



Grappling with the massive tax challenges associated with the pandemic crisis

MEC Ohio Business Tax Seminar

May 25, 2021

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Today's agenda

Consolidated Appropriations Act, 2021 COVID-19 tax provisions

Key provisions of the American Rescue Plan (ARP) and program changes impacting PPP & ERC

State revenue considerations and FY21 outlook

Ohio legislative activity (SB 18/HB 234)

State tax impacts of US response to COVID-19

Initial US federal legislation

Bill #1: \$8.3b spending bill to fight the coronavirus outbreak enacted **March 6, 2020**

\$3.1b for vaccine development, supplies	\$2.2b for the Centers for Disease Control and Prevention	\$826m to support Research & Development	\$1.2b for global health programs
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Treasury/IRS Payment Relief: Notice 2020-18 released March 20, 2020: due date for filing Federal income tax returns and making Federal income tax payments due April 15 automatically postponed to July 15

Bill #2: \$104b Families First Coronavirus Response Act enacted **March 18, 2020**

- ▶ Paid sick leave
- ▶ Paid family and medical leave
- ▶ Employers would receive a 100% refundable payroll tax credit on the wages required to be paid
- ▶ Unemployment insurance - \$1b for emergency transfers to states
- ▶ Provides states with a 6.2% Medicaid Federal Medical Assistance Percentages (FMAP) increase
- ▶ Food and nutrition assistance
- ▶ Funding for free testing

Bill #3: \$2.2t Coronavirus Aid, Relief, and Economic Recovery (CARES) Act enacted **March 27, 2020**

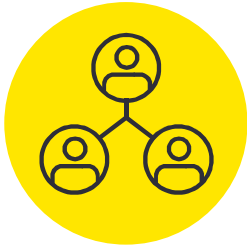
- ▶ Direct payments to individuals
- ▶ Loans and other aid to businesses small and large
- ▶ Aid to states
- ▶ Expanded unemployment benefits
- ▶ Health care funding
- ▶ Retirement and charitable provisions
- ▶ Employer retention credit, payroll tax deferrals
- ▶ Business tax provisions

Bill #3.5: \$484b Paycheck Protection Program (PPP) enacted **April 24, 2020**

- ▶ Additional \$310b for PPP loan program
- ▶ Additional \$60b for Economic Injury Disaster Loan program
- ▶ Additional \$75b for hospitals
- ▶ Additional \$25b for testing

PPP modified by the PPP Flexibility Act of 2020 enacted **June 5, 2020**

CARES Act significant tax provisions



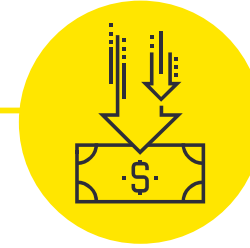
Individual tax relief

- ▶ \$1,200 checks to individuals; \$2,400 to couples
 - ▶ Increased by \$500 for every child
 - ▶ Phased out beginning at \$75k/\$150k adjusted gross income
- ▶ No penalties for retirement withdrawals up to \$100k
- ▶ No required minimum distributions for 2020
- ▶ \$300 above-the-line deduction for charitable donations
- ▶ Increased limitations on charitable deductions
- ▶ Exclusion for employer payments of student loans



Payroll tax relief

- ▶ Delay on payment of employer portion of 6.2% Social Security tax for 2020
 - ▶ Half paid by the end of 2021
 - ▶ The rest by the end of 2022
- ▶ Employee retention credit (ERC)
 - ▶ Credit of 50% of "qualified wages" against employment taxes
 - ▶ Businesses with operations that were suspended or receipts declined > 50%



Tax Cuts and Jobs Act (TCJA) rollbacks

- ▶ Increase 30% business interest expense limitation under IRC § 163(j) to 50% of adjusted taxable income (ATI) for 2019 and 2020 and election to use 2019 ATI for 2020
- ▶ Net operating loss (NOL) from 2018, 2019 or 2020 can be carried back five years
- ▶ NOL deduction can fully offset income due to temporary removal of 80% taxable income limitation
- ▶ Taxpayers with alternative minimum tax credits able to claim a refund for the entire amount of the credit instead of recovering credit through refunds



Other business tax provisions

- ▶ NOL relief effectively extended to pass-throughs and sole proprietors by allowing excess business losses for tax years before 2021
- ▶ NOL technical correction to conform effective dates mismatched in TCJA
- ▶ TCJA drafting error fixed for qualified improvement property
- ▶ Temporary exception from excise tax for alcohol used to produce hand sanitizer

IRC Section 163(j) business interest expense (BIE) limitation

- ▶ CARES Act made two temporary changes:
 - ▶ Increased the percentage of adjusted taxable income (ATI) limitation from 30% to 50% for the 2019 and 2020 tax years; and
 - ▶ Taxpayers can elect to use 2019 ATI for determining their 2020 tax year BIE limitation.
- ▶ State impact will vary due to general conformity approach (i.e., “rolling,” “fixed,” “selective”), as well as specific state statutory modifications to IRC Section 163(j) conformity:
 - ▶ The CARES Act increases existing complexity in reporting and tracking BIE limitation deductions - and carryovers - for state tax purposes.
 - ▶ After enactment of the Tax Cuts and Jobs Act (TCJA), state tax considerations of IRC Section 163(j) include, but are not limited to, the following issues:
 - ▶ How or whether states will apply the federal consolidated return concepts incorporated into IRC Section 163(j) proposed Treasury regulations, which would allow for single-entity treatment for the members of a federal consolidated group
 - ▶ State conformity to the carryover provisions for disallowed BIE limitation tax attributes (since many states do not conform to IRC Sections 381 and 382)
 - ▶ Interaction of the BIE limitation with state related-party interest expense disallowance rules

IRC Section 172 NOL deduction

- ▶ Two significant federal tax changes:
 - ▶ NOLs arising in 2018, 2019 and 2020 tax years generally may be carried back five years
 - ▶ TCJA's 80% of taxable income limitation on use of NOL deductions is temporarily relaxed for 2018, 2019 and 2020 tax years
- ▶ These two changes have limited impact on state NOL deductions, as most states have their own NOL rules.
- ▶ State tax returns may need to be amended upon the filing of federal NOL carryback claims, including as a result of ancillary changes in federal taxable income (FTI):
 - ▶ For example, before the 2018 tax year, the IRC Section 199 domestic production activities deduction (DPAD), to which some states conformed, was subject to a limitation based in part on FTI after NOL and special deductions (figured without the DPAD).
 - ▶ Additionally, the IRC Section 250 deduction can be impacted by a federal NOL deduction in post-TCJA years.
 - ▶ Moreover, changes to a federal NOL deduction can impact a state deduction for federal income taxes paid or accrued in the handful of states that allow such a deduction (i.e., the state federal income tax deduction).

IRC Section 168 depreciation of qualified improvement property (QIP)

- ▶ Technical correction to the TCJA to provide that QIP is depreciated over 15 years (instead of 39), which also makes QIP eligible for 100% bonus depreciation through 2022.
- ▶ Change has varying state timing impacts, since not all states currently conform to the CARES Act, and most states decouple from federal bonus depreciation:
 - ▶ A state may decouple from bonus depreciation (i.e., IRC Section 168(k)) but conform to the change in depreciable life of the QIP (i.e., IRC Section 168(e)).
 - ▶ Exercise caution around basis adjustments for depreciation “allowed” or “allowable.”
 - ▶ Consider implications of tax benefit rule.
- ▶ This change is retroactive to January 1, 2018:
 - ▶ Federal changes may be implemented via federal amended returns or a change in accounting method (IRS Form 3115 and IRC Section 481(a) adjustment).

Consolidated Appropriations Act, 2021 COVID-19 tax provisions

Consolidated Appropriations Act, 2021 COVID-19 tax provisions

Coronavirus tax issues	Provision
PPP	Forgiven loans not included in taxable income, no deductions denied as a result
Low-income credits	Earned Income Tax Credit & Child Tax Credit based on taxpayers' 2019 income
Life insurance	Amend Section 7702 interest rate assumptions for permanent life insurance contracts to qualify for tax purposes, set by statute at 4% and 6%, to be tied to a floating rate
Charitable deduction	CARES Act deduction extended through 2021, \$600 for married couples filing jointly
Restaurant meals deduction	100% for 2021-2022
Employee payroll tax deferral	Payback period extended through end of 2021
Flexible Spending Accounts (FSAs)	Employers may permit unused to be rolled over, detailed slide to follow
Pension transfers	Detailed slide to follow
Employee Retention Credit (ERC)	Details on following slides

Employee Retention Credit Comparison (CARES, CAA and ARPA)

Area	CARES Act	CAA and ARPA - changes effective for 2021	Implications
Expiration	12/31/20	CAA 6/30/2021 ARPA 12/31/2021	Companies that are disrupted in 2021 can still benefit. This will be more geographically nuanced (e.g., West Coast, NYC), and Sector based. Companies will need to evaluate gross receipts and/or government orders
Drop in Gross Receipts	Gross receipts test - greater than a 50% drop in gross receipts when compared to same quarter in 2019	Beginning 1/1/21, gross receipts test - greater than a 20% drop in gross receipts when compared to same quarter in 2019; or elect alternative method: compare gross receipts for the immediately preceding calendar quarter to the gross receipts for that same quarter in 2019 - for example, for Q1 2021 - Q4 2020 compared to Q4 2019	Companies that had a strong Q1 or Q4 2019 and are still being disrupted should analyse their gross receipts. Companies in the hospitality and retail space in particular. May still have qualified wages in select areas.
Credit %	Credit % is 50% of qualified wages	Beginning 1/1/21, credit % is 70% of qualified wages	Higher credit
Qualified Wages	Qualified wage limit of \$10,000 for all quarters combined	Beginning 1/1/21, qualified wage limit of \$10,000 per quarter	Higher credit
"Not Providing Services" Exception	Qualified wage base exception for employers with 100 or less employees	Beginning 1/1/21, qualified wage base exception for employers with 500 or fewer employees	Expands eligibility for smaller employers
Public Instrumentalities	Governmental employers not eligible for the ERC	Beginning 1/1/21, colleges, universities, and government entities providing medical or hospital care are eligible for the ERC	New sector of eligible employers
PPP overlap	PPP recipients not eligible	PPP recipients can take ERC as long as it not on forgiven wages	This is retroactive back to the beginning of the CARES Act.

Employee Retention Credit Comparison (CARES, CAA and ARPA) Cont.

Area	Cares Act	CAA and ARPA - changes effective for 2021	Implications
Double Dip on Other Credits	If claim wages under ERC, no double benefit on wages under 45S	Beginning 1/1/21, if claim wages under ERC, no double benefit on wages under 41 (R&D), 45A (Indian Employment Credit), 45P (Active Duty Credit), 45S (paid family medical leave credit), 51 (WOTC), and 1396(Federal Empowerment Zone credit)	Greater need for overlap analysis.
30 Day Rule	30 day prior wage limitation	Beginning 1/1/21, wages eligible for the ERC are no longer limited to the amount of wages paid in the prior 30 days	For 2021, bonuses etc. could qualify
Application of credit to tax type	Credit applied on Social Security Tax and excess treated as a refundable credit	Beginning April 1, 2021 Credit applied to Medicare Tax and excess treated as a refundable credit	
Additional eligibility criteria	Gross receipts test or government orders creating full or partial suspension of operations	ARPA adds a third path to eligibility for a recovery start-up business (RSB). An RSB is an employer that does not qualify under the CARES Act criteria and commenced a trade or business after February 15, 2020, for which the average gross annual receipts over a three year lookback period do not exceed \$1 million. Total credit is limited to \$50,000 per quarter	Opportunity for smaller employers
Severely financially stressed employer	N/A	ARPA modifies what constitutes qualified wages for a “severely financially distressed” employer that experienced a greater than 90% decline in gross receipts For such an employer, qualified wages include any wages paid during the calendar quarter	For “severely financially distressed” employers any wages paid may be qualified wages
Statute of limitations (SOL)	(SOL) begins three years after the later of the filing date or due date of the return. Forms 941 are deemed filed on April 15 th of the following year	ARPA extends the statute of limitations for IRS assessment from three years to five years	Longer assessment period for IRS

Employee Payroll Deferral

- ▶ IRS Notice 2020-65 allowed employers to defer withholding and payment of the **employee's** Social Security taxes on certain wages paid in calendar year 2020.
- ▶ IRS Guidance Summary:
 - ▶ The **employee** deferral applied to employees with less than \$4,000 in wages every 2 weeks.
 - ▶ Optional for most employers, but was mandatory for federal employees and military service members
 - ▶ Repayment of the employee's portion of the deferral began on January 1, 2021 and will continue through December 31, 2021
 - ▶ Payments made by January 3, 2022 will be timely because December 31, 2021, is a federal holiday
 - ▶ The employer should send repayments to the IRS as they collect them. If the employer does not repay the deferred portion in a timely manner, penalties and interest will apply to any unpaid balance.

Flexible Spending Accounts (FSAs)

- FSAs are generally subject to limitations on the ability to modify elections and carry over unused benefits
- Notice 2020-29 allowed employer to change cafeteria plan to allow employees to make changes to benefits and covered as a result of COVID-19
- Under the CAA, employers were permitted to amend their FSAs to allow participants to carry over any unused 2020 balances to 2021
- Also, unused amounts that would have expired at the end of a plan year ending in 2021 may be carried over to the plan year ending in 2022.
- A health FSA may be amended to allow employees who cease participating in the plan during 2020 or 2021 to receive reimbursements from any unused amounts through the end of the plan year in which the participation ended
- Finally, the Disaster Relief Act extends the relief provided in Notice 2020-29 with respect to 2020, allowing employers to permit employees to modify prospectively the amount of contributions to health and dependent care FSAs, without regard to whether the participant satisfies the normal requirements for mid-year election changes.



Pension Transfers

- Under current law, certain retiree health and life insurance costs may be transferred from a defined benefit pension plan to a retiree health or life insurance account within the pension plan over an elected transfer period of up to 10 years.
- The CAA, provided certain conditions are met, permits employers to make a one-time election during 2020 or 2021 to end any existing transfer period for any taxable year beginning after the date of such election.



State revenue considerations and FY21 outlook

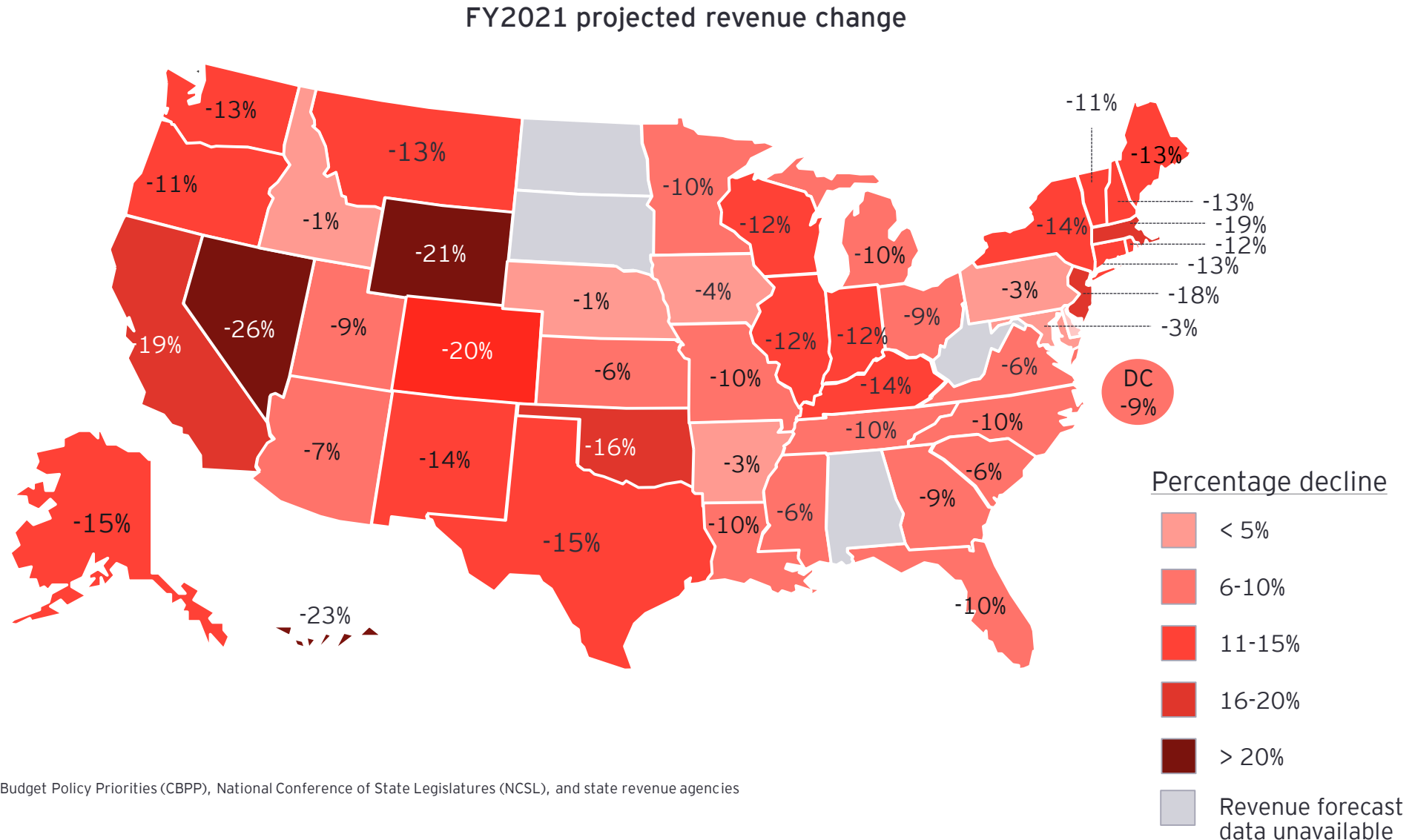


State fiscal conditions

- ▶ As 2020 began, state revenue saw year-over-year growth for 10 years
 - ▶ Projected revenue growth of 3% for FY20 and 3.4% for FY21
 - ▶ State rainy day funds at an all-time high with a mean balance of 7.6% of general funds
- ▶ From March to August, FY20 revenue down 6.4% versus FY19
 - ▶ -5.1% personal income tax; -10.5% corporate income tax; -5.7% sales tax¹
 - ▶ Revenue situation expected to remain tenuous into FY 2021 and 2022
- ▶ Overall state fiscal health sensitive to federal aid, global events (e.g., oil and gas price declines, overall condition of US economy)
- ▶ Balanced budget requirements create additional strain
 - ▶ 2020 special sessions
 - ▶ Delayed budgets and extended fiscal years (e.g., **New Jersey**)

¹ Source: Lucy Dadayan, *State Tax Revenues Showed Weak Growth in August 2020 Compared to Year Earlier, but Cumulatively Still Remain Depressed Over COVID-19 Period*, Monthly State Revenue Highlights, Urban Institute https://www.urban.org/sites/default/files/2020/10/13/monthlystrh_august2020.pdf

States forecast significant FY2021 tax revenue declines



Sources: Center on Budget Policy Priorities (CBPP), National Conference of State Legislatures (NCSL), and state revenue agencies

Some states' revenues are exceeding expectations

- ▶ **Tennessee** Dept. of Fin. & Admin. Comm. Eley (Friday Nov. 6)
 - ▶ Oct. 2020 revenues (\$1.2 billion) exceed forecast by \$134.8 million (3.39% over Oct. 2019)
 - ▶ Sales tax revenues (largest component (about 65%-75%) of state revenues) for the month are \$110.6 million more than the estimate for October (5.81% over prior year)
- ▶ **California** Legislative Analyst's Office (Friday Nov. 13)
 - ▶ Oct. 2020 revenues from the state's three largest taxes (personal income tax, corporation tax and sales tax) exceeded budget projections by 40% (\$2.8 billion) (22% of budget expectations)
- ▶ **Virginia** Gov. Ralph Northam (Thurs. Nov. 12)
 - ▶ Total revenue collections grew 6.7% "well ahead" of annual forecast of a 1.8% decrease
 - ▶ "Sales tax collections ... increased 7.8% through October, ahead of annual forecast calling for 9.7% decline
- ▶ **Connecticut, New Hampshire, Rhode Island and Massachusetts** reported similar October results
- ▶ **New York** Comptroller's office showing a decline in overall revenues (but not as dramatic as originally forecasted) (e.g., YTD (actual) personal income tax revenues down 3.8%, sales/use tax down 14.9% compared to prior year)

Possible explanations for state revenue picture

- ▶ Revenue loss considerations:
 - ▶ Severance taxes (e.g., **Alaska, North Dakota, Wyoming, West Virginia**)
 - ▶ Tourism and hospitality taxes (e.g., **Hawaii, Nevada, Florida, New York**)

- ▶ Revenue gain considerations include:
 - ▶ Federal stimulus payments (CARES Act) spent on taxable products and services
 - ▶ Potential for increased state sales tax revenues
 - ▶ Unemployment insurance is taxable compensation
 - ▶ Employment situation improving
 - ▶ Remote seller sales tax collections in response to Wayfair
 - ▶ Capital gains from improving equity markets
 - ▶ Timing of income tax estimated payments

2021 state regular legislative sessions

State policy timeline

Planning and strategy

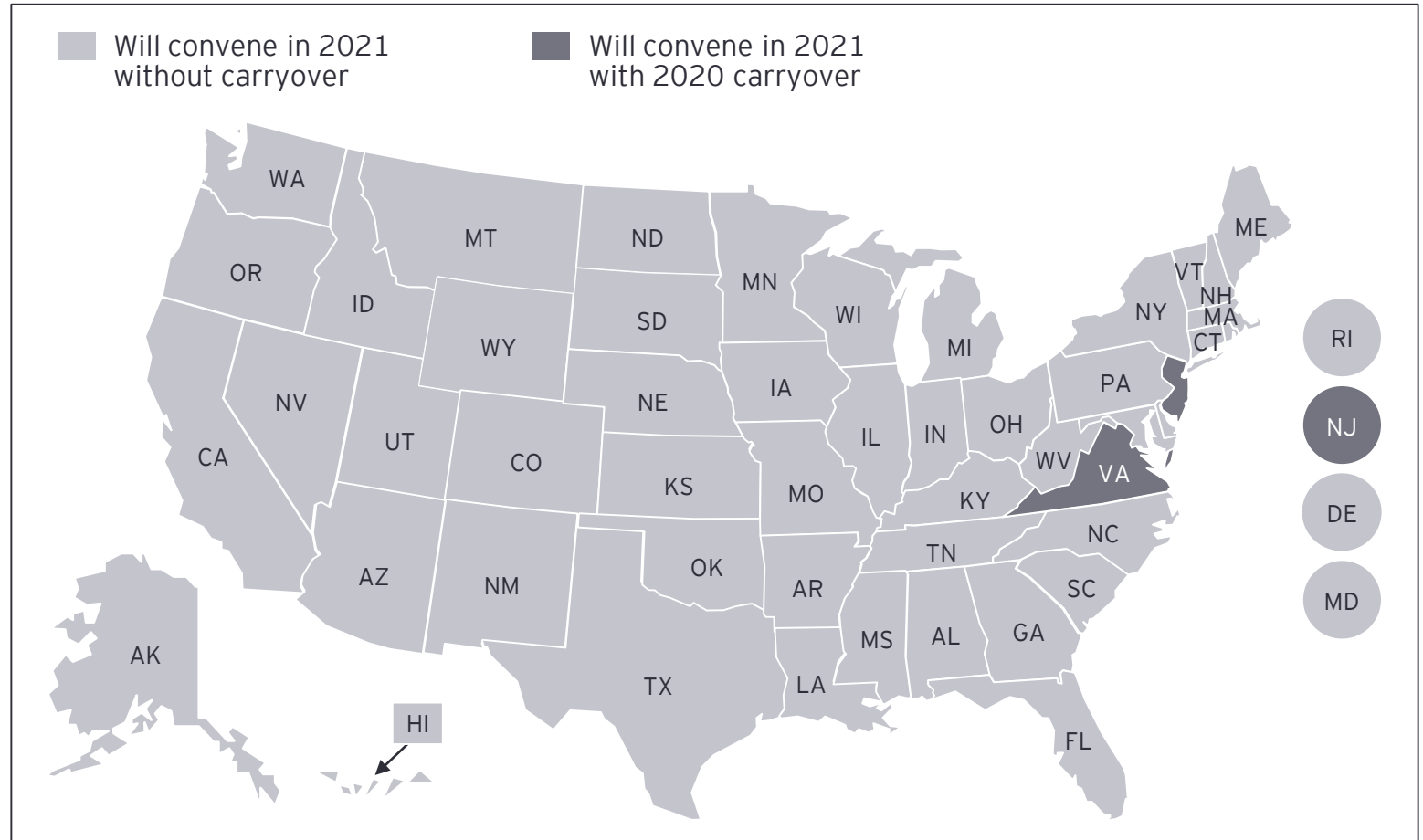
- ▶ July '20-January '21

In-session education

- ▶ January '21-June '21

Post-session analysis

- ▶ June '21-July '21



Sources: EY research; Multistate Associates, "Chart: 2021 Session Dates"
<https://www.multistate.us/resources/2021-legislative-session-dates> (last visited December 15, 2020).

2021 state regular legislative sessions

		Adjourn								
		Feb	Mar	Apr	May	Jun	Jul	Sep	Dec	Jan 2022
Start	Dec					ME		CA		
	Jan	VA, WY	ID, KY, MS, NM, SD, UT	AR, GA, IN, IA, MD, MT, ND, TN, WA	AK, AZ, CO, HI, IL, KS, MN, MO, NE, SC, TX, VT	CT, DE, NH, NY, OR, RI	NC		MA, MI, OH, PA, WI	NJ
	Feb			WV	AL, OK	NV				
	Mar			FL						
	Apr					LA				

Potential state tax revenue raisers

Income tax

- ▶ Rate increases
 - ▶ Surtax or surcharge
 - ▶ Excess profits tax
 - ▶ Minimum tax
- ▶ Base expansion to foreign income
 - ▶ Global intangible low-taxed income (GILTI) conformity
 - ▶ Mandatory worldwide combined reporting
- ▶ Internal Revenue Code (IRC) conformity
- ▶ Economic nexus and market-based sourcing
- ▶ Local taxes
 - ▶ Payroll-based “head” taxes
 - ▶ CEO pay ratio taxes
- ▶ Credit elimination/postponement

Other taxes

- ▶ Gross receipts tax
- ▶ Sales tax
 - ▶ Base expansion (e.g., business-to-business services, digital services/advertising)
- ▶ Stock transfer tax
- ▶ Excise taxes (e.g., marijuana, cigarettes, gasoline, sports wagering, carbon emissions, opioid)
- ▶ Property tax
- ▶ Unemployment taxes
- ▶ Individual income tax
 - ▶ Wealth tax based on net worth
 - ▶ Rate increase
 - ▶ Mark-to-market for high-net worth

Challenges facing tax administrators and taxpayers

- ▶ Disruption of operations:
 - ▶ WFH challenges
 - ▶ New communication protocols
 - ▶ Pressure on technology infrastructure
 - ▶ Human resource administration, such as hiring and performance management

- ▶ Audits, and administrative and judicial appeals:
 - ▶ Delays in timely correspondence and procedural requirements
 - ▶ Shipping carrier restrictions for document delivery
 - ▶ Court closures and delays
 - ▶ Statute of limitation issues

Additional state and local tax complexities



Tax administrators:

- ▶ Issuance of relief measures
- ▶ Coordination with other state agencies (e.g., state departments of health, labor)
- ▶ Technology limitations
- ▶ Activation of call centers and help lines
- ▶ Refund and return processing
- ▶ Administration of penalty waivers
- ▶ Fewer local government resources, including technology enablement

Business tax function:

- ▶ Pressure on cash and liquidity
- ▶ Policy engagement
- ▶ Timely filing of original and amended tax returns
- ▶ “Wet” versus digital signature requirements
- ▶ Disruption in access to data
- ▶ Sales tax timing and remittances

Ohio legislative activity (SB 18/HB 234)

Ohio Senate Bill 18

- ▶ Governor DeWine signed SB 18 on March 24th with its provisions taking immediate effect
- ▶ IRC conformity
 - ▶ ORC 5703.11 generally updated to the IRC as of March 31, 2021
 - ▶ SB 18 also adopted IRC updates made after March 27, 2020 including those made in the Consolidated Appropriations Act, 2021 (P.L. 116-260) (CAA) and the American Rescue Plan Act of 2021 (P.L. 117-2) (ARPA)
- ▶ Several of these changes affected the Ohio individual and school district income tax bases of many taxpayers for the 2020 tax year by increasing or decreasing federal adjusted gross income, the starting point for determining Ohio state and local taxable income.
- ▶ SB 18 would also revise an election that authorizes a taxpayer whose tax year ended after March 27, 2020, but before SB 18's effective date to irrevocably elect to apply to the taxpayer's state tax calculation the federal tax laws that applied to that tax year

Ohio Senate Bill 18 - IRC conformity

- ▶ The federal changes affecting individual taxpayers would include:
 - ▶ Temporary increase in the amount of the child and dependent care credit (ARPA)
 - ▶ Extension of an exclusion from gross income for the discharge of indebtedness of a qualified principal residence (CAA)
 - ▶ Temporary exclusion from gross income for the discharge of student loan indebtedness (ARPA)
 - ▶ Temporary exclusion from gross income for the first \$10,200 received in unemployment benefits for taxpayers with \$150,000 or less in FAGI (or \$300,000 for joint filers) (ARPA)
 - ▶ Extension of the temporary allowance of a deduction for charitable contributions by non-itemizers (CAA)
 - ▶ Clarification that the educator expense tax deduction includes expenses for personal protective equipment and other supplies related to the prevention of the spread of COVID-19 (CAA)
 - ▶ Exclusion from gross income for emergency financial aid grants (CAA)
 - ▶ Transition from a deduction for qualified tuition and related expenses to an increased phase-out threshold of the Lifetime Learning Credit (CAA)
 - ▶ Temporary special rules for health and dependent care flexible spending arrangements (CAA and ARPA)

Ohio Senate Bill 18 - IRC conformity

- ▶ Federal tax law changes affecting business taxpayers incorporated into Ohio's tax laws would include:
 - ▶ Allowance of a 30-year depreciation period for certain residential rental property (CAA)
 - ▶ Temporary allowance of a full deduction for business meals (CAA)
 - ▶ Clarification of the tax treatment of Paycheck Protection Program (PPP) loan forgiveness, including a clarification that expenses paid with PPP loan proceeds can be deductible (CAA)
 - ▶ Extension of the payment deadline for certain deferred payroll taxes (including certain self-employment taxes) (CAA)
 - ▶ Extension of the work opportunity tax credit (CAA)
 - ▶ Extension of an exclusion for certain employer payments of student loans (CAA)
 - ▶ Extension of the limitation on excess business losses for noncorporate taxpayers (ARPA)
 - ▶ Exclusion from gross income for Restaurant Revitalization Fund grants and Targeted Economic Injury Disaster Loan advances (ARPA)

Ohio Senate Bill 18 - provisions relating to unemployment benefits

- ▶ Unemployment benefits are generally subject to federal, state and school district income taxes, subject to the temporary 2020 unemployment compensation exemption authorized under the ARPA.
 - ▶ SB 18 authorizes the Ohio Tax Commissioner to abate interest or penalties resulting from a taxpayer not making timely payment taxes due on unemployment benefits received in 2020 who timely file their 2020 return
 - ▶ If a taxpayer has interest or penalties abated under SB 18 and does not pay the tax due by June 30, 2023, all abated amounts are automatically reimposed from the tax's unextended due date (unless the Tax Commissioner permanently abates the penalties)
 - ▶ A taxpayer who pays interest or penalties that otherwise would have qualified for this abatement may request a refund of the amounts paid
- ▶ SB 18 would also allow individuals to elect to have state income tax withheld from their unemployment benefits paid on or after January 1, 2022

Ohio Senate Bill 18 - Commercial Activity Tax provisions

- ▶ SB 18 excludes from CAT gross receipts proceeds of forgiven "second draw" PPP loans. A similar exemption was enacted previously for proceeds of forgiven "first draw" PPP loans.
- ▶ SB 18 temporarily excludes from CAT gross receipts "dividends" paid to employers in 2020 and 2021 by the Ohio Bureau of Workers Compensation (OH BWC).
 - ▶ Ohio law requires the OH BWC to develop a procedure for returning excess workers' compensation premiums to employers if the board of directors of the OH BWC determines that the surplus of earned premiums over losses is larger than needed to maintain solvency.
 - ▶ These payments, known as "dividends," would otherwise be considered taxable gross receipts for CAT purposes.

Ohio Senate Bill 18 - pass-through entity tax rate reductions

- ▶ Ohio income tax applies to income received by an owner or investor in a pass-through entity from its business activities in Ohio
- ▶ A pass-through entity must withhold the income tax due from its nonresident investors
- ▶ The withholding tax is imposed directly on the pass-through entity at rates of 5% for individual investors and 8.5% for other investors
- ▶ Section 7 of SB 18 would reduce the withholding rates to 3% for the pass-through entity's tax years beginning on or after January 1, 2023 aligning it with Ohio's 3% individual income tax rate on business income

Ohio House Bill 234 - Commercial Activity Tax repeal

- ▶ HB 234 would repeal the Ohio CAT over five years, with the repeal fully implemented by January 1, 2026
- ▶ For calendar year 2021, the CAT would still apply. The phase-out would then occur over the following four calendar years with the CAT being imposed at 80%, 60%, 40% and 20% for calendar years 2022-25, respectively
- ▶ HB 234 does not propose anything to replace the CAT
- ▶ The CAT represents about 7% of Ohio's general fund revenues making repeal, without a suitable replacement, unlikely



Comments &
questions?



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Thanks for participating.

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