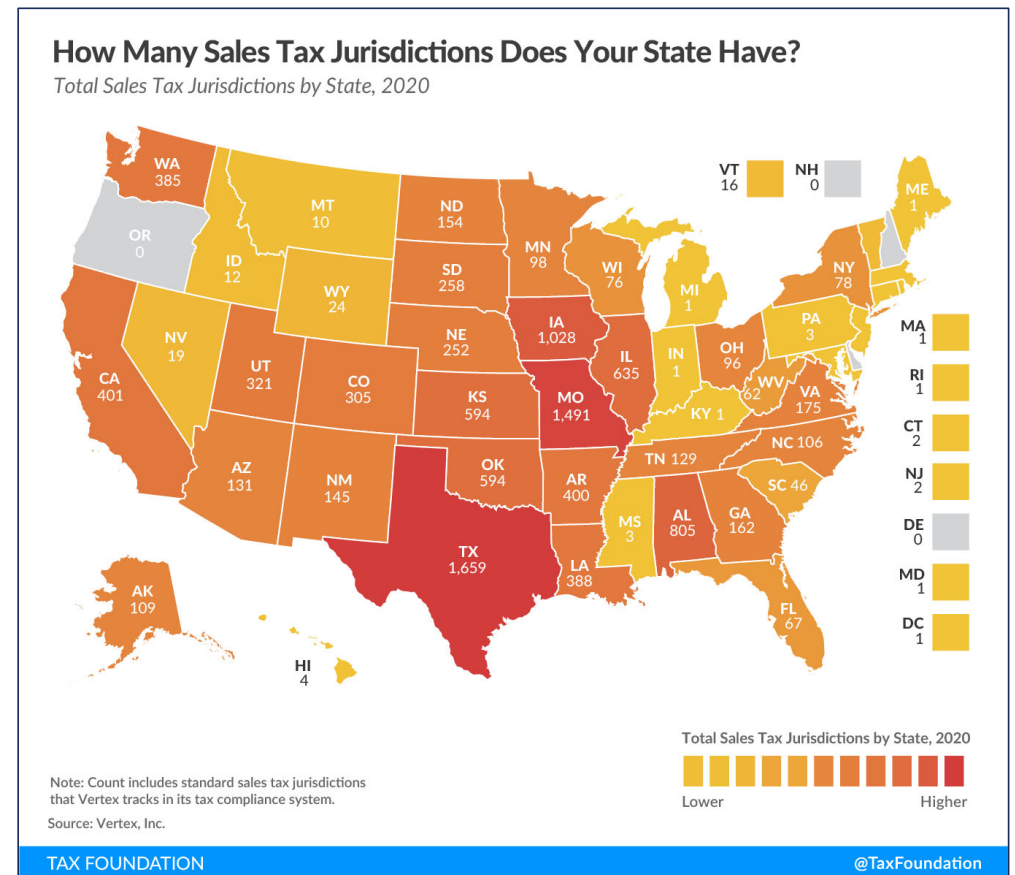
- ▶ Payroll factor
- ▶ Property factor
- ▶ Sales factor

APPORTIONMENT FACTORS			
1	Tangible property:		
	a. Property owned (averaged) ▶ Massachusetts	<input type="text"/>	▶ Worldwide <input type="text"/>
	b. Property rented (capitalized) ▶ Massachusetts	<input type="text"/>	▶ Worldwide <input type="text"/>
	c. Total property owned and rented Massachusetts	<input type="text"/>	Worldwide <input type="text"/>
	d. Tangible property apportionment percentage. Divide (from line 1c) Massachusetts total by worldwide total. 1d	<input type="text"/>	<input type="text"/>
2	Payroll:		
	a. Total payroll ▶ Massachusetts	<input type="text"/>	▶ Worldwide <input type="text"/>
	b. Payroll apportionment percentage. Divide (from line 2a) Mass. total payroll by worldwide total payroll. 2b	<input type="text"/>	<input type="text"/>
3	Sales:		
	a. Tangibles (Massachusetts destination) ▶ Massachusetts	<input type="text"/>	
	b. Tangibles (Massachusetts throwback) ▶ Massachusetts	<input type="text"/>	▶ Worldwide <input type="text"/>
	c. Services (including mutual fund sales) ▶ Massachusetts	<input type="text"/>	▶ Worldwide <input type="text"/>
	d. Rents and royalties. ▶ Massachusetts	<input type="text"/>	▶ Worldwide <input type="text"/>
	e. Other. ▶ Massachusetts	<input type="text"/>	▶ Worldwide <input type="text"/>
	f. Total sales Massachusetts	<input type="text"/>	Worldwide <input type="text"/>

LOCAL JURISDICTION ISSUES

Did you just enter a new local jurisdiction?

- ▶ Sales tax jurisdictions
- ▶ City income taxes





CREDITS & INCENTIVES

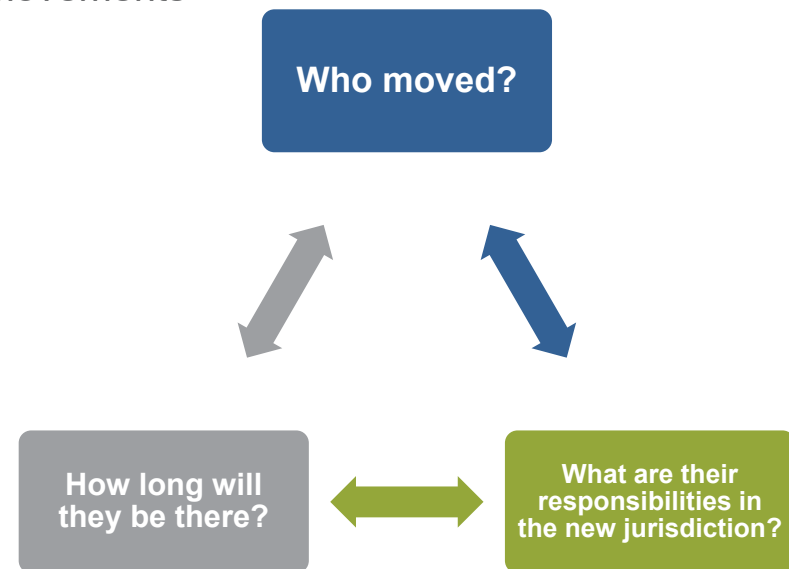
Did your movement create or limit your C&I potential?

- ▶ Will you now have potential credits or incentives in new states?
- ▶ Have you maintained the minimum employment in your state?
 - Statutory credits
 - Negotiated incentives

INTERNATIONAL TAX

Did your movement create a permanent establishment in another country?

- ▶ International activities may bring international tax filings
- ▶ Transfer pricing changes may follow employee movements



EMPLOYER INCOME TAX WITHHOLDING

Movement of Employees Changes Withholding Responsibilities

- ▶ General Rules
- ▶ Convenience of the Employer Rule
- ▶ Massachusetts temporary adoption of the rule ended
- ▶ NH v. MA at the U.S. Supreme Court

In the Supreme Court of the United States

STATE OF NEW HAMPSHIRE,
Plaintiff,

v.

COMMONWEALTH OF MASSACHUSETTS,
Defendant.

ON MOTION FOR LEAVE TO FILE BILL OF COMPLAINT

STATE UNEMPLOYMENT INSURANCE

Movement of Employees May Change the Employee's Residence



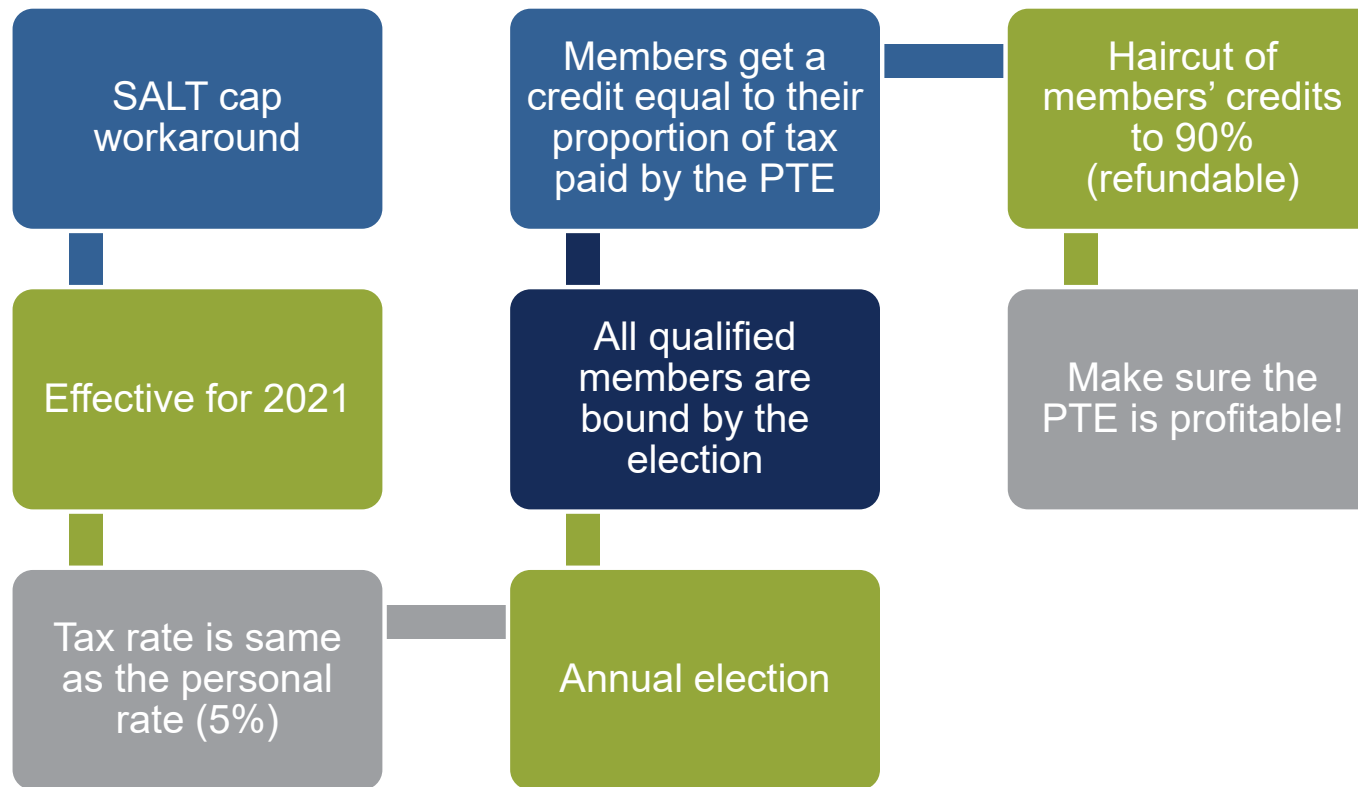
SALT Cap Workarounds



SALT CAP WORKAROUNDS

Alabama	Arizona	Arkansas	California	Colorado
Georgia	Idaho	Illinois	Louisiana	Maryland
Massachusetts	Minnesota	New Jersey	New York	Oklahoma
Oregon	Rhode Island	South Carolina	Wisconsin	

MASSACHUSETTS PTE ELECTION



Questions?





THANK YOU



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