



2024 Year-End Business Tax Planning

October 2024

Poll Question 1

Do you need Continuing Professional Education (CPE) credits?

Slides are in the Chat.



MEET THE SPEAKERS



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MEET THE SPEAKERS



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Federal Update



Employee Retention Tax Credit

- Fully Refundable Tax Credit Based on Qualified Wages and Health Plan Expenses
- Credit may still be claimed via amended payroll filings (Form 941-X).
 - 2021 claims must be filed by April 15, 2025.
- Moratorium on new claims lifted in August.



Withdrawing an ERTC Claim

You may use the ERTC claim withdrawal process if all the following apply:

- You made the claim on an adjusted employment tax return (Forms 941-X, 943-X, 944-X, CT-1X).
- You filed your adjusted return only to claim the ERTC, and you made no other adjustments.
- You want to withdraw the entire amount of your ERTC claim.
- The IRS has not paid your claim, or the IRS has paid your claim, but you haven't cashed or deposited the refund check.





Corrected

Form 15434 (August 2024)	Department of the Treasury - Internal Revenue Service Application for Second Employee Retention Credit (ERC) Voluntary Disclosure Program	OMB Number 1545-2316
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This form is used by employers to apply for the second Employee Retention Credit (ERC) Voluntary Disclosure Program. Use the Document Upload Tool to submit completed and signed application packages at irs.gov/DUT by November 22, 2024. Submit a payment for each period listed in Part IV via Electronic Federal Tax Payment System (EFTPS). See Form 15434 instructions "When and How to Pay" for payment guidance.

Part I – Employer Information Pertaining to Employer's Federal Employment Tax Return

1. Employer name		2. Employer identification number (EIN)	
3. Number and street (or P.O. box number if mail is not delivered to a street address)			4. Room/Suite
5. City, town or post office		6. State	7. ZIP code
8. If address above is different from last employment tax filing, check this box and attach Form 8822-B. <input type="checkbox"/>	9. Telephone number		10. Email address (optional)

Part II – Third-Party Payer Client Information (Third-party payers only. See instructions on page 5 for Part II)

11a. Are you a third-party payer filing this form on behalf of a client <input type="checkbox"/> Yes (complete 11b-11d) <input type="checkbox"/> No (skip to Part III)	
11b. Third-party payer client's name	11c. Third-party payer client's EIN
11d. Tax period(s) for which you filed an employment tax return claiming ERC on your client's behalf	



2021 Voluntary Disclosure Program

Do you qualify?

- ERC claim on 2021 taxes has been processed and cashed.
- You now think you were not entitled to the credit.
- You are not under audit for ERC claims.
- You are not under criminal investigation by the IRS.
- The IRS has not reversed your claim nor notified you of intent to reverse.

Advantages of Voluntary Disclosure Program

- Only 85% of credit needs to be paid back.
- No interest needs to be paid back.
- No need to amend tax returns to reduce wage expenses.
- No penalties if amount is paid back by the time of the closing agreement with IRS.
- IRS won't audit your ERC claim.
- Program ends November 22.



Research & Development Costs



R&D costs must be capitalized and then amortized over five years.



Timing of any kind of repeal important for financial disclosure purposes.



Although these costs must be capitalized, this does not affect a company's ability to take R&D credits.

Retirement Startup Plan Tax Credit

Eligible Employers

- 100 or Fewer Employees Who Received at Least \$5,000 in Compensation From You for the Preceding Year
- At Least One Plan Participant Who Was a Non-highly Compensated Employee (\$100,000 threshold for 2023)

Credit for Startup Costs

- 100% of Startup Costs Up to \$5,000 for Employers With 1-50 Employees
- 50% of Startup Costs Up to \$5,000 for Employers With 51-100 Employees

Credit for Employer Contributions

- 100% of Contribution Costs up to Each Employee for Employers With 1-50 Employees for First Two Years up to \$1,000 per Employee
- 100% of Contribution Costs up to Each Employee for Employers With 51-100 Employees for First Two Years, up to \$1,000 per Employee Reduced by 2% for Each Employee Over 50

Credit for Automatic Enrollment

- \$500 for Three Years

Tax Cuts and Jobs Act Provisions

Expiring (End of 2025)

- SALT Cap
- Qualified Business Income Passthrough Deduction
- Employer Credit for Paid Family Medical Leave

Remaining

- 80% Net Operating Loss Provision (expires 2028)
- Bonus Depreciation (drawn down by 20% annually through 2026)
- Elimination of Corporate Alternative Minimum Tax (under \$1 billion of revenues)
- 21% Corporate Tax Rate
- Section 174 R&E Capitalization

Inflation Reduction Act

- Expanded or Extended Tax Credits for Individuals and Businesses
 - Qualifying Advanced Energy Project Credit (Sec 48C)
 - Advanced Manufacturing Production Credit (Sec 45X)
 - New Energy Efficient Home Credit (Sec 45L)
 - Commercial Building Deduction (Sec 179D)
 - Increased Research Credit Used Against Payroll Taxes
- In most cases, these credits can be sold, creating a benefit, even if a company does not currently have taxable income.
- Corporate AMT If Revenues > \$1B
- 1% Excise Tax on Share Buybacks

Election Watch

- Post-Election Fireside Chat on November 13th From 12:00 - 1:00 EST
- Discussion of Potential New and Expiring Tax Provisions



Keys Take-aways



1

Consider whether it is appropriate to review ERTC claims.

2

Analyze the effect of R&D capitalization on taxable income when tax planning.

3

Consult with your AAFCPAs partner if you think one or more expiring tax provisions will affect your business.

4

Evaluate whether adopting green energy alternatives can benefit your company.

Poll Question 2

How confident are you that tax provisions expiring at the end of 2025 will NOT affect your business?

Slides are in the Chat.





State & Local Tax (SALT) Update



Significant State Tax Developments

Corporate Tax

- PL 86-272
- Net Operating Losses
- CA Apportionment
- MA Single Sales
- SC Mandatory Combined Reporting

Sales Tax

- Digital Products and Services
- States expanding tax base
- Exempt Certificates
- Retail Delivery Fees
- SaaS Now Taxable in VT

Individual Income Tax

- TCJA- SALT Cap
- Set to expire at the end of 2025
- Could affect PTE in some states
- “Wealth” Taxes

Sales & Use Tax Audits



State Regulations



Documentation



Use Tax




Statute of Limitations



Sampling Agreements



BE PROACTIVE!



Sales & Use Tax - Construction

- Contractors are generally the end-user/consumer of TPP used in construction projects.
- Materials = taxable; Construction = exempt
- May be use tax implications
- Distinction between TPP and real property
- Contracts—Lump Sum vs. Time and Material
- Construction for exempt organizations

Local Taxes

San Francisco

Los Angeles

Chicago

Denver

Detroit



Massachusetts Tax Amnesty

- November 1, 2024 – December 30, 2024
- For Unfiled Returns, Underreported Tax, Unpaid Assessments
- Must Pay Tax and Interest
- Amnesty Request/Amnesty Eligibility

Due Diligence

- Increasing Emphasis on State Taxes
- Asset vs. Stock Sale
- Successor Liability
- SELLER: Be proactive in determining exposure and correcting SALT issues.
- BUYER: Don't let seller's mistakes become your headache. Uncover potential exposure.

Strategic Resolution and Planning

Nexus Study

Multistate SALT Analysis

State Credits & Incentives

Cost/Benefit Analysis

Due Diligence/Mergers & Acquisitions

Voluntary Disclosure Agreements

Amnesty Programs

Poll Question 3

How confident are you that your business complies in all states where it has nexus for sales and income/franchise tax?

Slides are in the Chat.





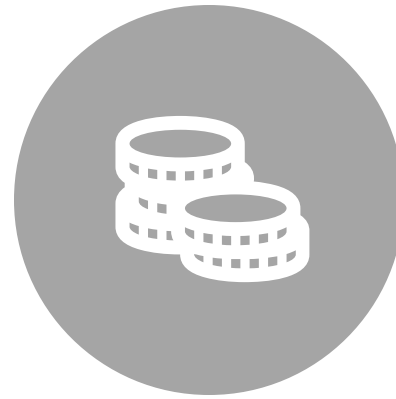
International Tax Planning & Strategy



Introduction to International Tax Planning



Importance of Tax
Planning in Cross-border
Transactions



Objectives: Minimizing
Global Tax Liability,
Avoiding Double
Taxation



Navigating U.S. and
Foreign Tax Systems

Choice of U.S. Tax Treatment

Foreign Branch

- Pass-through Taxation
- Subject to U.S. Tax
- Simplified Reporting
- Simplified TP Responsibilities

Foreign Subsidiary

- Potential Deferral of U.S. Taxes
- Subject to CFC Rules
- Complicated Compliance

Hybrid Structures: Use of Entities That Are Treated Differently in Various Jurisdictions (check-the-box regulation)





Key U.S. Tax Concepts

Worldwide vs.
Territorial Tax System:
Overview of U.S.
Hybrid Approach

Impact of Foreign
Earnings: Immediate
U.S. Taxation of Certain
Foreign Income



Double Taxation and Treaty Relief

Double Taxation Risks: Foreign Taxes vs. U.S. Taxes

Foreign Tax Credit (FTC): U.S. System For Avoiding Double Taxation

U.S. Certificate of Residency: To Claim Benefits of a Treaty

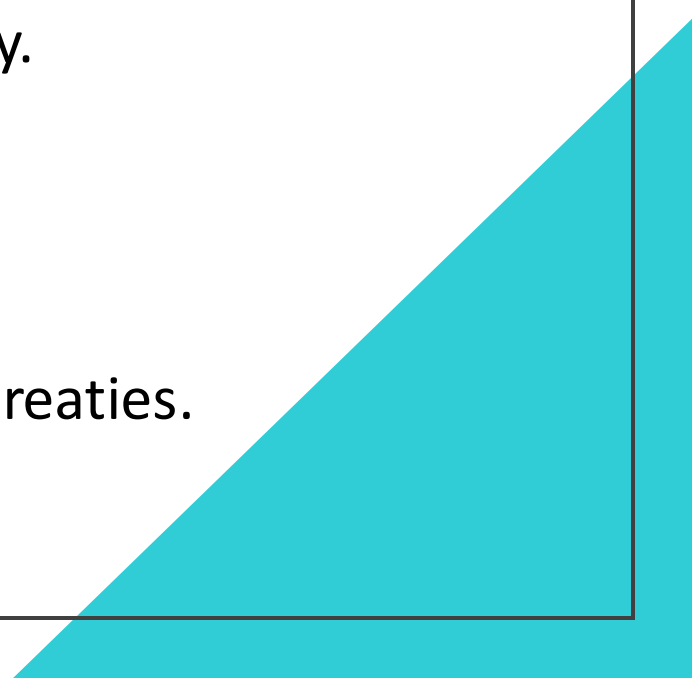
Tax Treaties: Role of Treaties in Reducing Withholding Taxes and Avoiding Double Taxation

- **Treaty Benefits:** Lower Withholding Rates, Permanent Establishment (PE) Rules
- **Treaty Shopping:** Risks and Restrictions

Importance of Transfer Pricing

- Ensures Arms-length Transactions
- Minimizes Tax Risk by Adhering to Local Regulations
- Critical to Align Transfer Pricing Policies with Actual Business Performance
- Year-end Adjustments to Correct Pricing Discrepancies Due to Market or Operational Changes
- Align Financial Outcomes with Transfer Pricing Policies
- Change TP to Utilize Tax NOLs = Clear Savings + Reduce TP Audit Risks

Permanent Establishment (PE)

- Typically based on physical presence/connection such as:
 - Fixed place of business in another country.
 - Dependent agents operating within another country.
 - Can apply in situations such as:
 - U.S. company doing business abroad.
 - Foreign company doing business in U.S.
 - PE standards differ country by country - reference any treaties.
- 



PE – U.S. Tax Implications for Foreign Businesses

- If Permanent Establishment Exists
 - U.S. Tax Return Filing Requirement
 - Taxed Based on Applicable Treaty Rates
 - FDAP/ECI/Branch Profits Tax
- Protective Return (Form 1120-F)
 - PE Exposure is Minimal and No ECI
 - Preserves Rights to Deductions/Credits (Tax on Net vs. Gross Income)
 - Begins Statute of Limitations

FinCEN Beneficial Ownership Information Reports

- **Corporate Transparency Act of 2021**
 - Beneficial Ownership: Individual who either (1) exercises substantial control or (2) maintains ownership of 25% or more of the company.
 - Reporting Company applies to all U.S. and even foreign companies registered to do business in the U.S. with some exceptions.
- **Filing Timing**
 - January 1, 2025 for businesses formed before December 31, 2023.
 - 30 days from date of formation for businesses formed after December 31, 2023.
 - No further filings unless change in beneficial ownership - then 30 days after.
- **Penalties**
 - \$500 per day, up to \$10,000 plus up to two years of imprisonment.

Other International Updates and Considerations

- Key Compliance: Forms 5471s, 5472s, 8858s, FBARs, 8938
- Penalties are significant!
- Global Intangible Low-Taxed Income (GILTI)
 - Tax rate increasing to 13.125% from 10.5% in 2026.
 - GILTI deduction decreasing to 37.5% from 50% in 2026.
- Foreign Derived Intangible Income (FDII)
 - FDII deduction decreasing to 21.875% from 37.5% in 2026.

Payments Made to Foreign Persons

- Fixed or Determinable, Annual or Periodic (“**FDAP**”) Income Paid to the Foreign Person
- Form 1042 and Form(s) 1042-S Due Annually on March 15th
- Most Types of U.S. Source Income Received by a Foreign Person Are Subject to a U.S. Tax of 30%
- A Reduced Rate, Including Exemption, May Apply if There Is a Tax Treaty Between the Foreign Person’s Country of Residence and the United States

Reportable Payment Examples

- Interest, Dividends, Royalties
- Bank Deposit Interest
- Board Members Who Are Not U.S. Person Who Attend Meetings in the U.S.
- Foreign Independent Contractors Who Perform Services in the U.S.
- Foreign Vendors For:
 - Consulting Services
 - Legal Services
 - Rents/Lease of Real Property
 - Software/License Payments
 - Royalty Payments
- Proper Documentation Required!



Key Take Aways

- **Holistic Approach:** Importance of Aligning Tax Strategies with Business Objectives
- **Global Coordination:** Consideration of Both U.S. and Foreign Tax Rules
- **Consulting With AAFCPAs:** Ensuring Compliance While Optimizing Tax Treatment
- **Stay Proactive:** A Proactive Approach Helps Avoid Penalties and Ensures a Smooth Tax Filing Process




Poll Question 4

How confident are you that your organization's international tax structure is strategically designed for optimal tax efficiency and compliance?

Slides are in the Chat.





Alleviating Year-End Stress with Clean Books and Records

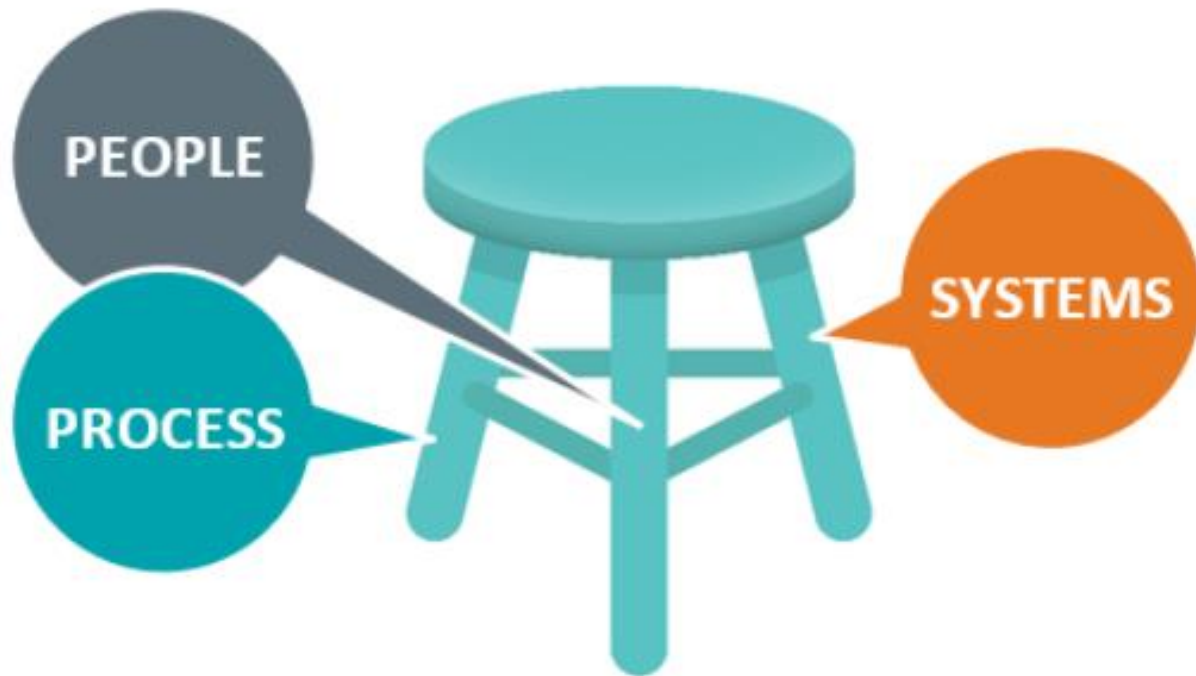


Be Prepared: Importance of Timely Record Keeping

- Effective tax planning and tax preparation requires clean and timely books and records.
- Be prepared.
 - Avoid providing your tax team with disorganized materials (e.g., shoe box of receipts).
 - Disorganized records can result in delays, causing tax preparation teams to spend more time searching for documents and verifying information.



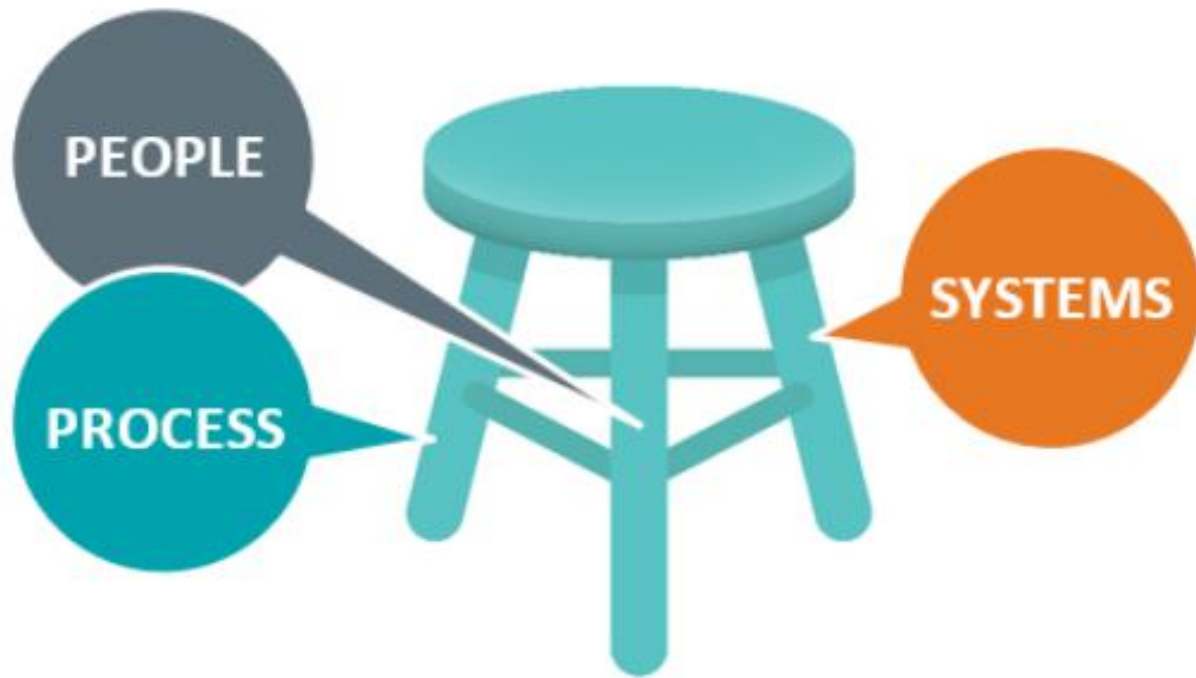
Review Current Accounting Infrastructure



Review people, processes, and systems.

- Does your team have sufficient sophistication and capacity?
- Are you facing turnover or difficulty filling roles? Now is a great time to explore solutions.
- Timeline and Close Checklist
- Ensure year-end close is complete; check with your tax CPA for crucial or technical items.

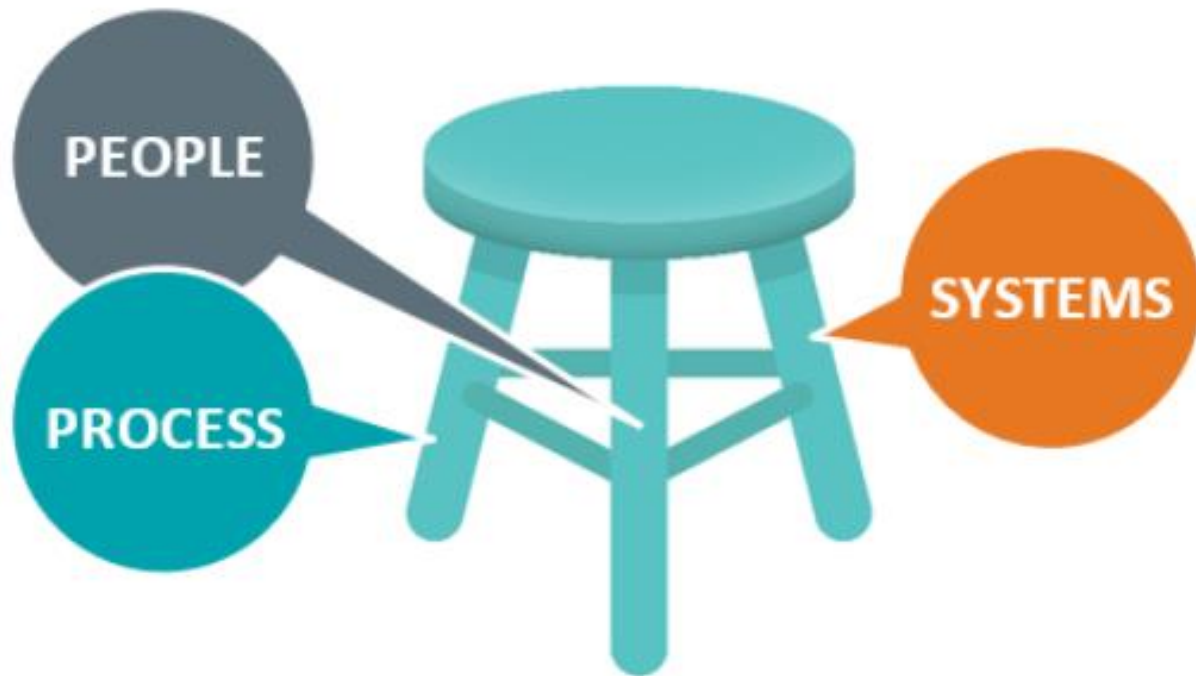
Review Current Accounting Infrastructure



Know your tax team.

- Proactively meet with your tax team. This will help ensure smooth communication and efficient handling of tax-related matters.
- Request that pertinent tax items are provided. Gain clarification on any complex requests.
- Q4 tax planning requires interim books and records to be completed.

Review Current Accounting Infrastructure



Items to consider.

- Maintain invoices and supporting documentation.
- Reconciling sales by state.
- Significant accruals and reconciliations, timing cut-off, inventory reconciliations.
- Review capacity of your accounting team; year-end is a great time to evaluate whether outsourced help may be needed.

Questions



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Upcoming Webinars: Save Your Seat

Individual/Family Tax and Wealth Preservation
October 23 | 12:00 – 1:00 PM ET

Post-Election Tax Update – Fireside Chat
November 13 | 12:00 – 1:00 PM ET

Tax Planning for Cannabis Operators
November 14 | 12:00 – 1:00 PM ET

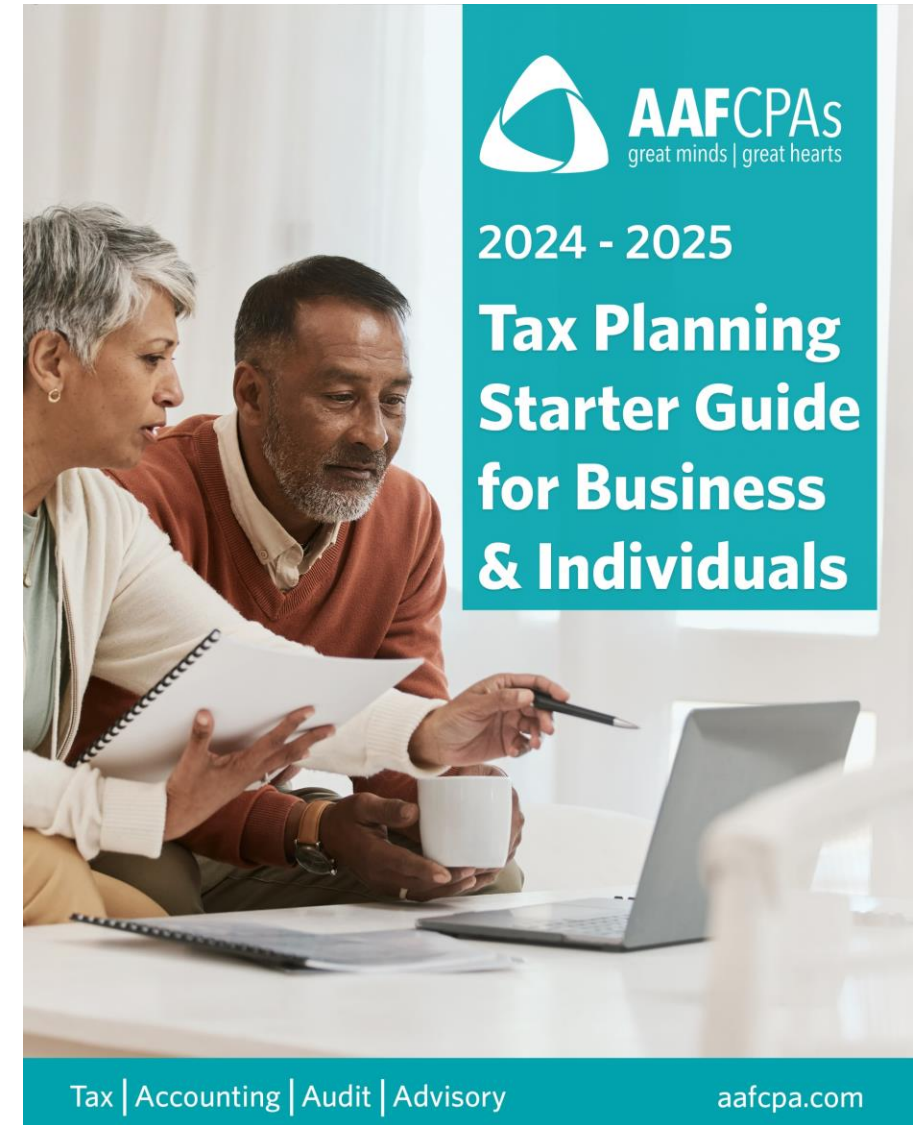
Scan to Attend



2024 – 2025 Tax Planning Guide for Businesses & Individuals

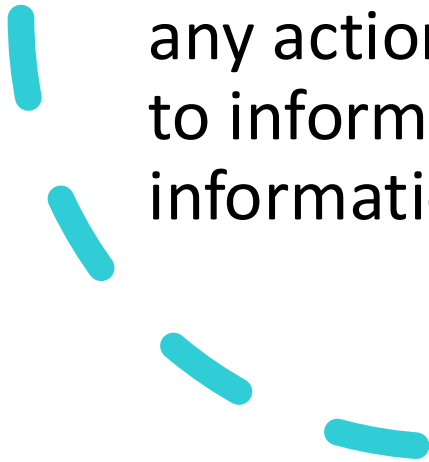
We welcome the opportunity to help you map out a tax plan that takes full advantage of all strategies available to you.

[2024-2025 Guide here.>>](#)





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Thank You!

