

TAX FRAMEWORK FOR THE INFRASTRUCTURE BILL & BUILD BACK BETTER PACKAGE



With the bipartisan [infrastructure bill](#) expected to be signed into law on Monday, the Biden Administration continues to iron out the details of its [Build Back Better](#) framework. Both packages carry significant tax aspects, and we have highlighted the key pieces that may impact you or your business.

Infrastructure Investment and Jobs Act

The House of Representatives passed the Senate's version of the Infrastructure Investment and Jobs Act late in the evening hours of November 5 and is now awaiting the president's signature. This act is focused on rebuilding roads, bridges, and rails, expanding access to clean drinking water and high-speed internet, along with other initiatives that affect the tax arena.

Below are key tax items that are included in the bill:

- Retroactive termination of the [Employee Retention Credit](#) as of 9/30/2021 for all businesses except for recovery start-up businesses. Only recovery start-up businesses will be able to claim the Employee Retention Credit in the fourth quarter of 2021.

- Brokers of digital assets, including cryptocurrencies, will be required to file statements with the IRS showing taxpayer's gross proceeds, adjusted basis, and determination of short-term or long-term gain/loss starting January 1, 2023.
- Any business that receives more than \$10,000 in cash or digital assets must file an information return with the IRS and furnish the payor with a statement.
- Transfers of digital assets out of an account maintained by a Broker requires the Broker to furnish the basis and holding period information in an information return.
- Taxpayers affected by [Federally declared disasters](#) will have an automatic 60-day extension for tax filing deadlines.
- IRS can suspend filing and payment requirements for taxpayers affected by Federally declared disasters or terroristic or military actions.
- The [Combat Zone](#) filing extension now includes time to file a tax court petition and a notice of appeal from a tax court decision. The IRS also has an extension to bring a suit to recover an erroneous refund.
- Extended time to file a petition with the tax court if the filing location is inaccessible or otherwise unavailable to the public.
- The Highway Trust Fund excise fuel tax rate reductions are delayed to 9/30/2028.

Build Back Better Act

The Build Back Better Act has gone through multiple iterations, and we expect more changes to come. This legislation still needs to be finalized and passed by the House of Representatives, then the Senate will have the opportunity to approve it and send it to the President or make changes and send it back to the House for approval before it goes to the President.

Many professionals and taxpayers were surprised when the income tax rate increases for corporations and individuals were removed from the package. Estate tax-related provisions were also removed from earlier drafts of the legislation.

Items that have remained:

- A corporate alternative minimum tax that would apply to the corporations with a 3-year average of \$1 billion in profits
- 5% Surcharge on high-income individuals with modified adjusted gross income in excess of \$10 million, and 3% surcharge in excess of \$25 million.
- For estates and trusts, the same rates apply at modified adjusted gross income over \$200,000 and \$500,000
- International tax rate increases on global intangible low-taxed income and foreign-derived intangible income

Items that may be added:

- "Mark-to-Market" regime for very high-income individuals, trusts and estates
- Potential increase in state and local tax deduction limit from \$10,000 to \$75,000

The Build Back Better Act is still fluctuating with items being added, removed, and added back as negotiations continue in order to garner support for the bill. We are closely watching its movement and will keep you updated.