1

ARPA: Employer Tax Credits

- Paid Sick and Family Leave Credit
  - Extended through 9/30/21
  - Max wages = $12,000 after 3/31/21 (was $10,000 per employee)
  - Applies to HI taxes, not OASDI taxes after 3/31/21

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2

FFCRA: Paid Sick & Family Leave Credit

- Paid sick leave if employee is unable to work because:
  - Subject to government quarantine order or advised by healthcare provider
  - Experiencing symptoms and seeking diagnosis
  - 100% wages, including tips, for 2 weeks, capped at 80 hours
  - Maximum of $511 per day per employee ($5,110 total)
- Paid sick leave credit also if:
  - Unable to work because **need to care** for an individual subject to quarantine or for a child whose school or daycare has closed.
  - Pay up to 2/3 regular rate, capped at 80 hours
  - Maximum of $200 per day per employee ($2,000 total)
- Paid family and medical leave credit
  - 10 additional weeks leave if unable to work because need to care for a child whose school or daycare has closed.

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3

CARES: Charitable Contributions

Individuals

- Above-the-line (not itemized) deduction for individuals up to $300, starting in 2020
- Cash contributions to a public charity in 2022, 2023, 2024, and 2025: 60% of your AGI each year

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Taxpayer Certainty and Disaster Relief Act of 2020

- Business Meals Deduction
  - Increased to 100% for 2021 and 2022 for food or beverage provided by a restaurant.
  - Includes delivery fees, tips, sales tax.
  - Includes meals consumed by employees while traveling.

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5

100% Meals Deduction

Notice 2021-25 (April 2021)

- For expenses paid or incurred 1/1/21 – 12/31/22, businesses can deduct 100% of their food or beverage expenses provided by a restaurant.
- Business owner (or an employee) must be present when food or beverages are provided.
- Do not have to consume on the restaurant premises!
- The expense must not be lavish or extravagant.
- Does not include a business that primarily sells pre-packaged food or beverages not for immediate consumption (grocery store; specialty food store; **beer, wine or liquor** store; drug store; convenience store; vending machine; newsstand; kiosk).

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ARPA: Child Tax Credit

- Significant increase for 2021 tax year
- Prior law: $2,000 per child, $1,400 refundable
- Increased to $3,000 per child
  - $3,600 if under age 6 at end of tax year
  - Fully refundable (even if not enough taxes owed)
  - Child includes 17-year old

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7

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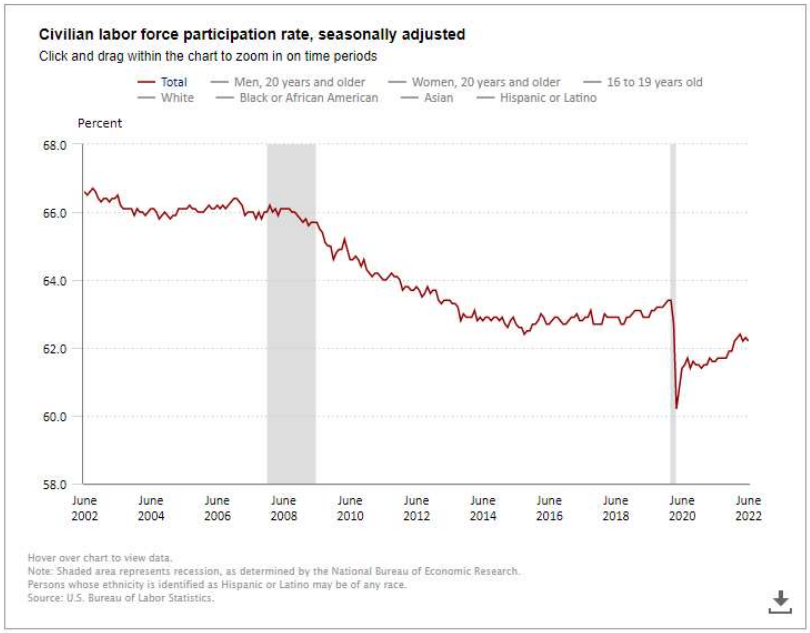
8



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Planning

- **Gifting-2022-$16,000**
  - What that means is that you can give away $16,000 to as many individuals—your kids, grandkids, their spouses—as you'd like with no federal gift tax consequences. A husband and wife can each make $16,000 gifts, doubling the impact.
- **Backdoor Roth IRA- 2022: $6,000 2022: $7,000 (age 50 or older)**
  - Put money in a traditional IRA account. Convert your contribution to a Roth IRA. If you don't already have a Roth IRA, you'll open a new account during the conversion process.
  - Prepare to pay taxes. Only post-tax dollars go into Roth IRAs.

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New & Expanded Employer Retention Tax Credit (ERTC)

Must meet one of the following test in order to be eligible:

- Full or partial suspension of operations - operation of the trade or business is fully or partially suspended during the calendar quarter due to order from an appropriate government authority limiting commerce, travel or group meetings (for commercial, social, religious or other purposes) due to COVID-19
- Significant Decline in Gross Receipts Test
  - For 2020, a significant decline in gross receipts is defined as a decline in gross receipts of at least 50 percent when compared to the same calendar quarter in 2019.
  - For 2021, a significant decline in gross receipts is defined as a decline in gross receipts of at least 20 percent when compared to the same calendar quarter in 2019.

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Employee Retention Credit

American Rescue Plan Act

- Extended credits to 09/30/21
- 20% decline in receipts test
- Maximum = 70% of qualified wages
- Increase per-employee wages from $10,000 in total to $10,000 per quarter
  - Max credit in 2021 = $7,000 (70% x $10,000) per employee per quarter, so $21,000 per employee for 2021
- Small employer ≤500 employees

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Employee Retention Credit

Notice 2021-49 (8/4/2021)

- Where an ERC is claimed on a retroactive basis for a tax year of the employer for which the employer's federal income tax return has already been filed, the employer must file an amended income tax return to reduce its compensation deduction by the amount of the ERC claimed for that year.
- But, the IRS is taking a very long time to give cash to taxpayers who file amended Form 941's. So…

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13

13

Employee Retention Credit

	2020	Q1-Q2 2021	Q3 2021
Period	3/13-12/31/20	1/1-6/30/21	7/1-9/30/21
Qualified wages per employee	Up to $10,000	Up to $10,000	Up to $10,000
Credit rate	50%	70%	70%
Max credit per employee	$5,000 total	$7,000 per quarter	$7,000 per quarter
Gross receipts decline test	>50% in 2020 quarter vs. 2019	>20% in 2021 quarter vs. 2019	>20% in 2021 quarter vs. 2019
Small employer definition	≤100 employees	≤500 employees	≤500 employees

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14

Virtual Currency

- The sale or exchange of virtual currencies, or the use of virtual currencies to pay for goods or services, or holding virtual currencies as an investment, has tax consequences.
- Treated as "property" by IRS.
  - Not money or currency.
  - But now El Salvador has adopted BitCoin as its currency and China has one, so uncertainty exists.
- Taxable event can result from sale or exchange, and also by earning or spending.

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Cash Balance Plan

AGE @ BOY	401(K) DEFERRALS	CATCH UP CONTRIBUTIONS	SAFE HARBOR NONELECTIVE CONTRIBUTIONS	PROFIT SHARING CONTRIBUTIONS	HYPOTHETICAL CASH BALANCE ALLOCATIONS	OWNER ALLOCATIONS	PERCENTAGE OF ALLOCATIONS
38	19,500	0	8,550	28,950	87,440	144,440	8.5%
62	19,500	6,500	8,550	28,950	60,000	123,500	7.2%
64	19,500	6,500	8,550	28,950	0	63,500	3.7%
41	19,500	0	8,550	28,950	80,000	137,000	8.0%
38	19,500	0	8,550	0	0	28,050	1.6%
33	19,500	0	8,550	28,950	60,000	117,000	6.8%
58	19,500	6,500	8,550	28,950	100,000	163,500	9.6%
47	19,500	0	8,550	28,950	0	57,000	3.3%
62	19,500	6,500	8,550	28,950	0	63,500	3.7%
42	19,500	0	8,550	28,950	106,081	163,081	9.5%
62	19,500	6,500	8,550	28,950	244,225	307,725	18.0%
48	19,500	0	8,550	28,950	100,000	157,000	9.2%
					837,746	1,525,296	89.3%
	Staff					183,664	10.7%
	Sum					1,708,960	100.0%

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PTE-How Did We Get Here?

- Alabama Scholarship Granting Organization has been around for a while.
  - Provided state tax credit for donation.
- Then came: SALT limit of $10,000.
- Which begot: California Excellence Fund & other attempts to say taxes are not taxes.
- Which begot: IRS attacking "charitable contributions" that reduced state taxes owed.
- To which we argued: But SGO's were not trying to avoid the SALT limit!

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Alabama Pass-Through Entity Tax

- Owners report their distributive share of income from the entity, but will be entitled to a refundable tax credit in return.
  - They will report both on their individual state return.
- The credit will equal a member's pro rata or distributive share of the Alabama income tax paid by the electing PTE.
  - The tax credit is not subject to the $10,000 SALT limit.

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Alabama Pass-Through Entity Tax

ADOR guidance on 10/19/2021:

- Must submit Form PTE-E via My Alabama Taxes at myalabamataxes.alabama.gov.
- Form PTE-E is expected to go live in January.
- All pass-through entities that choose this election must be registered to use MAT and must submit the Form PTE-E through MAT prior to the 15th day of the third month following the close of that tax year for which the entity elects.

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19

Questions?

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20