

Client Alert

August 2022

Senate Passes Inflation Reduction Act

The U.S. Senate voted 51 to 50 on August 7, 2022 to pass the Inflation Reduction Act (the “Senate Bill”) to address climate change and energy security, health care, and the rising budget deficit.

To fund the climate change and other initiatives, the Senate Bill, which was passed through the budget reconciliation process, includes certain tax hikes and additional funding to the IRS for improved enforcement. The Senate Bill, however, leaves intact some of the tax changes enacted under the 2017 Tax Cuts and Jobs Act (“TCJA”) that were under reconsideration in the Build Back Better Act.

As part of the deficit reduction, the Senate Bill generally imposes a new minimum tax equal to 15% of income reported on financial statements by certain large corporations with average annual adjusted financial statement income (“AFSI”) over a three-tax year period exceeding \$1 billion. By imposing a minimum tax based on the net income reported in financial statements, the Senate Bill aims to increase taxes collected from corporations that are able to reduce their taxes with favorable tax credits and deductions. The Senate Bill’s AFSI computation nevertheless permits certain accelerated depreciation deductions. The 15% corporate minimum tax would be effective for tax years beginning after December 31, 2022. An earlier provision aimed to curtail the favorable tax treatment of carried interest was dropped. To make up for the lost revenue, the Senate Bill includes a 1% excise tax on corporate stock buybacks by publicly traded U.S. corporations or by certain foreign corporations or their affiliates that occur after December 31, 2022. The Senate Bill also seeks to enhance the IRS’s enforcement and auditing capabilities, and extends the limitation on excess business loss deductions to tax years beginning before January 1, 2029.

The House is scheduled to return on Friday, August 12, 2022 to consider the Senate Bill, which may result in further revisions. For example, the Senate Bill does not change the \$10,000 state and local tax deduction cap enacted under the TCJA, which among other tax items, was a concern for certain House Democrats.

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