Get Ready to Sleigh Tax Season with Our Annual Toolkit

plus
The Rise of ESG  Family Philanthropy  Election Insight
MEET JAMES HARRIS

James Harris is a CPA working at Rently, a real estate self-touring and smart home technology firm, AND he keeps himself busy when not at work. James has been practicing Jiu-Jitsu for the last four years and is currently a blue belt. James is also Board Treasurer for a nonprofit called For Goodness Cakes which works with at-risk youth and foster agencies across the country to help children have a birthday or graduation celebration by matching volunteers to bake special cakes just for them. He's inspired by the organization's mission which aims “to give youth at least one special moment that is about them” and to help nurture optimism and confidence at a critical age.

#CPAand

Learn more about James and other CalCPA members at CPAand.com
And share your interest on Twitter or Instagram using #CPAand.
Complex Year-End and Tax Season Ahead?
Let Paychex Help Simplify It.

Year-end and tax season are critical and time-consuming. Paychex has the resources and tools you feel prepared and ready to tackle it all.

**Accountant Knowledge Center (AKC)**
Developed to help you stay up to date on information vital to year-end and tax season. Check this page frequently to answer your key business questions, increase productivity, and enhance your client relationships.

We’ve also added a new “Monthly Spotlight” section, where you’ll find links to information on current hot topics impacting your industry.

**Registered users have access to valuable resources, like:**
- Online U.S. Master Tax Guide® — authoritative tax resource
- Sales and use tax rate changes chart
- Payroll state and local withholding rules, forms, and tools
- State taxability matrices
- Federal and state employment law comparison
- Online self-study CPE courses
- Federal and state forms library and more

Find out more: [payx.me/calcpa_akc](https://payx.me/calcpa_akc)

Paychex is proud to be the preferred provider of payroll, retirement, and HR services for the California Society of CPAs members.

[CalCPA@paychex.com](mailto:CalCPA@paychex.com)

© 2022 Paychex, Inc. All Rights Reserved. | 10/25/22
9 ‘Tis the (Tax) Season
Pass-through entity tax, IRS regs and nexus ... oh, my! With tax season right around the corner, some topics have evolved, while others are seeing their first appreciable development in several years. Our annual Tax Season Toolkit has you covered on the federal and state levels.

21 The Rise of ESG
It’s no secret: Your clients are more concerned about environment, social and corporate governance (ESG). Our experts discuss how that process is developing and what it means for CPAs.

25 Pay it Forward
From giving to our scholarship funds to serving on nonprofit boards, there’s no doubt CalCPA members take seriously the “Public” in the title, “Certified Public Accountant.” Read what previous winners of our service awards have to say about the importance of giving back and what it means to them.

31 Family Philanthropy
For parents and grandparents looking to transfer values to future generations and create a lasting legacy, family philanthropy can’t be beat.

“Family philanthropy is not limited to the wealthiest families with private foundations.”

28 Accounting Pride
29 Relief From Proposed RMD Regs
30 Election Recap
It’s Every Voice Matters

If you’ve been involved with CalCPA for any length of time, you’ve likely heard members and staff describe us as a community.

It’s an appropriate description, I believe, when you consider definitions of “community” include ideas like “a unified body of individuals” invested in each other’s success and “a feeling of fellowship with others, as a result of sharing common attitudes, interests and goals.”

Communities have a shared identity. Shared purpose. Common objectives. Interactions. These are all things CalCPA works to build because we know they are among the keys to our success, and your success—which is always top of mind. There is strength in community, and one of the areas where we see that shine brightest is CPA Day.

Bills are introduced during each legislative session that impact you, your clients or your employer, and CPA Day is an opportunity for you to add your voice and CPA perspective to discuss with legislators the issues facing the profession and the greater business community in California.

These meetings go a long way toward establishing relationships within CalCPA and with members of the Legislature. Our efforts in this area are most effective when legislators sit face-to-face with someone—like you—who is directly affected by a specific issue. You can share your story, bringing to life the impact legislation has or will have on “main street.”

As we build out what CPA Day will look like on Jan. 18, be sure to save that date and watch for updates and registration details. Never participated in CPA Day before? No problem. We have you covered and will provided all the info and talking points you’ll need.

Why do we stress participation in CPA Day and encourage members to engage in the process? Because along with the characteristics of community mentioned earlier, there’s another that we especially value: Variety of voices.

While, as a community, we may have a unified purpose of promoting the CPA profession and a shared identity as CPAs and financial professionals, within those there is diversity. Diversity of background. Diversity of thought. Diversity of experiences. Tapping into as many of those voices as possible so they are heard, respected and matter is key to ensuring our community and profession thrive.

So the more members we have participating the more voices—the more perspectives—we’re able to bring to our CPA Day meetings and other professional issues.

We’re all working toward the same goals—and we each have something unique to offer to accomplish those goals. Join us and lend your voice. You won’t be disappointed.
CoraCloud
Practice Management Made Simple

Designed for Accountants, Tax Professionals, and Business Owners.

STOP CHASING CLIENTS
Automate your workflows, tasks, and client interactions with CoraCloud.

Features include:
- Document Management
- Task Management
- Workflow Management
- Task Organizer and CoraAssistant
- Unlimited eSignatures
- Time Tracking
- Billing Reports
- & more!

Features accountants and tax professionals need to run their business processes efficiently, for one price!

SCAN ME
To access your 30 day trial

Follow Us @CoralTreeTech

Cost-effective, all-in-one practice management solution for accountants.

Learn more about CoraCloud & schedule a demo at www.coraltreetech.com/coracloud
"We know that increasing audit quality boosts confidence in the credibility of financial reporting, which supports capital formation and is good for everyday investors."
—PCAOB Chair Erica Y. Williams

**Survey Says:**

**Cryptoconcerns**

When asked about their comfort level with cryptocurrency in 2022:

- **21%** of Americans had some level of comfort, compared to 35% in 2021.
- **29%** of Millennials were “very comfortable” or “somewhat comfortable,” compared to 49% in 2021.
- **21%** of Gen X had comfort, compared with 37% in 2021.
- **11%** of Baby Boomers had comfort, compared with 21% in 2022.

—Bankrate

**Want to Serve on a State Committee?**

Share your expertise, passion and leadership by applying to serve on one of CalCPA’s state committees. At-large committee members with expiring terms must re-apply and this does not apply to chapter representatives. Applications are due on Dec. 31 and appointments will be finalized in January/February, with terms beginning May 1.

Find out more at community.calcpa.org/s/application-forms-list.

**the numbers**

**40%**
The number of people who say the Federal Reserve’s rate hikes will affect their travel plans this winter.
—Wallet Hub

**$146**
The monthly average Social Security cost-of-living adjustment starting in January.
—Social Security Administration

**80%**
The number of organizations that have experienced a security incident on a cloud platform during the past 12 months.
—Venafi

**15,000+**
The number of public company audits reviewed by the PCAOB since its founding.
—PCAOB

**45%**
The number of Americans earning $100,000 or more who said they were living paycheck to paycheck.
—PYMNTS

**8 in 10**
The number of companies that have added new perks in response to the challenging hiring market.
—Robert Half
Congratulations to Nathan Choy, the 2021-22 recipient of the CalCPA John F. Forbes Award for earning the highest score on the 2021 Uniform CPA Exam in California. A graduate of The Master’s University in Santa Clarita, Choy is with Ernst & Young Los Angeles.

Choy also was among seven in California to earn the AICPA’s 2021 Elijah Watt Sells Award for being the top CPA Exam performers in the state. The other winners include Joshua Cho and Ariadna Rodriguez Villamizar (both CalCPA members) and Kyle Crews, Bryan Endsley, Gabriel Galanti and Dennis Jeong.

Everyone likes to be found by new clients. And CalCPA's redesigned and relaunched Find a CPA does just that for you.

To help position our members as premier providers of accounting and tax information, and generate new clients or referrals, our Find a CPA free online directory—findcpa.calcpa.org—allows the public to search for a CalCPA member who best meets their financial and business needs.

Visitors can customize the search by location, type of services offered, industries served and languages spoken.

Should someone from the public wish to contact you via the directory, requests are first vetted by CalCPA staff to ensure legitimacy before arriving in your inbox.

To be listed in Find a CPA or to review and update your information, simply visit your account by logging in to the CalCPA website (community.calcpa.org/s/login), click Edit Profile, then My CPA Profile.

Thank you for taking part in this program to help advance you and the profession.
The Orange County Business Journal named Gordon MacLean, a partner at RJI CPAs, among its OC500 … Women We Admire named Shannon Nash to its list of Top 50 Women Leaders in Finance … CPA Practice Advisor named Matthew Martin one of its 40 Under 40 Award winners … The Silicon Valley Chapter of the Association of Fundraising Professionals named Robert Raffo, assurance and advisory partner at Hood & Strong, winner of its Distinguished Volunteer Fundraiser Award … Mary Kay Foss received the Jonathan Horn Distinguished Service Award for her outstanding current contribution to the AICPA Tax Division.

MEMBERS IN THE NEWS
The Journal of Accountancy featured Gil Vasquez in an Oct. 7 article … NBC Bay Area quoted Larry Pon in an Oct. 7 story on penalty fees. Pon also was quoted in an Oct. 9 MSW article on saving for a home down payment, an Oct. 10 Financial Advisor article on pandemic payroll tax breaks and an Oct. 13 MarketWatch article on electric vehicle tax breaks … the Wall Street Journal quoted Lou Barberini in an Oct. 10 article on required minimum distributions … The Santa Rosa Press Democrat quoted Keith West in an Oct. 11 article on inflation relief checks … CPA Trendlines quoted Blake Christian in an Oct. 12 article about new tax opportunities in real estate … CNBC quoted Dan Herron in an Oct. 15 article on electric vehicle tax credits … Yahoo Finance quoted Annette Nellen in an Oct. 20 article on tax refunds after inflation adjustments. Financial Advisor also quoted Nellen in an Oct. 20 article on the same topic … AARP quoted Rob Seltzer in an Oct. 20 article on IRS inflation-adjusted changes … The North Bay Business Journal quoted Jon Dal Poggetto, James Elliott and Daniel Novak in an Oct. 25 article on what recent federal tax law changes mean for businesses … MarketWatch quoted Larry Pon and Rob Seltzer in an Oct. 28 article on inflation's toll on Americans' finances. 📊

Lower your shipping costs. Not your expectations.

CalCPA Members save up to 50%* on UPS® small package shipping services that include enhanced protection through UPS Capital® Insurance Agency, Inc.

To learn more and start saving:

Call: 1-800-MEMBERS (636-2377)
Visit: www.savewithups.com/calcpa

*Terms Apply.
With CCH Axcess™ Client Collaboration, you now have a single platform to collaborate with your clients regardless if they have an individual return, a business return, or both! This secure, personalized platform offers a straightforward process for firms and their clients to manage all tax workflows — ensuring no one is left guessing what to do next.

Frictionless Collaboration.
New Features and Enhancements.
Improved Profitability.

With CCH Axcess™ Client Collaboration, you now have a single platform to collaborate with your clients regardless if they have an individual return, a business return, or both! This secure, personalized platform offers a straightforward process for firms and their clients to manage all tax workflows — ensuring no one is left guessing what to do next.

Award-Winning Cloud Collaboration

With several new features, CCH Axcess Client Collaboration saves clients time and frustration with a single location for all of their tax engagements. Find out all the benefits of leveraging CCH Axcess Client Collaboration.

'tis Tax the Season
Updates and Changes
In the following, you’ll find details on income tax perspectives, income tax credits, disaster loss deductions, as well as an item discussing an important development related to unclaimed property enforcement.

Income Tax Perspective
There are updates or updated guidance for some tax rules, including the elective pass-through entity tax, suspension or limitation of certain attributes, and nexus considerations.

Elective Pass-through Entity Tax
California enacted an elective pass-through entity (PTE) tax regime in 2021. The election is administered by the Franchise Tax Board (FTB) and can be an avenue for qualifying taxpayers to mitigate the tax impact of the federal $10,000 cap on the deductibility of taxes imposed at the state and local level by shifting the incidence of tax off individual partners or shareholders and onto the PTEs themselves.

On Feb. 9, Gov. Gavin Newsom signed CA Senate Bill 113 (SB 113), which expanded the definition of a qualified taxpayer in Section 17052.10(b)(3)(b) of the California Revenue and Taxation Code to also include:

- PTEs with one or more owners that are partnerships
- Disregarded limited liability companies owned by individuals

The legislation also adopted the following modifications to the PTE tax, which may be favorable to certain taxpayers:
- Guaranteed payments, as defined by Internal Revenue Code (IRC) Sec. 707(c), qualify for inclusion in the income base for the PTE tax credit
- Credit for PTE tax paid and passed through to owners may reduce their regular tax below tentative minimum tax for taxable years beginning on or after Jan. 1, 2021
- PTE tax credit to be applied after applying credits for taxes paid to other states for tax years beginning on or after Jan. 1, 2022

Keep an eye on the FTB site (ftb.ca.gov/file/business/credits/pass-through-entity-elective-tax/index.html) for more information and updates.

Net Operating Loss Suspension
Assembly Bill 85 (AB 85), which was signed into law in 2020, suspended the utilization of NOLs (mossadams.com/articles/2020/06/california-assembly-bill-85)—for both corporate and individual taxpayers with taxable income of more than $1 million—for tax years beginning Jan. 1, 2020, and ending on or before Dec. 31, 2022. SB 113 decreased that suspension period by one year, making the suspension applicable for tax years beginning on or after Jan. 1, 2020, and before Jan. 1, 2022.

The state’s general 20-year NOL carryforward may be extended by taxpayers impacted by the NOL suspension for up to three years if the losses can’t be used due to the NOL suspension.

One potential ramification of NOL deductions is the possibility of owing alternative minimum tax (AMT) due to an existing limitation on using NOLs when computing AMT.

Business Tax Credit Limitation
SB 113 also removed the former limitation on the use of business tax credits to offset a maximum of $5 million of tax for tax year 2022. AB 85 had originally placed said limit on the use of business tax credits for tax years 2020-22.

Nexus
For California income tax purposes, doing business is defined as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

Economic-Nexus Thresholds
For the taxable year beginning on or after Jan. 1, 2021, a taxpayer is seen as doing business in California for a taxable year if any of the following conditions are satisfied:

- The taxpayer is organized or commercially domiciled in California;
- The taxpayer’s California sales exceed the lesser of $637,252 or 25 percent of total sales;
- The taxpayer’s real property and tangible personal property in California exceed the lesser of $63,726 or 25 percent of total real property and tangible personal property; or
• The taxpayer’s compensation amount paid in California exceeds the lesser of $63,726 or 25 percent of total compensation paid. The doing business thresholds for taxpayers are indexed for inflation and revised annually.

Public Law (PL) 86-272
Federal PL 86-272 protects businesses from state taxes based on net income where the business’s contact with a state doesn’t exceed the solicitation of sale of tangible goods.

As such, if a potential taxpayer’s only physical connection with a state is the delivery of goods to in-state customers, they would be protected against income taxes. This, however, doesn’t extend to gross receipts, franchise, or net worth taxes. In 2021, the Multistate Tax Commission (MTC) adopted revised guidance to its interpretation of the application of PL 86-272 related to the online and digital economy. In February 2022, California issued a Technical Advice Memorandum (TAM) aligned with the MTC’s guidance.

MTC Guidance
MTC guidance states that a business whose customer is using the business’s website in the customer’s home state is an activity of the business in the customer’s state. The guidance then describes the protections of PL 86-272 in this context.

The MTC’s guidance concludes that most activities performed remotely over the internet, such as interactive chat and email features, could exceed the protections of PL 86-272, which could vitiate the business’s protection under it, unless those activities directly serve a sales purpose, such as the solicitation of an order of tangible personal property (TPP). So, the MTC’s guidance significantly limits the application of PL 86-272.

TAM 2022-01
By adopting this guidance, California mandated that both in-state and out-of-state businesses analyze their website and online activities when assessing whether they’re subject to tax.

What Exceeds the Protections?
The FTB hasn’t provided a comprehensive list of activities that exceed the protections of PL 86-272. It has, however, advised that the following activities exceed those protections:

- A non-sales employee telecommuting from within California.
- Post-sale assistance to California customers via email or chat initiated from the business’s website.
- Solicitation from California applicants of online applications for a branded credit card via the business’s website (not a bank’s) if that business will ultimately receive fees and interest from the card.
- Solicitation from California applicants of employment applications for non-sales positions.
- Use of internet cookies on California customers’ computers to gather actionable business intelligence that isn’t for the purpose of facilitating that customer’s order.
- Remote repair or upgrading of a product in California via the internet.
- The offering for sale of extended warranty plans to California customers via the internet.

- Use of a marketplace facilitator that maintains inventory in California if that inventory includes at least some of the business’s products.
- Streaming of videos and music into California for a charge.

What Doesn’t Exceed the Protections?
Websites used by California customers generally don’t exceed the protections of PL 86-272 if they don’t offer non-TPP and the business doesn’t engage in any other California business activities. Websites also may not exceed the protections provided by PL 86-272 if only used to:

- Search for items
- Read product descriptions
- Select items for purchase
- Choose delivery options
- Request to buy items

Cookies on a customer’s computer don’t disqualify a business from protections if they’re only used in California by that business to:

- Remember items in a cart
- Store customer information so it doesn’t need to be re-entered
- Remind customers of items they previously considered

Notably, California’s TAM states that merely posting static FAQs on the business website, even if California customers access that information, stays within the law’s protections.

Application to Outbound and Inbound Transactions
The TAM applies the same standards to outbound and inbound transactions and speaks broadly in terms of destination state and origin state, rather than limiting itself to California specifically. This suggests California’s guidance on the applicability of PL 86-272 could be beneficial for certain businesses and detrimental to others.

For example, by removing the protections provided by PL 86-272 on goods shipped from California, a corporate taxpayer could reduce its California apportionment factor by reducing its California-sourced throwback receipts. Alternatively, by removing the protections provided by PL 86-272, an out-of-state taxpayer could have a filing obligation in California.

Although not explicit, the TAM may be applied retroactively. As such, the application of this new guidance could, depending on a business’s fact pattern, either reduce its California tax expense or result in an unreported tax liability.

California’s Interpretation
The application of PL 86-272 to a specific set of facts is a complex undertaking and is subject to uncertainty.

The TAM outlines California’s interpretation of a federal law, and it may or may not align with the intent of the U.S. Congress. Its interpretation of a federal statute is unlikely to be given the same weight as an interpretation of the state’s own statute.

However, taxpayers that have historically claimed they don’t have an income tax filing obligation in California because of the protections provided by PL 86-272 should re-examine their activities to determine if that still applies considering the new guidance.
Earned Income Tax Credit
In 2018, the California Earned Income Tax Credit (EITC) was extended to help low-income taxpayers. In 2019, AB 91 raised the maximum eligible amount of earned income to $30,000. The bill also added a refundable young child tax credit of up to $1,000 per qualified taxpayer, per taxable year.

For tax year 2021, the FTB published a bulletin addressing recent changes to qualification criteria and outlining a process to claim it for taxpayers who became eligible for the credit.

The FTB's webpage (ftb.ca.gov/file/personal/credits/california-earned-income-tax-credit.html) details credit amounts, income limits, qualifications and additional information.

Out-of-State Tax Credit
SB 113 also changed the ordering of when California income tax credits would be applied, such that the out-of-state tax credit (OSTC) would be claimed before the PTE tax credit.

However, the legislation didn’t change how the OSTC would be calculated in conjunction with the PTE tax. On Sept. 28, Gov. Newsom signed SB 851, a bill to fix a tax credit calculation limitation that arose with the California elective PTE tax.

The OSTC is calculated as the lesser of either:
• California tax liability multiplied by the other state sourced income divided by California AGI, or
• The amount of income tax paid to the other state(s).

California tax liability, prior to the enactment of SB 851, meant the taxpayer’s California tax liability without reduction for the OSTC, but after reduction of all other credits, including the PTE tax credit. This meant that prior to the enactment of SB 851, many California taxpayers that opted into the PTE tax, and had income tax liabilities in other states, would receive no OSTC because the PTE tax credit absorbed their entire California tax liability.

SB 851 Changes
For tax years beginning on or after Jan. 1, 2022, and prior to 2026, SB 851 fixes the above issue. Under the legislation, for purposes of computing the OSTC, the taxpayer’s amount of net California tax subject to the OSTC will be increased by the amount of PTE tax credit claimed during the taxable year.

As a result, the chances of double taxation on the same income should be reduced for California resident taxpayers and residents of reverse credit states such as Arizona and Oregon. Notably, this legislation doesn’t apply for tax years beginning in 2021, the first year the California PTE tax election was in effect.

Interest Rates
Effective Jan. 1, 2022, the FTB pays 0 percent interest on corporate overpayments. This rate is effective through Dec. 31, 2022.

The interest rate for personal income tax (ftb.ca.gov/pay/penalties-and-interest/interest-and-estimate-penalty-rates.html) underpayments and overpayments, corporation underpayments, and estimate penalties is 3 percent. This rate is effective through Dec. 31.

For interest rates after Dec. 31, the FTB will provide more information on its website (ftb.ca.gov/pay/penalties-and-interest/interest-and-estimate-penalty-rates.html) as it becomes available. Historic interest rates can also be found on the same site.

Disaster Loss Deductions
California taxpayers may deduct losses in any president- or governor-declared disaster area.

In this regard, the state generally follows federal law regarding the treatment of losses incurred as a result of a casualty or disaster (ftb.ca.gov/file/business/deductions/disaster-loss.html), though relevant nonconforming provisions still apply.

Extended Deadlines
The FTB automatically follows the IRS’s extended deadlines to file or pay taxes until the date indicated for the specific disaster.

Taxpayers should write the disaster name in dark ink at the top of their tax return to alert the FTB of the disaster to which the return is related.

Additional Designated Areas
The IRS disaster relief webpage (irs.gov/newsroom/tax-relief-in-disaster-situations) lists additional designated areas eligible for a postponement period.

If a taxpayer qualifies for the postponement period, any interest, late-filing, or late-payment penalties that would otherwise apply will be canceled. The FTB also will follow these stipulations.

Other 2021 & 2022 Disasters
Taxpayers may deduct a disaster loss sustained in a California city or county where the governor declares a state of emergency.

The list of California Qualified Disasters on the FTB website (ftb.ca.gov/file/business/deductions/disaster-codes.html) was published on Sept. 30.

Visit the FTB website and Publication 1034, Disaster Loss How to Claim a State Deduction (ftb.ca.gov/forms/misc/1034.pdf), for more information regarding California disaster losses.

Unclaimed Property
Tax professionals may have noticed a new set of questions on their business entity clients’ income tax returns. Specifically, California is now inquiring as to whether corporate and pass-through entities have filed unclaimed property (mossadams.com/articles/2022/02/unclaimed-property-on-business-tax-returns) reports with the state and, if so, when the last reported was filed.

Financial assets left inactive by a legal owner beyond a set deadline—which varies depending on the property type—are transferable to the state. This can include unclaimed checks, refunds, annuities, or security deposits.

For some taxpayers, these assets can accumulate and remain on financial records for several years even after they should have been reported, and paid over, to the state to administer on behalf of the public using a unified search tool. A historically under-reported area of tax law across all states, unclaimed property is now in California’s sights as an area to promote increased compliance.

In connection with this change, California has established a program to encourage compliance by otherwise-delinquent taxpayers by offering an opportunity to mitigate the potential impact associated with failing to report unclaimed property from prior periods.

Voluntary Compliance Program
Gov. Newsom signed AB 2280 into law on Sept. 13. The bill authorizes the state controller to:
• Establish the California Voluntary Compliance Program (VCP) (mossadams.com/articles/2022/09/unclaimed-property-law-amended-bill).
• Waive the 12 percent interest payable for untimely unclaimed property reports for certain qualifying taxpayers.
Interest Limits and Waived Payments
This new law authorizes the limitation of interest payable by a holder to $10,000 if a holder files an unclaimed property report that's not in substantial compliance with statutory requirements both:
- After the initial report and
- Before the payment or delivery for property that may not be subject to escheat.

It also authorizes the controller to waive the interest payable if the holder's failure with the report is due to a reasonable cause.

The controller can also waive the interest payable if an eligible holder participates and completes all the requirements of the VCP.

Eligibility
A holder that hasn't reported unclaimed property can request to enroll in the program using a form prescribed by the controller.

The controller, at their discretion, can enroll eligible holders in the program.

Ineligibility
Some holders are ineligible for enrollment in the VCP. A holder is ineligible for enrollment if, at the time the holder's request to enroll is received by the controller, the holder is subject to:
- An examination of records or has received notification from the controller of an impending examination.
- A civil or criminal prosecution involving compliance with California Unclaimed Property Law.

Additionally, holders are ineligible if the controller:
- Notified the holder of interest due within the previous five years and the interest remains unpaid at the time of the holder's request to enroll. A holder subject to an outstanding interest assessment may file or refile a request to enroll after resolving the outstanding interest assessment.
- Waived interest assessed against the holder within the previous five years. If a holder acquired or merged with another entity within the five-year period, the holder may request to enroll in the program to resolve unclaimed property that may be due as a result of the acquisition or merger.

Disclosure of Records
The Unclaimed Property Division won't require the disclosure of records and information provided to the controller's office related to statements of personal worth or financial data, or related to personal information, as defined by Section 1798.3 of the Civil Code.

Next Steps
Federal tax changes and related conformity requirements continue to impact California taxpayers in addition to the changing landscape of business and everyday life. As the state continues to expand, evolve, and respond to these challenges, please contact your business advisor with any questions.

Nick West provides state and local consulting and compliance services for income and franchise taxes matters, as well as sales and use tax issues. You can reach him at nick.west@mossadams.com. Ossie Ravid specializes in state and local tax. You can reach her at ossie.ravid@mossadams.com.

Assurance, tax, and consulting offered through Moss Adams LLP ISO/IEC 27001 services offered by Cadence Assurance LLC, a Moss Adams company. Wealth management offered through Moss Adams Wealth Advisors LLC.

Federal Tax Update
—BY STUART R. JOSEPHS, CPA

2022 Inflation Reduction Act
On Aug. 12, 2022, Congress passed the 2022 Inflation Reduction Act (the “Act”) which the President subsequently signed into law. Selected highlights follow.

Corporate Alternative Minimum Tax (AMT)
For tax years beginning after 2022, this tax equals 15 percent of a corporation's “adjusted financial statement income” for the tax year, reduced by the corporation's AMT foreign tax credit.

However, the tax only applies to corporations with average annual adjusted financial statement income exceeding $1 billion for the three preceding tax years. This threshold is reduced to $100 million for certain foreign-owned corporations. Some exceptions also apply in determining an applicable corporation if ownership changes or there is a consistent reduction in income.

"Adjusted financial statement income" is the net income (or loss) a corporation discloses in its applicable financial statement to determine when to include income for tax purposes, with various adjustments, such as for consolidated returns or certain foreign income.

Corporations engaged in specified manufacturing activities and corporate subsidiaries of private equity companies are exempt from this AMT.

Stock Repurchases
A 1 percent excise tax is imposed on stock repurchases after 2022 by domestic corporations whose stock is traded on an established securities market. A repurchase is a redemption—or any other transaction that is determined to be economically similar to a redemption.

This tax also applies to the purchase of stock of a specified domestic affiliated corporation—which is a corporation more than 50 percent of the capital owned (by voting power or value) by the purchasing corporation, or a partnership where the purchasing corporation owns more than 50 percent of the capital or profits interest.

The tax also applies to certain purchases of stock of a foreign affiliate.

Excess Business Losses
The Act extends the excess business loss limitations for partnerships and S corps. through 2028.

Research Credits
For tax years beginning after 2015, certain qualified small businesses can claim a limited amount of the research credit against their payroll taxes. For tax years beginning after 2022, the Act increases this limitation from $250,000 to $500,000.

Renewable Electricity Credit
The Act extends the credit for electricity produced from certain renewable resources through 2024.

An increased credit can be claimed if an entity satisfies certain workforce and wage requirements in the construction or operation of the pertinent facility.
Energy Investment Credit
This credit is extended through 2024, with workforce and wage requirements similar to renewable electricity credit.
An enhanced credit is available for solar facilities placed in service in low-income communities.

Elective Direct Payments
Instead of a tax credit, entities can elect to claim a direct payment for specified energy projects. The credits eligible for direct payment include:
• Alternative fuel refueling property; 
• Renewable electricity production; 
• Carbon oxide sequestration; 
• Energy investment; and 
• Qualifying advanced energy project.
A penalty applies if the taxpayer receives a greater direct payment than the credit which the taxpayer is entitled to.

Residential Energy Credits
The nonbusiness energy property credit, which expired Dec. 31, 2021, is modified and extended through 2032. This credit applies to:
• Energy efficient windows and doors; and 
• Certain HVAC systems and heat pumps.
The credit’s lifetime maximum is replaced with a $1,200 annual limit.
The residential energy efficient property credit, renamed the clean energy credit, is extended through 2034.

Clean Vehicles
The credit for the purchase of clean vehicles, is extended through 2032, with modifications. Clean vehicles include:
• Plug-in electric vehicles; and 
• Fuel cell vehicles.
The Act eliminates the current credit’s limitation on the number of vehicles produced by a specific manufacturer. However, the Act imposes sourcing requirements on the critical components of the vehicle and battery systems. The maximum credit continues to be $7,500, but includes limitations on income and on the manufacturer’s suggested retail price.
A new credit, up to $4,000, is available through 2032 for the purchase of a previously-owned clean vehicle—subject to income limitations.
The Act also provides a new credit up to 30 percent of the basis of a qualified commercial clean vehicle acquired after 2022 and before 2033.

Additional Energy Credits
Generally, the Act contains the following new credits to encourage the green energy industry’s growth:
• A credit for sustainable aviation fuel sold or used after 2022; and 
• A credit for the production of clean hydrogen after 2022.

Other Modified & Extended Energy Incentives
The Act modifies and extends the following existing credits and deduction:
• The carbon oxide sequestration credit is modified and extended through 2032; 
• Credits for the following fuels are modified and extended through 2024: 
  • Biodiesel;
  • Renewable diesel; and 
  • Alternative fuel; and 
• Alternative fuel mixtures;
• The second generation biofuels credit is extended through 2025;
• The new energy efficient home credit is modified and extended through 2032;
• The alternative fuel refueling property credit is increased and extended through 2032; and 
• The energy efficient commercial buildings deduction is modified for tax years beginning after 2022.

Required Minimum Distributions (RMDs)
IRS notice 2022-53 (IRB2022-44, Oct. 31, 2022, released Oct. 7, 2022), announced that the Treasury Department and the IRS intend to issue final regulations regarding RMDs under IRC Sec. 401(a)(9) that will apply not earlier than the 2023 distribution calendar year.
This Notice also provides favorable guidance on certain Sec. 401(a)(9) provisions that apply for 2021 and 2022.
For more information, see this month’s Fed Tax Column, Page 29.

Standard Mileage Rates
The standard mileage rates for travel from July 1, 2022, through Dec. 31, 2022, has been increased as follows

<table>
<thead>
<tr>
<th>New Rate Per Mile</th>
<th>2023</th>
<th>2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business use of an automobile</td>
<td>$0.625</td>
<td>$0.625</td>
</tr>
<tr>
<td>Deductible medical travel</td>
<td>$0.22</td>
<td>$0.22</td>
</tr>
<tr>
<td>Deductible travel for moving by active-duty members of the U.S. Armed Forces</td>
<td>$0.22</td>
<td>$0.22</td>
</tr>
</tbody>
</table>

The standard mileage rate for automobile use for deductible charitable purposes continues to be $0.14 per mile.

Social Security Tax
The maximum amount of earnings subject to the Social Security tax will increase from $147,000 for 2022 to $160,200 for 2023.

Other 2023 Inflation Adjustments
In Rev. Proc. 2022-38 (IRB 2022-45, Nov. 7, 2022), the IRS has adjusted the following items for inflation for 2023. (Figure 1)

More 2023 Inflation Adjustments: Retirement Accounts
IRS Notice 2022-53 (IR-2022-188, Oct. 21, 2022) prescribes the following 2023 inflation adjustments regarding retirement accounts:

<table>
<thead>
<tr>
<th>2023</th>
<th>2022</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum limit on employee contributions to Sec. 401(k) and similar retirement plans</td>
<td>$22,500</td>
</tr>
<tr>
<td>Maximum additional “catch-up” contributions to Sec.401(k) and similar retirement plans for employees age 50 and over</td>
<td>$7,500</td>
</tr>
<tr>
<td>Maximum limit on IRA contributions</td>
<td>$6,500</td>
</tr>
<tr>
<td>Maximum additional “catch-up” contribution to IRAs for individuals age 50 or older</td>
<td>$1,000</td>
</tr>
</tbody>
</table>

The income thresholds are increased for 2023, which determine whether individuals are eligible to make deductible IRA contributions, Roth IRA contributions or claim the retirement savings contributions credit (under Sec 25B). Notice 22-55 also contains additional retirement-related inflation adjustments.
Standard Deduction:  
- Married filing jointly: $27,700 (2023) vs. $25,900 (2022)
- Single individuals or married filing separately: $13,850 (2023) vs. $12,950 (2022)

Additional Items:  
- Maximum monthly benefit for tax-free public transit and parking costs: $300 (2023) vs. $280 (2022)
- Maximum contribution to healthcare flexible spending account: $3,050 (2023) vs. $2,850 (2022)
- Maximum earned income tax credit for qualifying taxpayer with three or more children: $7,430 (2023) vs. $6,935 (2022)
- Estate and gift tax basic exclusion amount: $12,920,000 (2023) vs. $12,060,000 (2022)
- Annual gift tax exclusion: $17,000 (2023) vs. $16,000 (2022)

Income Tax Brackets:  
- Taxable Income Over  
  - Married Filing Jointly  
    - Tax Rate (Percent)  
      - 10: $0 (2023) vs. $0 (2022)
      - 12: $22,000 (2023) vs. $20,550 (2022)
      - 22: $89,450 (2023) vs. $83,550 (2022)
      - 24: $190,750 (2023) vs. $178,150 (2022)
      - 32: $364,200 (2023) vs. $340,100 (2022)
      - 35: $462,500 (2023) vs. $431,900 (2022)
      - 37: $693,750 (2023) vs. $647,850 (2022)

- Single Individuals  
  - Tax Rate (Percent)  
    - 10: $0 (2023) vs. $0 (2022)
    - 12: $11,000 (2023) vs. $10,275 (2022)
    - 22: $44,725 (2023) vs. $41,775 (2022)
    - 24: $95,375 (2023) vs. $89,075 (2022)
    - 32: $182,100 (2023) vs. $170,050 (2022)
    - 35: $231,250 (2023) vs. $215,950 (2022)
    - 37: $578,125 (2023) vs. $539,900 (2022)

**S Corps**

Rev. Proc. 2022-19 (IRB 2022-41, Oct. 11, 2022) provides corrective relief procedures allowing taxpayers, in some situations, to retroactively preserve S elections that are invalid or terminated solely because of certain non-identical governing provisions. A non-identical governing provision is one that, on its own or as part of another governing provision, causes the corporation to have more than one class of stock. Consequently, the corporation loses its S status.

The IRS will no longer issue private letter rulings (PLRs) regarding certain principal purpose determinations concerning the one class of stock requirement or comfort rulings on certain S corp. and QSSub (qualified Subchapter S subsidiary) election issues.


**Transition Rules**

If a taxpayer has a PLR request regarding a non-identical governing provision that is postmarked (or if not mailed, received by the IRS) after Oct. 11, 2022, the taxpayer has 45 days to notify the Associate Chief Counsel (Passthroughs and Special Industries) of its decision to either:

- Rely on Rev. Proc. 2022-19, withdraw its PLR request and receive a refund of its user fee; or
- Continue its PLR request.

A taxpayer that fails to notify the IRS is deemed to continue the PLR request.

**Research Credit Refund Claims**

On Sep. 30, the IRS announced an extension, through Jan. 10, 2024, of the 45-day transition period for taxpayers perfect research credit refund claim before the IRS makes a final determination on these claims.

**Preparer Tax Identification Numbers**

The IRS announced that it is new PTIN renewal season for 2023 and that there is a $30.75 non-refundable renewal fee for 2023 PTINs 2022 PTINs expire Dec. 31.

**Penalty Relief: IRS Guidance for Employers Claiming Employee Retention Credit**

IR-2022-89, released April 18, states that the Treasury Department and the IRS received requests from taxpayers and their advisers for relief from penalties arising when additional income tax is owed because an eligible employer’s deduction for qualified wages is reduced by a retroactively claimed employee retention credit (ERC), but the taxpayer cannot pay the additional income tax because the ERC refund has not yet been received.

Based on applicable law, IRS guidance requires an employer to reduce its income tax deduction for the ERC qualified wages by the ERC for the tax year in which such wages were paid or incurred.

Taxpayers who claimed the ERC retroactively and filed an amended income tax return, reducing their deduction for the ERC qualified wages paid or incurred in the tax year for which the ERC is retroactively claimed, have an increased income tax liability—but may not yet have received their ERC refund.

IR-2022-89 reminds taxpayers that, consistent with the relief from penalties for failure to timely pay noted in IRS Notice 2021-49, they may be eligible for relief from penalties for failing to pay their taxes—if they can show reasonable cause and not willful neglect for the failure to pay.

In general, taxpayers also may qualify for administrative relief from penalties for failure to pay on time under the IRS’ First Time Penalty Abatement program—if they:

1. Did not previously have to file a return or had no penalties for the three prior tax years;
2. Filed all currently required returns or filed an extension of time to file; and
3. Paid, or arranged to pay, any tax due.

**Qualified Wages Deduction Disallowance**

Generally, pursuant to Sec. 3134(e), an employer’s deduction for qualified wages, including qualified health plan expenses, must be reduced by the ERC.

The Treasury Department and the IRS have been asked about the timing of this reduction, specifically when a taxpayer files an adjusted employment tax return to claim the ERC for prior calendar quarters, but has already filed an income tax return for the tax year for which the ERC is claimed on the adjusted employment tax return.
Under IRS Notice 2021-20 (Section III.L), a reduction of the deduction for qualified wages, including qualified health plan expenses, that is caused by receiving the ERC occurs for the tax year in which the qualified wages were paid or incurred.

When a taxpayer claims the ERC because of retroactive legislation or otherwise fails an adjusted employment tax return to claim the ERC, the taxpayer also should file an amended income tax return or an administrative adjustment request (AAR for partnerships) for the tax year in which the qualified wages were paid or incurred to correct any overstated deduction taken for those same wages on the original income tax return.

Sec. 3134(e) relevantly provides that rules similar to the rules of Sec. 280C(a) shall apply. Sec. 280C(a) requires tracing to the specific wages generating the applicable credit. (See, generally, Regs. Sec. 1.280C-1.) To satisfy this tracing requirement, the taxpayer must file an amended return or AAR (as applicable).

Eligible Employer
Under Sec. 3134(c)(2), an “eligible employer” is any employer carrying on a business during the calendar quarter for which the ERC is determined:

1. Whose operation is fully or partially suspended under orders from an appropriate governmental authority limiting commerce, travel or group meetings due to COVID-19;
2. The employer’s gross receipts [within the meaning of Sec. 448(c)] for that calendar quarter are less than 80 percent of its gross receipts for the same quarter in 2019, or 2020—if the employer did not exist at the beginning of that quarter in 2019; or
3. The employer is a recovery startup business [defined in Sec. 3134(c)(5)].

Qualified Wages
Sec. 3134(c)(3) generally defines “qualified wages” as follows:

- In the case of an eligible employer whose average number of full-time employees (under Sec. 4980H) during 2019 exceeded 500, wages paid to an employee not providing services due to:
  - The employer’s business being fully or partially suspended as described at “1” immediately above; or
  - The employer’s reduced gross receipts as described in “2” immediately above.

For an eligible employer whose average number of full-time employees during 2019 did not exceed 500, wages paid to an employee are qualified if:

- Wages paid to an employee during any period described in “1” above; or
- Wages paid to an employee during the quarter described in “2” above.

If an employer did not exist in 2019, 2020 is substituted for 2019.

More Penalty Relief
IRS Notice 2022-36 announced that the IRS is waiving late-filing penalties and issuing refunds to individual and business taxpayers who missed extended filing deadlines for tax years 2019 and 2020 income tax returns. These penalties could have been avoided if those returns had been filed by Sept. 30, 2022.

However, failure-to-pay penalties still apply if any tax due was not paid by the return’s original due date.

This relief is automatic and no further action is necessary by taxpayers.

Estate Tax Deductions
Proposed Regs. (REG-130 975-08) June 28, 2022, would amend existing regulations under Sec. 2053 to provide guidance on the proper use of present-value principles to determine deduction by an estate for:

- Funeral expenses;
- Administration expenses;
- Certain claims against the estate; and
- Interest on tax and penalties owed by the estate; and

Interest on certain loan obligations incurred by the estate.

The Proposed Regs. also would amend and clarify the requirements for substantiating the value of a claim against the estate that is deductible in certain cases. In addition, the Proposed Regs. would provide guidance on the deductibility of payments under the decedent’s personal guarantee.

These Proposed Regs. would apply to estates of decedent’s dying after the date of publication in the Federal Register of the Treasury Decision adopting the Proposed Regs. as Final Regs.

Portability Elections: IRS Updates Simplified Method for Extensions

For gift and estate tax purposes, this election allows a decedent’s unused exclusion (deceased spouse unused exclusion or DSUE) to be available for the surviving spouse’s subsequent transfers during life or at death. This simplified method is to be used in lieu of the letter ruling process. No user fee is required for Rev. Proc. 2022-32 submissions.

Rev. Proc. 2022-32’s Scope
The simplified method is available to the executor [either appointed or, if none, a non-appointed executor under Regs. Sec. 20.2010-2(a) (6)(ii)] of a decedent’s estate if:

A. The decedent dies after 2010, was survived by a spouse and was a U.S. citizen or resident on the date of death;
B. The executor is not required to file an estate tax return, based on the value of the gross estate and adjusted taxable gifts—without regard to the need to file for portability purposes;
C. The executor did not file an estate tax return within nine months after the decedent’s death or by the extended due date; and
D. The executor satisfies Rev. Proc. 2022-32, Sec. 4.01’s requirements.

This simplified method is not available to a decedent’s estate if its executor timely filed, or was required to file, an estate tax return.

The executor of an estate, not within Rev. Proc. 2022-32’s scope only because the executor does not satisfy Sec. 4.01’s requirements, may request an extension to elect portability by requesting a letter ruling and paying the user fee.

Rev. Proc. 2022-32, Sec. 4.01 Requirements for Relief
1. A person permitted to make the election on behalf of a decedent’s estate—i.e., an executor described in Regs. Sec. 20.2010-2(a)(6)—must file a complete and properly prepared Form 706, “U.S. Estate (and Generation—Skipping Transfer) Tax Return” by the fifth annual anniversary of the decedent’s death.

Note: Under Rev. Proc. 2017-34, this deadline was the second annual anniversary of the decedent’s death.
Form 706 will be considered complete and properly prepared if it is prepared in accordance with Regs. Sec. 20.2010-2(a)(7).
2. The executor filing the Form 706 must state at the top of this form that it is “FILED PURSUANT TO REV. PROC. 2022-32 TO ELECT PORTABILITY UNDER SEC. 2010(c)(5)(A).”

Extent of Relief
Satisfaction of Sec. 401’s relief requirements by an executor for whom relief is available under Rev. Proc. 2022-32’s scope is deemed to satisfy Regs. Sec. 301.9100-5’s relief requirements and, therefore, relief is granted under Regs. Sec. 301.9100-3 to extend the time to elect portability under Sec. 2010(c)(5)(A). Accordingly, for electing portability purposes, the decedent’s estate’s Form 706 will be considered to have been filed timely in accordance with Regs. Sec. 20.2010-2(a)(1).

Subsequent Determination That Estate Tax Return Was Required
If, subsequent to the grant of relief pursuant to Rev. Proc. 2022-32, it is determined that, based on the gross estate’s value and taking into account any taxable gifts, the executor was required to file an estate tax return under Sec. 6018(a), Rev. Proc. 2022-32’s grant of an extension is deemed null and void.

Impact of Relief on Surviving Spouse
If the decedent’s estate is granted Rev. Proc. 2022-32 relief, the decedent’s DSUE is available to the surviving spouse or the surviving spouse’s estate for application to the surviving spouse’s transfers made on or after the decedent’s death under Estate Tax Regs. Sec. 20.2010-3 and Gift Tax Regs. Sec. 25.2505-2.

However, if the increase in the surviving spouse’s applicable exclusion attributable to the addition of the decedent’s DSUE results in a gift or estate tax overpayment, no refund claim may be made if the statute of limitations (SOL) has expired. That is, an extension to elect portability under Rev. Proc. 2022-32 does not extend the time for the surviving spouse or the spouse’s estate to file a refund claim.

Protective Refund Claims
Because a surviving spouse has no DSUE from a deceased spouse to apply to the surviving spouse’s transfers until the portability election has been made by the deceased spouse’s executor, a refund claim within the SOL by the surviving spouse or the surviving spouse’s estate in anticipation of Form 706 being filed to elect portability pursuant to Rev. Proc. 2022-32 will be considered a protective refund claim.

Transfer Taxes: New Guidance to Apply Different Exemptions to Unified Gift & Estate Taxes
Transfer taxes include gift and estate taxes. A unified tax rate schedule applies to lifetime gifts and the estate tax imposed at death.

A unified credit (exemption) offsets gift taxes. Any remaining credit reduces the estate tax. This credit is called the applicable exclusion amount (AEA) and includes the basic exclusion amount (BEA). Under Sec. 2010(c)(3)(A), the BEA is $5 million—adjusted for inflation. However, Sec. 2010(c)(3)(C) increases the BEA to $10 million, adjusted for inflation, for gifts made and estates of decedents dying after 2017 and before 2026. Thus, for 2022, an individual’s BEA is $12,060,000.

Pursuant to Sec. 2001(g)(2), the IRS must prescribe regulations as may be necessary or appropriate to carry out Sec. 2001, which imposes the transfer tax and its rates, to reflect any differences between the BEA applicable at the decedent’s death and to any gifts made by the decedent.

IRS’ Action
Accordingly, the IRS identified the following situations where BEA increases or decreases could be potentially problematic:

<table>
<thead>
<tr>
<th>Situation</th>
<th>Effect of BEA</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Increase on gift tax.</td>
</tr>
<tr>
<td>2</td>
<td>Increase on estate tax.</td>
</tr>
<tr>
<td>3</td>
<td>Decrease on gift tax.</td>
</tr>
<tr>
<td>4</td>
<td>Decrease on estate tax.</td>
</tr>
</tbody>
</table>

However, only Situation 4 was determined to be problematic and is addressed by Regs. Sec. 20.2010-1. To better understand the concern and remedy regarding Situation 4, the gift and estate computations (shown next) must be reviewed.

Tax Computations

<table>
<thead>
<tr>
<th>Gift Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Step</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>2</td>
</tr>
<tr>
<td>3</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>4</td>
</tr>
<tr>
<td>5</td>
</tr>
<tr>
<td>6</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>7</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Estate Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Step</td>
</tr>
<tr>
<td>1</td>
</tr>
<tr>
<td>2</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>3</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>
4. Determine a credit equal to the tentative tax on the AEA, as in effect on the decedent’s death, but not exceeding the net tentative estate tax.
5. Determine the net estate tax, as follows:
   • Step 3 tax $______________
   • Less-Step 4 credit $______________
   • Net tax $______________

**Situation 4 Analysis and Resolution**

This situation deals with a decedent who made gifts during the increased BEA period 2018-25, that were exempt from the gift tax by the increased BEA and dies after 2025.

The issue is whether the estate tax computation treats these gifts as not sheltered from the gift tax by the credit on the BEA because this post-2025 estate tax reflects the BEA in effect on the decedent’s death.

The IRS explained that the statutory requirements retroactively eliminate the increased BEA benefit applicable to gifts made during the increased BEA period.

Therefore,Regs. Sec. 2010-1(c) modifies the credit in step 4 of the estate computation to equal the tentative tax on the AEA, as in effect on the decedent’s death, where the BEA included in the AEA is the greater of:
- The BEA in effect on the decedent’s death;
- The total amount of the BEA allowable in determining the gift tax payable (Step 2 of the estate tax computation).

This modification is called “the special rule.” However, the special rule does not distinguish between completed gifts treated as:
- Adjusted taxable gifts for estate tax purposes, but excluded from the donor’s gross estate; and
- Testamentary transfers for estate tax purposes and included in the donor’s gross estate (includible gifts).

Proposed Regs Sec. 20.2010-1(c)(3) [REG-118913-21, Apr. 27, 2022] deals with this matter by generally denying the special rule’s benefit to includible gifts. This proposal would apply to estates of decedents dying after Apr. 26, 2022. Therefore, the special rule would not apply to:

A. Transfers includable in the gross estate under Secs 2035, 2036, 2037, 2038 or 2042, regardless of whether any part of the transfer was a deductible charitable or marital gift;
B. Transfers made by an enforceable promise to the extent unsatisfied at the date of death;
C. Transfers of a Sec. 2701 interest described in Regs. Sec. 25.2701-5(a)(4). A Sec. 2701 interest is an applicable retained interest in a corporation or partnership valued under Sec. 2701’s special valuation rules at the time of the initial transfer.
D. Transfers of retained trust interests described in Regs. Sec. 25.2702-6(a)(1), previously valued under the special valuation rules of Sec. 2702 and Regs. Sec. 25.2702-2(b)(1) or (c).
E. Transfers that would have been described in A-D above, but for the transfer, relinquishment or elimination of an interest, power or property, within 18 months of the decedent’s death by:
   • The decedent;
   • The decedent in conjunction with any other person; or
   • Any other person.

The special rule would still apply to:
A. Transfers includible in the gross estate if the taxable portion of the gift, valued on the transfer date, was 5 percent or less of the transfer’s total value; and
B. Transfers, relinquishments or eliminations described in E above that are effectuated by the termination of the durational period described in the original transfer instrument by either:
   • The mere passage of time; or
   • Any person’s death.

**Private IRS Rulings: New Pilot Program for Fast-Tracking Ruling Requests**

Rev. Proc. 2022-10 establishes an 18-month pilot program for fast-tracking processing of certain requests for letter rulings solely or primarily under the jurisdiction of the Associate Chief Counsel (Corporate).

This new program applies to requests postmarked or received (if not mailed) by the IRS after Jan. 14, 2022. It expires on July 14, 2023, or, if earlier, when a superseding rev. proc. is released. Before that date, the Treasury Department and the IRS will evaluate the pilot program’s effectiveness and sustainability to determine whether the program should be extended. If extended, the IRS intends to publish permanent procedures before July 14, 2023.

**Background**

The IRS publishes an annual rev. proc. explaining how the IRS provides advice to taxpayers on issues under each Associate Office’s jurisdiction. For example, Rev. Proc 2022-1 explains the forms of advice and the manner in which advice is requested by taxpayers and provided by the IRS.

There are seven Associate Chief Counsel Offices covering the following jurisdictions:
1. Corporate
2. Employee Benefits, Exempt Organizations and Employment Taxes
3. Financial Institutions and Products
4. Income Tax and Accounting
5. International
6. Passthroughs and Special Industries
7. Procedure and Administration

**Expedited Handling of Requests**

The IRS ordinarily processes requests in order of the date received. However, a written request for expedited handling can be made—explaining in detail the need for such handling. This request is granted only in rare and unusual cases, out of fairness to other taxpayers and because the IRS seeks to process all ruling requests as expeditiously as possible and to give appropriate deference to normal business exigencies in all cases.

Nevertheless, the IRS may grant an expedited handling request when a factor outside a taxpayer’s control creates a real business need to obtain a ruling before a certain date to avoid serious business consequences.

**Fast-Track Processing**

A taxpayer requesting a letter ruling solely or primarily under the jurisdiction of the Associate Chief Counsel (Corporate) may request fast-track processing, but not expedited handling. However, this process is not available for requests for extensions of time to make elections or other applications for relief under Secs. 301.9100, but expedited handling is available.

A fast-track request generally will be granted if the letter ruling request is solely under the jurisdiction of the Associate Chief Counsel (Corporate) and the requirements described below are met.

However, if the letter ruling is primarily under the Associate Chief Counsel (Corporate), but also includes a ruling request on...
an issue under another Associate office’s jurisdiction, fast-track will be granted only if that other Associate office agrees to process that request in accordance with Rev. Proc. 2022-10. If no ruling is requested from the other Associate office, fast-track will be granted only if no other Associate office objects.

Effect of Fast-track Processing
If a fast-track request is granted, the IRS will endeavor to complete processing the letter ruling request and, if appropriate, issue the letter ruling within the time specified by the branch reviewer (specified period), which will be 12 weeks—unless a shorter or longer time is requested and granted pursuant to Rev. Proc. 2022-10.

Requirements
1. The taxpayer must request a pre-submission conference, which should address both the substantive issues and the fast-track request.
2. Before this conference, the taxpayer must provide the information required by Rev. Proc. 2022-1, Section 10.07(3). A statement also must be provided setting forth reasons for the fast-track request, the specified period requested (if other than 12 weeks), any matters that could affect the feasibility of fast-track processing, and any issues under the jurisdiction of an Associate office other than Corporate relevant to the transaction(s)—including whether a ruling will be requested as to each such issue.
3. The letter ruling request must satisfy all applicable requirements of Rev. Proc. 2022-1 and any other applicable rev. procs. and must include:
   a. “Fast-Track Processing is Requested under Revenue Procedure 2022-10” at the top of the first page.
   b. This ruling request must include the information required under “2” above.
   c. The ruling request must state that the taxpayer agrees to provide any additional information requested by the branch representative within seven business days, beginning on the next business day after the day this request is made.
   d. The letter ruling request must include a draft letter ruling containing a legend of defined terms, description of relevant facts, representations, requested rulings and administrative matters.
4. The IRS strongly recommends that a letter ruling request for which fast-track is requested be submitted by an encrypted email attachment, in accordance with Rev. Proc. 2022-1, Section 7.04(3). If not, the draft letter ruling must be submitted separately by an encrypted email attachment.

Stuart R. Josephs, CPA, has a San Diego-based Tax Assistance Practice specializing in assisting practitioners in resolving their clients’ tax questions and problems and is immediate past chair of the Federal Subcommittee of CalCPA’s Committee on Taxation. You can reach him at (619) 469-6999 or stuartrjosephs@yahoo.com.

More insurance coverage. More choices.
It’s easy to get a quote in seconds!
Sagemark Consulting offers a special life insurance program for CalCPA members and their families.
Can your existing policy do this? Visit: www.sagemarkinsurance.com

Benefits include:
- Up to $10 million in coverage for you or a family member
- Multi-carrier, multiple choices
- No age band – your rate will not change as you get older
The Knowledge Hub consists of vendor-sponsored content designed to be helpful in your practice.

CALCPAHub.org
The Rise of ESG

Your clients are becoming more concerned about environment, social and corporate governance (ESG). At the end of 2020, 33 percent of the $51 trillion in professionally managed investments in the U.S. were managed with ESG issues in mind, according to the Forum for Sustainable and Responsible Investment. And in May, the SEC encouraged more companies to improve their ESG financial disclosures (aicpa.org/news/article/esg-reporting-whats-the-value-of-esg).

But the rise of ESG has many steps to climb before it truly arrives. To see how that process is developing, we talked to BPM’s ESG practice co-leaders Su Rim, CPA and Kristi Staley, CPA.

From your perspective, what is the interest of clients in ESG accounting?

We have seen a sharp rise in interest, probably better described as curiosity, over the past year as more clients are beginning to understand the impact of ESG on their business—in terms of how much they have to gain and to lose. In addition, the pandemic amplified the need for everyone to tackle issues related to climate change and social justice. The growing interest of employees, boards, customers, investors and other key stakeholders has also made ESG a topic that is difficult for companies to ignore.

ESG has become a more prevalent discussion topic at board meetings and strategic planning. Many of our clients are just starting their journey, while others are turning to us for ways to improve their ESG programs.

What would you say to CPAs who think it is still early to be addressing ESG?

Given the recent interest from investors, lenders and supply chain scrutiny, all businesses are likely to be impacted and will need a variety of support from trusted advisers. While these initial needs are likely to be a primary function of advisory—including materiality assessments, strategy, road-mapping, IT and HR support—given the increasing importance of ESG-related disclosures and the demand for quality information, it’s likely that attest and assurance services are going to be needed. As we move toward a world where ESG is commonplace, CPAs are in a position to embrace the opportunity to better serve their clients.

ESG-related disclosures are a major consideration in business decisions like investments, mergers and acquisitions, and partner or customer engagement. Investors are noticing the varying quality of those disclosures, largely due to a lack of standardization. As we move toward standardization and mandated disclosures, CPAs should expect to see more work in the assurance of ESG disclosures. Some of these disclosures, such as climate risks, will also be considered in financial statements.

Are there concerns about consistent standards of measurement and reporting?

Accountability and transparency are two cornerstones of ESG. A lack of uniform standards makes it challenging for stakeholders to affirm and compare the information that companies share and, ultimately, to hold them accountable for commitments they are making. There are a lot of actions that companies and advisers can take to mitigate risks associated with invalid ESG claims, starting with making ESG central to every part of the business.

When ESG is embedded in an organization’s culture, controls, operations and reporting, the risk of intentional or unintentional misreporting can be somewhat mitigated—or at least monitored. There are plenty of ESG disclosure frameworks, and companies are currently able to choose which to follow and what to disclose. Making public commitments can open up new risks for companies (e.g., being sued for not meeting diversity targets). However, companies should approach disclosures by acknowledging where they are and where they want to go.

Regulatory pressure, peer benchmarking and investor scrutiny are key drivers for ESG adoption. Unfortunately, the lack of consensus surrounding ESG leaves a lot of companies either wondering where to begin or working to try to meet multiple standards. Standardized reporting would make adoption less daunting for many SMEs, but it’s important that companies should not wait for clarity to start their ESG journey.

Companies can embrace the notion that “not one size fits all” in the world of ESG by focusing on ESG initiatives that are truly important to their business. A bright side of having access to multiple frameworks is that it gives companies the flexibility to select and showcase matters that truly matter to their business and stakeholders.

Is the lack of consistent standards making it impossible to easily report and compare one company to another?

There has been a lot of progress in this area through the use of a few primary ESG reporting standards and frameworks: Global...
The Rise of ESG Reporting Initiative (GRI), Sustainability Accounting Standards Board (SASB) and Task Force on Climate-Related Financial Disclosures (TCFD).

It is the varying quality and depth of these disclosures that make it difficult to compare organizations. To communicate value, it is in a company’s best interest to provide verifiable information and take the time to understand what is material to its stakeholders.

Are there any proposed ESG regulations out there already?
There are of state and federal level governing agencies, stock exchanges, the European Commission in the E.U., etc. Considering “ESG regulations” entails everything from mandatory disclosures to labor protection policies to assessments of materiality, there would be a lot to cover. The SEC’s proposal for mandated climate-related disclosures has been in the spotlight as it will be a driving force for the prioritization of ESG as a whole.

The SEC’s proposed Scope 3 emissions disclosure could impact privately held companies that are not directly subject to the regulation, but are part of a public company’s supply chain. If finalized, private companies are likely to face pressure from public companies to report their emissions to support the reporting entity’s disclosure requirements.

The SEC also has proposed regulations to require funds and investment advisers to disclose ESG strategies in fund prospectuses, annual reports and adviser brochures; introduce a standard table for ESG funds to disclose information allowing investors to compare ESG funds quickly; and require certain environmentally focused funds to disclose greenhouse gas emissions for their portfolio investments.

The SEC stated that its objective is to “create a consistent, comparable, and decision-useful regulatory framework for ESG advisory services and investment companies to inform and protect investors while facilitating further innovation in this evolving area of the asset management industry.”

How will ESG impact be measured?
This is where we can lean into ESG reporting. All disclosure frameworks help organizations in setting a foundation for transparency and progress. Stakeholders are less interested in organizations demonstrating perfection than seeing authentic commitment to progress year-over-year. Meaningful impact is typically more evident through incremental change.

What would the CPA’s role be in helping clients establish processes and controls?
As independent, trusted business advisers, CPAs are well-equipped to help their clients mitigate risks and harness opportunities through a comprehensive ESG strategy.

In addition, CPAs understand how to operate under a framework, and apply appropriate standards for reporting purposes. They also help clients establish processes and controls to ensure compliance, similar to financial statement preparation using FASB, PCAOB and GAAS.

An important part of implementing a comprehensive ESG strategy is to perform a materiality assessment. CPAs can help clients identify and assess external (regulatory, social, economic) and internal (organizational structures, governance) risks and manage various stakeholder expectations. Understanding the risks and opportunities would be essential in collecting the appropriate data for reporting.

ESG is an evolving topic and requires wide and flexible support. Firms that offer a diverse range of services and expertise will be able to leverage their existing resources, experience and training, and incorporate ESG into almost every service line.
What could ESG standards and reporting cost companies?
For the reporting aspect of ESG alone, companies should anticipate the need for either headcount or engagement with a consultancy to prepare annual ESG/sustainability/impact reports, whether that information comes in the form of ESG data sheets, narrative-based reports or ESG webpages. The disclosure of greenhouse gas emissions will likely be mandated soon, meaning this should be top-of-mind and high priority in terms of resource allocation.

The measurement and reporting of ESG data require extensive involvement across an organization, from facilities to legal to marketing to human resources. It also requires setting up data collection processes and internal controls. In our experience, most support has been needed from decision-makers within legal and audit.

Would there be penalties for not following these standards?
Once the SEC’s climate-related disclosures are approved, companies will be subject to fines for lack of disclosure. Aside from that, companies are experiencing consequences, such as losing potential or existing customers, employees or partners, due to a lack of ESG policies, programs and action.

How are you advising clients regarding ESG practices and adhering to standards?
We encourage all clients to begin their ESG work with industry benchmarking, a materiality assessment and strategy development. ESG covers a lot of ground, but not all of it is material to all companies. Companies should focus on what is important to their business and stakeholders.

Once focus areas and strategies are identified, organizations can set their standards for data collection and reporting. They will need to ensure that they remain up to date on regulatory, investor and customer expectations. In an ideal world, organizations would set progressive standards for themselves with the goal of leading far ahead of these regulatory and stakeholder expectations. ESG should be so integrated into the operations and decision-making processes that compliance is a secondary consideration.

How would you like to see ESG evolve?
• Full awareness/education regarding ESG across the workforce.
• ESG built into all company policies. This means working with ethical, sustainable suppliers/vendors, making sustainability and inclusivity a core consideration in expansion of offices, partnering with values-aligned organizations, involving ESG in KPIs across an organization, etc.
• Hiring more leadership (directors, executives) who place value on ESG. So much of this work requires top-down leadership. It can’t just be a talking point or a check-the-box activity.

ESG centers on a commitment to create long-term value for all stakeholders, not just shareholders, and building thriving organizations. Compliance is a leading factor in ESG efforts, but we see a future where organizations prioritize ESG because of its business value and (triple) bottom line.

What would an ESG accounting standard look like and what benefits would it bring?
ESG frameworks, reporting and accounting standards already exist. As mentioned above, these include GRI, SASB and Task Force on Climate-Related Financial Disclosures. The use of these existing standards and frameworks increases awareness and understanding of various risks and opportunities within the company.
Looking for an Easier Way to Do 1099s & W-2s?

Print, Mail & E-File with efile4Biz

No Software – No Forms – No Hassle

Simplicity
Do it all online – no need for paper forms, software or even envelopes and stamps. You can also import the data directly from Excel, QuickBooks® or Xero accounting software. We save your payer and recipient data year-over-year to make future filings even easier.

Security
As an authorized e-file transmitter, we protect your data using the strongest encryption program available. Data is then transmitted to our high-security, SOC 2-certified print-and-mail facility.

Savings
Pay only for the number of forms you file even if it’s only one. Plus, save the labor costs of printing, mailing and manually submitting the forms. TIN matching is also available on a per contact basis, saving you money and helping you avoid costly mismatches.

It’s Easy!
Visit efile4Biz Today

Remember – no software, no forms, no envelopes, no postage ... and a lot less of your valuable time.

SAVE 15%!
Enter code 15OFFB8 at checkout*

*Savings offer expires 1/26/23 at 11:59 p.m. ET. Enter Code 15OFFB8 at checkout. Discount cannot be used for Direct-to-State Filing, Edits, Corrections, TIN Matching, Form Credits, Service Bureau or Subscription Plans or combined with any other offer or applied to previously placed orders. Limit one discount per customer.
Pay it Forward

From giving to our scholarship funds to contributing to CPA-PAC to leading financial literacy presentations to serving on nonprofit boards—not to mention the many other ways CalCPA members give back to their communities and the profession—there’s no doubt they take seriously the “Public” in the title, “Certified Public Accountant.”

To recognize this work, CalCPA annually hands out a Public Service Award to a CPA who has been especially active in service to the profession and community; a Public Service Firm Award to recognize firms for their public service contributions on the local, state or national level; and a Distinguished Service Award granted on the basis of long and distinguished service or for a singular act resulting in extraordinary contribution to the profession, CalCPA and/or the community.

We recently spoke to the following service award winners about the importance of giving back and what drives their efforts:

**Distinguished Service Award:**
Chrislynn Freed (2022), retired professor of clinical accounting, USC; Marc G. Parkinson (2021), retired senior partner, Petrinovich Pugh & Company, LLP; Ron Klein (2020), VP–Risk Counsel, CAMICO

**Public Service Award:**

What does “giving back” mean to you?
Parkinson: It means giving your time to the profession to help make it stronger and better for yourself as well as others. We don’t live in a bubble, where we can only think about ourselves. We need to continue to improve our profession and the people who work in it. As to community, it’s basically the same thing. Giving back means helping it become better.

Reichman: As CPAs, we have an opportunity to make a meaningful contribution to our communities. There are so many opportunities to take on leadership roles and provide services to many underserved areas and groups. I have enjoyed making a difference to certain groups that I have personal connections with, such as helping oversee an organization that helps feed members of my community in Los Angeles. Giving back to my community and the profession has provided great personal satisfaction and has helped me see what is really important in life.

Ballard: I have been fortunate to have had influential mentors throughout my career. I enjoy our profession and find it rewarding to be able to mentor, train and recruit new talent for our firm. It is very fulfilling for me to be able to volunteer, participate and spend time in the communities that have always supported and contributed to our firm’s successes.

Hinojosa: It’s a privilege to give back to both the community and our profession. I feel blessed to be a member of a respected profession that serves the public interest and allows me to utilize my gifts and talents. As a member of my local community, it’s important that I do my part to further the well-being of the community by giving back my time and resources.

Sharpstone: Being a CPA is much more than just serving clients. That’s important, but we also have a duty to protect and serve the public. We can never forget that because it’s right there in our name! That’s a high calling by the way. So, giving back to the profession and the community can be looked at in one sense as an obligation for us—something we sign up for as part of becoming a CPA. Fortunately, most CPAs do give back and serve the community and most would say it’s an incredibly fulfilling and rewarding part of their CPA life. It certainly has been for me.
**Freed:** My mantra has always been it is better to give than to get. Giving one’s time to important organizations like where I got my degree, Fisher School at University of Florida, or CalCPA, and as a professor at USC is a true calling I have. The CPA profession has been an important element in my life that allows me professional growth and development that I could not have foreseen as a young professional. The profession has transformed my life. My giving back to the profession and young adults hopefully has contributed to giving other young professionals the opportunities that have been so important to me.

**Teasdale:** Giving back to me means leveraging all the wonderful experience I’ve gained over the years in this great profession and helping teach my younger colleagues what it truly means to serve our clients and getting personally involved in local nonprofit organizations. Both need our help tremendously as professional CPAs and we are in a unique position to make an immediate impact in our surrounding communities.

**Klein:** For me, service is the heart of life. I support my family as service to them. I support the CPA profession because I work within the profession and want to both value and enjoy my time spent in the profession. It only makes sense to support it, to express my ideas for improvement and to hear the ideas of others. And, finally, to reach a consensus that all can support.

**What advice would you give CPAs about the importance of giving back?**

**Parkinson:** It’s so important. You grow as a professional and as a person, but also the rewards that you probably are not thinking about are immeasurable. The friendships you will make, the knowledge you will gain from others and the opportunities in all walks of life you will create are the icing on the cake.

**Reichman:** It will undoubtedly enrich your life and help connect you to your community, peers and profession. By giving back to our communities and profession, it helps strengthens them. Be a conduit of positivity.

**Ballard:** Giving back promotes a healthy
Pay it Forward

sense of purpose, boosts morale and inspires your team. The gratification you get from helping others is unmatched. It simply feels good to give back.

**Hinojosa:** It’s tough for me to give advice, but all I can say is that it’s more blessed to give than to receive. I believe we should set an example for our peers and for our young people about serving one another. A culture of looking out for No. 1 is empty and not rewarding. When we see ourselves as part of a team, part of something bigger than ourselves, then our contributions make sense and we can enjoy everybody’s success.

**Sharpstone:** If you don’t currently give back, just start. Even if you don’t feel like it right now. It’s like starting to exercise—maybe you didn’t feel like doing it before you started, but once you start you’re happy you did!

**Freed:** Giving back allows CPA professionals to be part of the transformational nature of the CPA profession. Giving back gives you the opportunity to lead in positive change. By being a change agent you have the opportunity to be part of the solution to enhancing the value proposition of the CPA profession to our society.

**Teasdale:** I would strongly encourage every CPA to join a nonprofit organization’s board. It has been my experience that our local nonprofit community organizations are starving for expertise that we have as CPAs, and that can’t come from anywhere else. Our perspective on financial, reporting and compliance issues is incredibly unique and in short supply on nonprofit organizations’ boards across California.

**Wright:** Those entering or have been CPAs for a few years have the most to gain by giving back to our profession in this new era, and it is easy because there is little competition. You become a better servant to clients with references to thought leaders that enhance your reputation. And although I can only say anecdotally, my experience is that those who serve are fulfilled and happier, both professionally and personally.

An exclusive CalCPA member benefit.

---

**Wake up!**

**Open Enrollment Ends Soon!**

We are here to help.

Get a Quote Before Time Runs Out!

CalCPAHealth.com/OE23 • 877.636.4213

---

Call 877.636.4213.**

Medical • Dental • Vision • Disability • Life

An exclusive CalCPA member benefit.
DE&I
By Collin Stephens

“CalCPA is actively promoting a climate of inclusivity as we build a community of belonging.”

This is CalCPA’s inclusion statement and it graces the CalCPA website and appears in staff email signatures. Several organizations have such a statement—whether they believe it, live it or because they feel it’s required in our current society.

At CalCPA, this statement is not just a required boilerplate intended to check a box, but rather a statement of what CalCPA stands for when distilled down to its purest form. CalCPA is many things, but one might argue its primary purpose is to serve as a community, bonding financial students and professionals together across the state and the nation.

As the largest state society, CalCPA is a loud voice in the accounting profession and bears the responsibility of helping define the future of the industry. Collaborating with the IMA, CalCPA released the Diversifying U.S. Accounting Talent report in February 2021, which highlighted the glaring inequality and lack of diversity within the profession.

One under-represented group that the report highlighted were members of the LGBTQIA community. The report outlined how LGBTQIA members left the profession in greater numbers than non-LGBTQIA members. The primary driver behind this was a general feeling of non-acceptance within the profession and the inability to live their true self professionally.

This reality stands against CalCPA’s main objective of championing belonging and the goal of making the profession a home for all.

Taking Action
Utilizing data and knowledge, and moving past words alone, CalCPA took some action steps during the summer. CalCPA participated in Pride events across the state to live the mission set forth. Working with members and staff, CalCPA proudly displayed its commitment to the LGBTQIA community at events in San Francisco, Long Beach and San Diego, and we have Palm Springs planned for the fall.

Personal stories shared with members and staff at these events supported the research and solidified the decision to join the festivities.

From day one of the first event in June, countless CPAs approached the CalCPA booth with surprise and joy to see their professional association visibly supporting their personal community. One CPA tearfully shared their story of leaving the profession more than 20 years ago because there was simply too much resistance to reaching success and they were not treated with equality being a woman and a member of the LGBTQIA community as a CPA.

This participant was “ecstatic” to see CalCPA and the profession become a welcoming home for all people, no matter who they love while doing what they love. During the events, CPAs, financial professionals, guests, students and everyone in between stopped by to share stories, show support and celebrate CalCPA bringing pride to accounting.

Change for a Better Future
Participation in such community events is where the CalCPA inclusion statement morphs from a few important words into a shining example of progress across the profession.

As a committed ally, the decision to take part in Pride events with the overall pledge to show the LGBTQIA community that CalCPA is steadfast in the shared responsibility to end discrimination, inequality and bigotry, wherever it exists. Going beyond this to discuss the ramifications within the industry, CalCPA DE&I Commission Chair Kathy Johnson makes it very clear: “Diversity is a business reality and necessary to be effective and competitive in this new global economy.”

The accounting profession is facing change and the pipeline of future talent is at risk. It is imperative that every person with a passion to join the profession feels welcome and CalCPA will not stop until that reality is achieved.

Just as important, everyone who becomes a CPA must be empowered to stay in the profession—that means adapting to attract and retain the next generation of professionals. Participating in Pride is one small step toward this goal, but much more effort is needed.

CalCPA will continue to join community events like this to show the profession’s inclusiveness and willingness to change for the better. This change is both the right thing to do and necessary to secure the future of the profession, now and in perpetuity. CalCPA will continue to be an inclusive community for everyone, uniting CPAs across the state and helping to define the profession across the nation.

Collin Stephens is senior manager of CalCPA DE&I, Pipeline & Engagement. You can reach him at collin.stephens@calcpa.org.
IRS Notice 2022-53 [IRB 2022-44, Oct. 31, 2022], released Oct. 7, 2022, announced that the Treasury Department and the IRS intend to issue final regulations regarding RMDs under IRC Sec. 401(a)(9) that will apply not earlier than the 2023 distribution calendar year. This notice also provides favorable guidance on certain Sec. 401(a)(9) provisions that apply for 2021 and 2022.

Background
Sec. 401(a)(9)(A)(ii) provides that an employee’s entire interest in a qualified retirement plan must be distributed, beginning not later than the employee’s required beginning date over the employee’s life or over the lives of the employee and a designated beneficiary (or over a period not extending beyond the employee’s and designated beneficiary’s life expectancy).

Sec. 401(a)(9)(B)(i) provides that, if the employee dies after distributions began, the employee’s remaining interest must be distributed at least as rapidly as under the distribution method the employee used as of the date of the employee’s death.

Sec. 401(a)(9)(B)(ii) and (iii) provide that, if the employee dies before RMDs began, the employee’s interest must either be distributed:

- Within five years after the employee’s death (five-year rule); or
- Over the designated beneficiary’s life or life expectancy with distributions beginning later than one year after the employee’s death—subject to an exception in Sec. 401(a)(9)(B)(iv) if the designated beneficiary is the employee’s surviving spouse.

Sec. 401(a)(9)’s rules are incorporated by reference for other retirement plans.

New 10-year Rule
The 2019 Secure Act added Sec. 401(a)(9)(H). Generally, under Sec. 401(a)(9)(H)(i), if an employee in a defined contribution plan has a designated beneficiary, the five-year rule is replaced with a 10-year rule—which applies regardless of whether the employee dies before the required beginning date.

Also, under Sec. 401(a)(9)(H)(ii), the exception to the five-year rule, now replaced by the 10-year rule, applies only if the designated beneficiary is an eligible designated beneficiary [defined in Sec. 401(a)(9)(E)(ii)].

Sec. 401(a)(9)(H)(iii) provides that when an eligible designated beneficiary dies before that individual’s portion of the employee’s interest in the plan has been distributed, the eligible designated beneficiary’s beneficiary will be subject to a requirement that the remainder of that individual’s portion be distributed within 10 years of the eligible designated beneficiary’s death.

Sec. 401(a)(9)(H) generally applies to distributions regarding employees dying after 2019. If the employee died before 2020 and the employee’s designated beneficiary died after 2019, this beneficiary is treated as an eligible designated beneficiary and Sec. 401(a)(9)(H) applies to that designated beneficiary’s beneficiary.

Proposed Regs
Under Regs. proposed Feb. 24, 2022, final RMD regs. would apply beginning with the 2022 distribution calendar year.

Under Proposed Regs. Sec. 1.401(a)(9)-5(d)(1)(i), if an employee dies on or after the employee’s required beginning date, distributions to the employee’s beneficiaries after the employee’s death must satisfy Sec. 401(a)(9)(B)(i) and (ii) or (iii) [if applicable, taking into account Sec. 401(a)(9)(E)(ii)], (H)(ii) and (iii)].

Final Regs’ Applicability Date
Final regs. concerning RMDs under Sec. 401(a)(9) and related provisions will apply not earlier than the 2023 distribution calendar year.

Guidance for Certain 2021 & 2022 RMDs
If a taxpayer did not take a specified RMD, defined below, the IRS will not assert that the Sec. 4974 50-percent excise tax is due. If the taxpayer paid this tax for a missed 2021 specified RMD, a refund can be requested. A defined contribution plan failing to make a specified RMD will not be treated as failing to satisfy Sec. 401(a)(9) merely because it did not make that distribution.

Specified RMD
Only for Notice 2022-53 purposes, a specified RMD is any distribution that, under the Proposed Regs.’ interpretation, would be required to be made in 2021 or 2022 under a defined contribution plan or IRA, subject to Sec. 401(a)(9)(H)’s rules, for the year in which the employee or designated beneficiary died—if that payment would be required to be made to:

A. An employee’s or IRA owner’s designated beneficiary if:
   1. The employee or IRA owner died in 2020 or 2021; and
   2. This beneficiary is not taking lifetime or life expectancy payments; or

B. An eligible designated beneficiary’s beneficiary if:
   1. The eligible designated beneficiary died in 2020 or 2021; and
   2. That eligible designated beneficiary was taking lifetime or life expectancy payments.

Stuart R. Josephs, CPA
has a San Diego-based Tax Assistance Practice that specializes in assisting practitioners in resolving their clients’ tax questions and problems. Josephs, immediate past chair of the Federal Subcommittee of CalCPA’s Committee on Taxation, can be reached at (619) 469-6999 or stuartjosephs@yahoo.com.
leaders will likely need to re-evaluate budget allocations and consider strategic reduction in funding for certain programs.

Newly elected legislators will be tasked with navigating this budget crunch, something their predecessors had not needed to do during years of significant surplus. CalCPA will be closely watching how they respond to these tough decisions, particularly if the conversation of taxes (like a services tax) re-emerges. CalCPA has been a vocal leader in educating policy leaders about the challenges of a services tax. Early advocacy and communication will be key to stay ahead of any proposals.

Even before the election was finalized, the Legislature signaled that it would have a new leader in the Assembly. Speaker Rendon will step down in June and pass the Speakership to Assemblymember Robert Rivas. While the politics are similar between the two, the change is likely to have an impact on how the lower house conducts its business, how committees operate and what issues get prioritized. These are all dynamics that will shift how CalCPA’s advocacy team is able to work issues through the Legislature.

Topics on the List
An issue that CalCPA expects to be working on again next year is more tweaks to the Pass-Through Entity Tax (PTET). The framework has afforded taxpayers a mechanism for significant savings on their federal tax liability, but some issues have prevented it from being as accessible and practical of a solution as it was intended to be.

One particular issue relates to the June 15 deadline for payments to opt-in. Currently, the deadline is a hard and fast date. Either in or out, June was picked because it ties to the state budget. However, from a business side it is a tough date to make an informed decision and get an accurate estimate payment in on time. For CPAs working with clients this has become a challenge and has precluded taxpayers from participating in the PTET. CalCPA will be working with the policy leaders on options that add some flexibility to the date, such as adding a late/underpayment penalty that still allows a taxpayer to opt-in after the June 15 date.

Another issue is an upcoming sunset review of the California Board of Accountancy. The CBA is scheduled to sunset at the end of next year absent legislation to extend its operations for another few years. For this to occur the Legislature does an extensive review of the CBA and its operations. CalCPA continues to work closely with the CBA on a number of profession and consumer protection issues. Supporting the CBA in its legislative review will be key for CalCPA in 2023.

CalCPA Members Elected
Fiona Ma, CPA was re-elected as State Treasurer. Ma has a long and distinguished career in public service having served in the Assembly and Board of Equalization prior to being elected Treasurer. As a CPA and CalCPA member, she has been a champion of the profession and has been an advocate of CalCPA and our public policy work.

Roger Niello, CPA (inactive) was elected to the 6th Senate District, which covers eastern Sacramento County and parts of Placer County. Sen. Niello is a former member of the Assembly and has worked as a CFO for his family’s auto dealer business. When in the Legislature Sen. Niello had authored a number of legislative proposals that were important to the profession. We are excited to have him back to champion CPA and CalCPA issues.  

Jason Fox is CalCPA’s vice president of government relations. You can reach him at jason.fox@calcpa.org.
For parents and grandparents looking to transfer values to future generations and create a lasting legacy, family philanthropy can’t be beat.


However, family philanthropy isn’t just about giving to others; it’s about giving together. Collective, communal and cooperative giving helps to create stronger family bonds and solidify family values. By helping clients make gifting decisions as a family, we can empower clients’ younger family members to develop a variety of skills—including communication, negotiation, shared decision-making, leadership, accountability, investing, financial literacy and responsibility to help others.

As an added benefit, family philanthropy teaches the same skills that are necessary to prepare the younger generation to manage and expand the family’s wealth in the future.

Establishing a Family Philanthropy Program

Family philanthropy is not limited to the wealthiest families with private foundations. Donor-advised funds serve as a great cost-efficient resource for parents or grandparents to begin family philanthropy programs for younger members of their families. Because these funds typically offer user-friendly online platforms without the expense and administrative burdens of a private foundation, they are often the ideal charitable vehicle to help the younger generation become a part of a family philanthropy program.

Before engaging in family philanthropy, it’s important for the elder generation to first facilitate a family meeting, which should include a meaningful discussion about philanthropy—ideally, one where each member of the family proactively participates. Research has shown that conversations between parents and children about charity have an even greater positive impact on children than parents serving as silent role models through their own philanthropic activity (“Women Give 2013: New Research on Charitable Giving by Girls and Boys,” Lilly School of Philanthropy, Indiana University, Women’s Philanthropy Institute, Dec. 2013).

With the help of a neutral professional facilitator, this family meeting also could benefit from effective communication exercises to help the family members discover their common values and vision.

Children can become part of a family philanthropy program as young as 5 years old and can begin to play a deeper role with respect to the actual administration and investments of the family philanthropy program before they’re teenagers. Clients may wish to set standards for performance to accompany each grant given as part of the family philanthropy program, and selected charities that attain those standards might be allocated more funds in future years.

The children can propose and advocate a grant request, which could include site visits to the proposed grantee and interviews. A family philanthropy program could even require each participant to make some type of personal investment in any organization that will be receiving funds—such as actively volunteering with the organization or making a small personal gift along with the larger donation from the family philanthropy program.

As part of the family philanthropy program, each family member could be given a relatively small amount to donate to charity independently. In addition, a separate larger amount may be set aside for all family members (for example, siblings or cousins) to give away as a collective unit so they will be required to discuss and agree together on the organization receiving the donation.

Many organizations encourage children’s participation in philanthropic activities and welcome them to visit their facilities and even volunteer, which is a terrific way to unite family members as they work together toward a common goal. For more substantial donations, particularly ones in which the family name will be recognized, involving the whole family can help instill a sense of pride in the family legacy.
Consider the approach of a philanthropic couple who established a donor-advised fund with $250,000 of appreciated stock, which resulted in an immediate $250,000 charitable income tax deduction and zero capital gains tax. The couple has three children—ages 11, 13, and 18—and the parents are nurturing a philanthropic spirit in their children by incorporating family philanthropy to help the kids explore and develop their own charitable interests.

Using the donor-advised fund, the parents provide $1,000 annually to each of their children to give away on their own and an additional $10,000 for their children to give away together. Last year, after visiting and volunteering at multiple charitable organizations, the 11-year-old and 13-year-old gave their $1,000 to a local animal shelter and the 17-year-old gave his $1,000 to a micro-lending organization. And after conversations guided by the parents to accommodate their children’s different ages and communication styles, the children together decided to give their collective $10,000 to a cancer research organization, in the name of their grandfather who had recently passed away from cancer.

As the children get older, the parents could always expand the family philanthropy program by increasing the annual donation amounts and making additional contributions to the family’s donor-advised fund, which would support positive family dynamics and result in additional tax savings.

Ultimately, the right approach is different for each family. However, what family philanthropy programs have in common is that they help younger family members learn independence (how to be self-sufficient and self-supporting) and interdependence (how to be emotionally, economically, ecologically and morally responsible to other family members). With such an overwhelmingly positive impact, family philanthropy should be a top consideration for every family beginning a journey toward healthy governance.

Justin Miller, J.D., CFP, is a partner and national director of wealth planning with Evercore Wealth Management and a member of the CalCPA Estate Planning Committee. You can reach him at justin.miller@evercore.com.

---

For more information about products and services catered to the CPA community, visit calcpa.org/members-exclusive/benefits.

<table>
<thead>
<tr>
<th>COMPANY</th>
<th>PAGE</th>
<th>URL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anchor</td>
<td>23</td>
<td>sayanchor.com</td>
</tr>
<tr>
<td>CalCPA</td>
<td>C2</td>
<td>cpaand.com</td>
</tr>
<tr>
<td>CalCPA</td>
<td>C3</td>
<td>calcpa.org/brainfood</td>
</tr>
<tr>
<td>CalCPA</td>
<td>C4</td>
<td>calcpa.org/ethics</td>
</tr>
<tr>
<td>CalCPA Health</td>
<td>27</td>
<td>calcpahealth.com/oe23</td>
</tr>
<tr>
<td>CalCPA Knowledge Hub</td>
<td>20</td>
<td>calcpahub.org</td>
</tr>
<tr>
<td>Capstan Tax</td>
<td>22</td>
<td>capstantax.com/capstan-training</td>
</tr>
<tr>
<td>Efile4biz</td>
<td>24</td>
<td>efile4biz.com</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>COMPANY</th>
<th>PAGE</th>
<th>URL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coral Tree</td>
<td>4</td>
<td>coraltreetech.com/coracloud</td>
</tr>
<tr>
<td>Paychex</td>
<td>1</td>
<td>payx.me/calcpa_akc</td>
</tr>
<tr>
<td>Sagemark</td>
<td>19</td>
<td>sagemarkinsurance.com</td>
</tr>
<tr>
<td>Sales Tax Resource Group</td>
<td>6</td>
<td>salestaxresource.com</td>
</tr>
<tr>
<td>Shield IT</td>
<td>26</td>
<td>shieldnetworks.com/calcpa</td>
</tr>
<tr>
<td>UPS</td>
<td>7</td>
<td>savewithups.com/calcpa</td>
</tr>
<tr>
<td>Wolters Kluwer</td>
<td>8</td>
<td>engagetax.wolterskluwer.com/clientcollaboration</td>
</tr>
</tbody>
</table>
Check out the hottest courses and conferences that CalCPA has to offer!

### Accounting and Financial Statements

<table>
<thead>
<tr>
<th>Date</th>
<th>Title</th>
<th>Prod. #</th>
<th>Credits</th>
</tr>
</thead>
<tbody>
<tr>
<td>12/19</td>
<td>Preparation, Compilations and Reviews—A Practical Workshop</td>
<td>108557</td>
<td>CPE 8</td>
</tr>
<tr>
<td>12/29</td>
<td>Internal and External Fraud: Understanding It and Working to Control It</td>
<td>107716</td>
<td>CPE 8</td>
</tr>
<tr>
<td>1/12</td>
<td>Compilations and Reviews: Risks, Procedures and Fraud</td>
<td>113269</td>
<td>CPE 8</td>
</tr>
</tbody>
</table>

### Auditing

<table>
<thead>
<tr>
<th>Date</th>
<th>Title</th>
<th>Prod. #</th>
<th>Credits</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/9–12</td>
<td>A&amp;A Level I Basic Staff Training</td>
<td>113215</td>
<td>CPE 24</td>
</tr>
</tbody>
</table>

### Ethics

<table>
<thead>
<tr>
<th>Date</th>
<th>Title</th>
<th>Prod. #</th>
<th>Credits</th>
</tr>
</thead>
<tbody>
<tr>
<td>12/27</td>
<td>California Ethics and Fraud Case Studies</td>
<td>110497</td>
<td>CPE 8</td>
</tr>
</tbody>
</table>

### Fraud

<table>
<thead>
<tr>
<th>Date</th>
<th>Title</th>
<th>Prod. #</th>
<th>Credits</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/4</td>
<td>California Frauds, Scams and Scandals</td>
<td>110500</td>
<td>CPE 8</td>
</tr>
</tbody>
</table>

### Tax

<table>
<thead>
<tr>
<th>Date</th>
<th>Title</th>
<th>Prod. #</th>
<th>Credits</th>
</tr>
</thead>
<tbody>
<tr>
<td>12/23</td>
<td>Federal and California Tax Update for Businesses and Estates</td>
<td>110608</td>
<td>CPE 8</td>
</tr>
<tr>
<td>1/4</td>
<td>Pass-Through Owners Basis &amp; Distribution Rules: Comprehensive—Forms 1065 &amp; 1120S</td>
<td>109499</td>
<td>CPE 8</td>
</tr>
<tr>
<td>1/5</td>
<td>Federal and California Tax Update for Individuals</td>
<td>110569</td>
<td>CPE 8</td>
</tr>
<tr>
<td>1/6</td>
<td>Federal and California Tax Update for Businesses and Estates</td>
<td>110610</td>
<td>CPE 8</td>
</tr>
<tr>
<td>1/12</td>
<td>Federal and California Tax Update for Individuals</td>
<td>110574</td>
<td>CPE 8</td>
</tr>
<tr>
<td>1/13</td>
<td>Federal and California Tax Update for Businesses and Estates</td>
<td>110612</td>
<td>CPE 8</td>
</tr>
</tbody>
</table>

### Financial Planning and Wealth Management

<table>
<thead>
<tr>
<th>Date</th>
<th>Title</th>
<th>Prod. #</th>
<th>Credits</th>
</tr>
</thead>
<tbody>
<tr>
<td>12/16</td>
<td>Sophisticated Planning for High-Net-Worth Clients</td>
<td>110276</td>
<td>CPE 8</td>
</tr>
<tr>
<td>12/28</td>
<td>Estate Planning: A Comprehensive Overview</td>
<td>110292</td>
<td>CPE 8</td>
</tr>
</tbody>
</table>

For a complete list of upcoming courses and conferences, visit [calcpa.org/brainfood](http://calcpa.org/brainfood).

---

### Titans of Tax Conference

Available On-Demand!

[calcpa.org/FLC](http://calcpa.org/FLC)
CALLING ALL LICENSED MEMBERS!

Don’t leave your **FREE** ethics course on the table. ($209 value)

Select from courses in webcast or self-study format to meet either your 4-hour ethics license renewal requirement or technical CPE hours. Pick a course and add it to your cart. The price will adjust to zero once you log into your account.

Visit [calcpa.org/ethics4free](http://calcpa.org/ethics4free) for a full list of courses.