LEGAL UPDATES

PUBLISHED: AUGUST 30, 2022

The Inflation Reduction Act of 2022: An Overview

Services

Hydrogen

Tax

On August 16, 2022, President Joseph Biden signed into law the Inflation Reduction Act of 2022 (IRA). The IRA is substantially a reworking and repackaging of prior legislative efforts—principally the proposed Build Back Better Act that stalled in the U.S. Senate in early 2022—and contain provisions that increase funding for Internal Revenue Service (IRS) enforcement and modernization, introduce new corporate minimum and stock buyback taxes, and create significant new credits and incentives related to renewable energy development and climate change. The new law also seeks to reform the way Medicare pays for prescription drugs.

Tax- and IRS-related provisions

Please refer to our posts on the funding and enforcement aspects of the IRA and the new tax on stock buybacks.

The IRA introduces two main provisions that impact tax law. First, it provides for a 15% minimum tax on adjusted financial statement income of large corporations (those with $1 billion or more in average annual earnings). The tax is based on financial (book) income, and despite the small number of corporations (estimated at approximately 150 taxpayers) affected, the Congressional Research Services estimates this provision will raise $222 billion through 2031. The law also contains a provision titled Repurchase of Corporate Stock, often called the stock buyback tax, which imposes a 1% excise tax on certain corporations. The provision is expected to raise $5.7 billion in revenue in 2023 and $73.7 billion through 2031.

Additionally, the IRA appropriates to the IRS (and in some cases, related agencies such as the Treasury Inspector General for Tax Administration) an additional $79.6 billion over prior projections between now and FY2031 for taxpayer services and enforcement. The additional funding breaks down as follows:

$45.6 billion for tax enforcement. This includes hiring more IRS enforcement agents, legal support, and investing in certain technology. IRS and the Department of Treasury have indicated that these funds will be used to increase enforcement efforts targeted at individuals in upper income tax brackets and corporations, not low-to-middle-income individuals.

$25.3 billion for IRS operations support. This funding includes rent and facilities, telecommunications and information technology, and would be used to supplement existing IRS funding in these areas and for facilities and other matters needed to support additional personnel.

$3.2 billion for taxpayer services. This includes funding to help clear and prevent backlogs of unprocessed tax returns, IRS phone service. The funding also includes $15 million to fund a task force that would study the cost and feasibility of creating a direct e-file program to allow individual taxpayers to file their own returns without a third-party provider.

$4.8 billion for business system modernization. This includes upgrades to the systems IRS uses to administer taxpayer services, operations, and cybersecurity. These funds will be aimed at improving systems or creating new ones, not operating legacy systems.

Renewable energy provisions

Please also refer to our full post on the IRA's renewable energy impact.

The IRA contains significant renewable/clean energy incentive and credit provisions, including the following:

Extension and modification of the Production Tax Credit for various energy sources to encompass projects that begin construction through January 1, 2025 and establishes bonus credits for meeting certain domestic content requirements and investment in various energy communities.

Extension and modification of the Investment Tax Credit to encompass projects that begin construction before 2025 and sets increased credit rates if certain wage and workforce requirements are met, as well as expanding the list of qualifying property and providing bonus credits similar to those available for the Production Tax Credit.

Provides additional credits for Carbon Dioxide sequestration and zero-emission nuclear power.

Extends existing incentives for biodiesel, renewable diesel and alternative fuels, and creates new credits for sustainable aviation fuel and clean hydrogen.

Provides numerous clean energy and efficiency incentives for individuals, including extension and expansion of existing residential energy tax credits and clean vehicle credits.

Extends and expands tax credits for energy manufacturing facilities and for domestic production of qualifying solar and wind components.

Creates a new Clean Energy Production Credit and Clean Energy Investment Tax Credit for the sale of or investment in domestically produced electricity with a greenhouse gas emission rate of not greater than zero.

Direct Pay and Transferability provisions for certain credits, allowing tax exempt and publicly owned organizations to take advantage of various credits even though they are not taxable entities.