

The Infrastructure Investment and Jobs Act

By Mark H. Levin, CPA, MST

On November 15, 2021, President Biden signed into law the Infrastructure Investment and Jobs Act (IIJA) as P.L 117-58. This article will summarize the revenue and tax provisions contained in the IIJA.

Changes Effecting the Employee Retention Credit (ERC)

The ERC for employers subject to closure due to COVID-19 is terminated three months early, making wages paid after September 30, 2021, ineligible for the credit¹. (This excludes wages paid by an eligible recovery startup business whose wages paid after September 30, 2021², but before January 1, 2022, remain eligible for the ERC.)

Disaster Relief

The definition of a disaster area in Sec. 7508A(d)(3) is amended to mean "an area in which a major disaster for which the President provides financial assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) occurs."³

Cash Reporting Requirements Extended

Cash reporting requirements have been extended to digital-asset transactions greater than \$10,000.

The definition of IRC § 6050I's definition of cash is amended to include digital assets. The IIJA defines digital asset as follows:

“Except as otherwise provided by the Secretary, the term ‘digital asset’ means any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary.”⁴

This new definition of cash could potentially include non-fungible tokens (NFTs) as well as traditional cryptocurrencies.

Changes Affecting the Highway Trust Fund

¹ IIJA § 80604(a)(2) amending IRC § 3134

² *ibid*

³ IIJA § 88501(2) amending IRC § 7508A(d)

⁴ IIJA § 80603(b)(1)(B) amending IRC § 645(c)(1)

The excise tax on diesel fuel and special motor fuels imposed on certain buses is extended from September 30, 2022 to September 30, 2028.⁵

The excise tax imposed on certain alcohol fuels (none of which contains ethanol) is extended from September 30, 2022 to September 30, 2028.

The excise tax imposed on gasoline other than aviation gasoline and diesel fuel or kerosene is extended from September 30, 2022 to September 30, 2028.⁶

The excise tax imposed on partially exempt methanol or ethanol fuel is extended from September 30, 2022 to September 30, 2028.⁷

The excise tax imposed on the first sale of the following is extended from October 1, 2022 to October 1, 2028:

- automobile truck chassis⁸ (except for trucks with a gross weight of 33,000 pounds or less);⁹
- automobile truck bodies¹⁰ (except for trucks with a gross weight of 33,000 pounds or less);¹¹
- truck trailer and semitrailer chassis¹² (except for trailers with a gross weight of 26,000 pounds or less);¹³
- truck trailer and semitrailer bodies¹⁴ (except for truck trailer and semitrailer bodies with a gross weight of 26,000 pounds or less);¹⁵
- tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.¹⁶ (This excludes tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer with a gross weight of 19,500 pounds or less and if such tractor, in combination with a trailer or semitrailer, has a gross combined weight of 33,000 pounds or less.)¹⁷

The excise tax imposed on taxable tires sold by the manufacturer, producer, or importer is extended from October 1, 2022 to October 1, 2028.¹⁸

⁵ IIJA § 80102(a)(1)(A) amending IRC § 4041(a)(1)(C)(iii)(I)

⁶ IIJA § 80102(a)(1)(B) amending IRC § 4041(m)(1)(B)

⁷ IIJA § 80102(a)(2)(A) amending IRC § 4041(m)(1)(A)

⁸ IIJA § 80102(a)(2)(A) amending IRC § 4051(a)(1)(A)

⁹ IRC § 4051(a)(2)

¹⁰ IIJA § 80102(a)(2)(A) amending IRC § 4051(a)(1)(B)

¹¹ IRC § 4051(a)(2)

¹² IIJA § 80102(a)(2)(A) amending IRC § 4051(a)(1)(C)

¹³ IRC § 4051(a)(3)

¹⁴ IIJA § 80102(a)(2)(A) amending IRC § 4051(a)(1)(D)

¹⁵ IRC § 4051(a)(3)

¹⁶ IIJA § 80102(a)(2)(A) amending IRC § 4051(a)(1)(E)

¹⁷ IRC § 4051(a)(3)

¹⁸ IIJA § 80102(a)(2)(A) amending IRC § 4071(d)

The excise tax imposed on leaking underground storage tanks is extended from October 1, 2022 to October 1, 2028.¹⁹

The excise tax imposed on the use of any highway motor vehicle that (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of at least 55,000 pounds is extended from October 1, 2023 to October 1, 2029.²⁰

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¹⁹ IIJA § 80102(a)(2)(D) amending IRC § 4081(d)(3)

²⁰ IIJA § 80102(b)(1) amending IRC § 4481