NATHAN WECHSLER & COMPANY
PROFESSIONAL ASSOCIATION
CERTIFIED PUBLIC ACCOUNTANTS & BUSINESS ADVISORS

# *Year End Tax Reporting*

TO: All Clients

FROM: Nathan Wechsler & Company
Professional Association

DATE: December 1, 2020

We want to take this opportunity to remind you of certain reporting requirements imposed on you by the Internal Revenue Service and state authorities.

This year has been a difficult one for many and legislation focused largely on relief related to COVID-19 with the passage of the "Coronavirus Aid, Relief, and Economic Security Act" (the CARES Act). Prior to that, the "Setting Every Community Up for Retirement Enhancement Act" (the SECURE Act) passed in late 2019 brought changes related to employer retirement plans, IRAs, and other tax-favored accounts.

Please call us if you have any questions on the following material or if you need assistance in preparing the required forms, as you have the final responsibility for meeting these reporting requirements.

Nathan Wechsler & Company, P.A. is dedicated to serving our clients and we look forward to working with you.

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# *Tax Planning*

## Retirement Plan Tax Incentive for Employers:

Small employers (100 employees or less) that establish qualified retirement plans that are first effective after December 31, 2001 may be eligible to claim a tax credit based on 50% of the cost of establishing and/or maintaining the plan. Prior to the Secure Act, the maximum credit for any tax year was $500. For plan years beginning after December 31, 2019, the maximum is the greater of 1) $500 or 2) the lesser of $250 per non highly compensated employee eligible to participate, or $5,000. Generally, the credit may be claimed for qualified costs incurred in each of the first three years of the plan.

## Qualified Business Income Deduction:

The "Tax Cuts and Jobs Act" of 2017 introduced a 20% deduction for pass-through entities for qualified business income from partnerships, S corporations, limited liability companies, or sole proprietorships, effective for personal income tax years beginning after December 31, 2017 and before January 1, 2026. Certain investment income is excluded from qualified business income as are reasonable shareholder compensation and guaranteed payments to partners. Taxpayers whose taxable income exceeds threshold amounts of $163,300 in 2020 ($326,600 in the case of a joint return) are subject to limitations based upon W-2 wages paid and the business' unadjusted basis in qualified property. Taxpayers in specified services are subject to additional limitations. The deduction reduces taxable income and can be taken by taxpayers whether or not they itemize deductions.

## Energy Tax Breaks:

The “Energy Tax Incentives Act of 2005” contained tax incentives designed to improve and stimulate energy production from alternative sources. These incentives included accelerated write-offs for expenses, and expanded tax credits.

The “Protecting Americans from Tax Hikes Act of 2015” (PATH Act), extended many of these provisions only through 2016, including solar incentives and deductions for energy efficient commercial buildings. While most energy incentives expired at the end of 2016, the credit for solar energy property constructed before 2022 and placed in service before 2024 was retained.

The "Bipartisan Budget Act of 2018" expanded the credit for investments in fiber-optic solar, geothermal heat pump, qualified fuel cell, qualified microturbine property, combined heat and power system property, and qualified small wind energy property constructed before 2022 and placed in service before 2024.

## Research and Development Credit:

The research and development credit is available to taxpayers with specified increases in business-related qualified research expenditures. The PATH Act permanently extended and modified the research and development credit.

## Code Section 179 Expense Election for Business Property:

The Code Section 179 election for expensing certain depreciable property placed in service in tax years beginning in 2020 includes a maximum amount that may be expensed of $1,040,000. The maximum annual expensing amount is reduced by the amount, on a dollar for dollar basis, that the cost of qualifying property

placed in service during the tax year exceeds $2,590,000. The 179 election has been permanently extended and is indexed for inflation.

Typical property that would not be eligible for Section 179 expensing includes: investment property, real property structural components, property used 50% or less in a trade or business, and property acquired by gift, inheritance, or from certain related parties.

Certain real property is eligible for Section 179 expensing. The "Tax Cuts and Job Act of 2017" changed the definition of qualified real property to include any nonresidential "qualified improvement property" including roofs, HVAC systems, fire protection and alarm systems, and security systems.

## Additional First Year ("Bonus") Depreciation:

The "Tax Cuts and Jobs Act" of 2017 extended bonus depreciation to property placed in service before the end of 2026 (with an additional year for long production period property). In addition, the bonus depreciation percentage was increased from 50% to 100% with a phase-down after 2022. Used property is now eligible for bonus depreciation, and the phase-down of the $8,000 bonus depreciation limit for passenger automobiles was eliminated. The CARES Act contains a technical correction to include Qualified Improvement Property (QIP) in 15-year property eligible for bonus depreciation. This correction applies to property acquired and placed in service after September 27, 2017 and allows businesses to expense costs of interior improvements on non-residential real property.

## Tangible Property Regulations (Expense vs Capitalization):

The use of the tangible property regulations is mandatory for tax returns filed for 2014 and future years. The regulations explain when you can deduct amounts paid to acquire, produce, or improve tangible property and when those amounts must be capitalized.

The regulations allow a taxpayer to elect to deduct certain limited amounts paid for tangible property that are expensed for financial accounting purposes. The safe harbor amount is $5,000 if the taxpayer has an audited financial statement and $2,500 otherwise. To use the safe harbor, the taxpayer must have an accounting policy in place at the beginning of the tax year that treats as an expense amounts paid for property that costs less than a specified dollar amount.

## Depreciation/Expensing Deductions for Vehicles:

Here is a review of the rules you need to know about your 2020 deduction for new and used autos, vans, minivans, and trucks (which includes SUVs) bought in 2020 and used for business.

**Business autos:**

If you have bought a new or used auto (not a van, minivan, or truck) for business in 2020, your maximum combined deduction for depreciation (including bonus depreciation) and Code Section 179 expensing is $18,100. This maximum depreciation deduction applies to passenger autos rated at 6,000 pounds *unloaded* gross vehicle weight or less. Virtually all passenger autos fall into this category. With the extension of bonus depreciation, the maximum deduction includes $8,000 of bonus depreciation for new and used autos.

**Trucks and vans:**

Trucks and vans subject to the "luxury auto" rules have separate depreciation dollar limits. For 2020, depreciation limits for vans & light trucks will be the same as passenger autos. Trucks and vans are defined as passenger autos and include minivans and sport-utility vehicles (SUVs) that are built on a truck chassis. If you have bought a new or used truck or van for business in 2020, your maximum depreciation (including bonus depreciation) and Code Section 179 expensing deduction is $18,100.

This maximum depreciation deduction applies to trucks and vans rated at 6,000 pounds gross (loaded) vehicle weight or less. Trucks and vans that are not likely to be used for personal driving because of their design (e.g., panel trucks with limited seating) are not subject to the "luxury auto" rules regardless of their weight.

**Heavy SUVs bought this year:**

SUVs, which are trucks, are exempt from the above luxury-auto rules if they are rated at more than 6,000 pounds gross (loaded) vehicle weight. Many luxury and near-luxury-class SUVs fall in this category. The limit on Section 179 expensing is $ 25,900 for 2020. In addition, bonus depreciation expensing is 100% for 2018 through 2021.

All the above dollar limits apply only if you use the vehicle 100% for business. (This condition is automatically met if a corporation treats a non-owner employee's personal use of a vehicle as compensation income and keeps the proper records. If the driver is a 5% company owner an additional condition applies – his or her business use must be more than 50% of total use.) The dollar limits are reduced proportionately for any personal use.

## Cell Phone Tax Treatment

The 2010 Small Business Act removes cell phones from the category of "listed property" for tax years beginning after December 31, 2009. Thus, the heightened substantiation requirements and special depreciation rules that apply to listed property no longer apply to cell phones. To support a deduction for cell phones, the employer need only substantiate their cost, in much the same way as the employer supports the deduction for other types of business equipment. Unless an employee's personal use of an employer-provided cell phone is specifically excluded from income (e.g., as a de minimis fringe benefit), that non-business cell phone use will need to be calculated and reported to the employee as taxable compensation.

# *Common Reporting Issues*

## Due Dates for Common Tax Returns:

C Corporation returns are due on or before the 15th day of the fourth month after year end (i.e., calendar year end returns are due in April). However, returns for fiscal years ending June 30th are due September 15th. The extension period is 6 months (7 months for corporations with a tax year ending June 30th). The different due date and extension period for June 30th year end returns is in effect until 2026.

S Corporation and partnership returns are due on or before the 15th day of the third month after year end (i.e., calendar year end returns are due in March). The extension period is 6 months.

Fiduciary and individual returns are due on or before the 15th day of the fourth month after year end, (i.e., calendar year end returns are due in April). The extension period is 5 ½ months for fiduciary returns and 6 months for individual returns.

FBAR (Report of Foreign Bank and Financial Accounts) is due at the same time as an individual return. The reporting is required if financial interests in, signature or other authority over, foreign financial accounts exceeds $10,000 at any time during the year.

## PCORI Fee Reporting:

Health plan sponsors (including self-funded plans) must pay an annual fee per covered life. The PCORI fee is reported on IRS form 720, "Federal Excise Tax Return", line 133, by July 31st of the calendar year immediately following the end of the plan year. The fee per covered life is $2.54 for plan years ending on or after October 1, 2019 and is indexed for inflation annually.

## Electronic Deposit Requirement:

As of January 1, 2011, a taxpayer became required to deposit all depository taxes (such as employment, excise, and corporate income taxes) electronically using the Electronic Federal Tax Payment System (EFTPS). The rules required all of the following to be deposited via EFT: corporate income and corporate estimated taxes, unrelated business income taxes of tax-exempt organizations, private foundation excise taxes, taxes withheld on nonresident aliens and foreign corporations, estimated taxes on certain trusts, FICA taxes and withheld income taxes, non-payroll taxes (including backup withholding), Federal Unemployment Tax Act (FUTA) taxes, and excise taxes reported on Form 720, Quarterly Federal Excise Tax Return. Some businesses paying a minimal amount of tax can, however, continue to make their payments with the related tax return, instead of using EFTPS.

## Form 1095:

This form is used by Applicable Large Employers (those with more than 50 full time equivalent employees in the previous year) to report information about health coverage and enrollment in health coverage for their employees. The form normally needs to be provided to full time employees by January 31, but was extended to March 31, 2021 for this year only. The due date for filing with the IRS is March 1, 2021 (March 31, 2021 if filed electronically). Electronic filing requirements apply to those employers filing 250 or more forms.

Smaller employers are not subject to these reporting requirements unless they sponsor a self-funded plan.

**Form 1099:**

Payments to unincorporated entities (individuals, proprietors, LLCs, and partnerships) for the following are to be reported to the IRS if they equal or exceed the indicated amounts.

***Form 1099-NEC, new this year***, for reporting non-employee compensation of at least $600 must be filed with the IRS (whether on paper or electronically) and provided to recipients by February 1st.

Other 1099 forms must be distributed to the recipient by February 1, 2021 and must be filed with the IRS by March 1, 2021 (March 31, 2021 if filing electronically).

| Payments for: | Equal or Exceed | Form |
|---|---|---|
| Dividends | $ 10 | 1099-DIV |
| Interest (generally) | 10 | 1099-INT |
| Royalties | 10 | 1099-MISC |
| Distributions from retirement plans | 10 | 1099-R |
| Liquidating distributions | 600 | 1099-DIV |
| Interest (paid in the course of a trade or business) | 600 | 1099-INT |
| Attorney, fees and gross proceeds | 600 | 1099-MISC |
| Fees paid for prizes and awards, not related to services performed | 600 | 1099-MISC |
| Fees paid for services, commissions, prizes and awards related to services performed | 600 | 1099-NEC |
| Rents | 600 | 1099-MISC |
| Certain property received as a result of a foreclosure | All must be reported | 1099-A |
| Proceeds from broker and barter exchanges | All must be reported | 1099-B |
| Distributions from health and medical savings accounts | All must be reported | 1099-SA |

Payors of tax-exempt interest are required to file an information return with payees and the IRS showing the aggregate amount of tax-exempt interest paid during the calendar year.

**Form 1099–S:**

Real estate transactions in excess of $600 must be reported on Form 1099-S by the person responsible for closing the transaction. This normally would include an attorney, title company, mortgage lender or real estate broker. If no person is responsible for closing the transaction, the buyer may be subject to the reporting requirements. The real estate transaction reporting rule does not apply if the seller is a corporation. The information–return–to–IRS requirement does not apply to a sale of a principal residence for $250,000, or less, under certain circumstances.

**Form 1098:**

Recipients of $600 or more of mortgage interest received from an individual, in connection with a trade or business are required to report such receipts. This form must be distributed to the recipient by February 1, 2021 and must be filed with the IRS by March 1, 2021 (March 31, 2021 if you file electronically).

**Form W-2:**

Form W-2 must be filed with the SSA (whether on paper or electronically) and provided to employees by February 1, 2021.

## Electronic Reporting Requirements:

High volume filers of Forms 1099 or W-2 are required to submit their filings electronically rather than filling out paper forms. Electronic submissions of Forms 1099 are filed using the Filing Information Returns Electronically System (FIRE System). If you file ***250 or more*** W-2s for the year, you must file those using electronic reporting.

For Forms 1099, electronic reporting is required for ***any type*** of Form 1099 for which you are making more than 250 filings. The IRS can impose substantial penalties for failure to comply with this requirement.

**Example 1**:

| Form | # of Filings |
|---|---|
| 1099-INT | 200 |
| 1099-DIV | 50 |
| 1099-MISC | 300 |

*Result:*
Electronic reporting is required for Form 1099-MISC filings but not for Forms 1099-INT and 1099-DIV filings.

**Example 2**:

| Form | # of Filings |
|---|---|
| 1099-INT | 200 |
| 1099-DIV | 50 |
| 1099-MISC | 150 |

*Result:*
Electronic reporting is not required for any of the filings (even though the total 1099 filings exceed 250).

The due date for filing information returns with the IRS is March 1, 2021 (extended to March 31, 2021 if filing electronically, except for information returns reporting non-employee compensation).

## Cash Reporting Requirements:

The receipt of cash of more than $10,000 in one transaction (or connected transactions) in the conduct of a trade or business will necessitate reporting on Form 8300 unless certain exclusions apply. This reporting to the IRS is required within 15 days of the receipt of the cash.

The term "cash" includes US and foreign coin and currency. Personal checks of any amount are not considered cash. Bank drafts, traveler's checks and money orders having a face amount of $10,000 or less are considered cash. Other negotiable instruments may be considered cash in certain circumstances.

Penalties for failure to file Form 8300 can be in excess of $25,000.

# *Common Tax Issues*

## Vehicle Usage:

As in prior years, an employee's personal use of an employer-provided automobile is a taxable fringe benefit. It is subject to both income tax withholding and FICA tax. The benefit is also subject to Federal unemployment tax. Personal use includes commuting. Correct reporting of this on Form W-2 is required to preserve an employer's tax deduction with respect to the vehicle.

## Mileage Reimbursement Rate:

For 2020, the standard rate for reimbursing business miles is 57.5 cents per mile. The 2021 standard rate for reimbursing business miles has not yet been released as of the date of this printing.

## Cafeteria Plan – Section 125:

Amounts are not subject to income tax withholding, FICA tax, and Federal unemployment tax.

## Employee Contributions to Retirement Plan Account:

Amounts are not subject to income tax withholding. These amounts are subject to FICA tax and Federal unemployment tax.

## Informational Reporting of Employer-Sponsored Health Coverage:

The Affordable Care Act provides that employers are required to report the cost of employer-provided health care coverage on Form W-2. However, this requirement was waived for smaller employers (those that filed less than 250 W-2 forms in the previous year) by making the reporting optional. The requirement for smaller employers will continue to be optional until such time as further guidance is issued. Larger employers must report the cost of employer-sponsored health coverage in Box 12 ("Code DD") of Form W-2. This reporting requirement does not apply to contributions to HRAs, HSAs, MSAs, and FSAs funded solely by employee pre-tax contributions.

## Health Insurance Benefits - "S" Corporations:

Health insurance premiums paid by "S" Corporations on behalf of each over-2% shareholder must be included in the shareholder's Form W-2. These amounts are exempt from FICA tax and Federal unemployment tax. An over-2% shareholder will generally be allowed a 100% deduction from gross income (on the individual's Form 1040) for health insurance premiums.

## Change in FICA Wage Base:

FICA taxes are divided into two components and are withheld from employees' wages (and matched by employers) at the following rates and wage bases:

| | 2020 | | | 2021 | | |
|---|---|---|---|---|---|---|
| | Employee | Employer | Base | Employee | Employer | Base |
| Social Security (old age, survivors, and disability insurance) | 6.20% | 6.20% | $137,700 | 6.20% | 6.20% | $142,800 |
| Medicare (hospital insurance) | 1.45% | 1.45% | Unlimited | 1.45% | 1.45% | Unlimited |
| Medicare (wages over $200,000) | .90% | - | Unlimited | .90% | - | Unlimited |

If you prepare payroll, you will be required to update your software to accommodate any annual changes in withholding tables.

## Health Savings Account Contribution Limits:

| | 2020 | 2021 |
|---|---|---|
| Individual | $ 3,550 | $ 3,600 |
| Individual w/ "catch up" (age 55 or older) | $ 4,550 | $ 4,600 |
| Family | $ 7,100 | $ 7,200 |
| Family w/ "catch up" (age 55 or older) | $ 8,100 | $ 8,200 |
| Individual HDHP minimum annual deductible | $ 1,400 | $ 1,400 |
| Family HDHP minimum annual deductible | $ 2,800 | $ 2,800 |
| Individual out-of-pocket maximum | $ 6,900 | $ 7,000 |
| Family out-of-pocket maximum | $ 13,800 | $ 14,000 |

Contributions can be made for the entire year even though an individual is HSA-eligible for only part of the year if the individual is eligible to contribute to an HSA during the last month of the year. For 2020, contributions must be made by April 15, 2021.

## Qualified Pension Plan Employee Contribution Limits:

| | 2020 | 2021 |
|---|---|---|
| 401(k) | $ 19,500 | $ 19,500 |
| 401(k) “catch-up” limit (age 50 or older) | $ 26,000 | $ 26,000 |

Generally, at the time of contribution, employee deferrals under the limits stated above are exempt from Federal income tax withholding, but FICA and Federal unemployment taxes normally apply.

Employer-made contributions to a qualified plan are exempt from employment taxes.

## Definition of Independent Contractor:

The IRS has distinguished between independent contractors and employees. If an employee is incorrectly treated as an independent contractor, substantial penalties may be imposed on the employer.

The degree of control a company exercises over an individual is the primary test used by the IRS in identifying employees. However, the IRS has a list of 20 different factors which are used to determine independent contractor status. This list can be made available to you upon request.

Please contact us with your specific questions concerning this issue.

## Lump-sum and Certain Other Distributions from Retirement Plans:

Lump-sum and certain other distributions from retirement plans are subject to a 20-percent withholding requirement if the distribution is paid directly to an employee. The 20-percent withholding is required even if the distribution from a pension or profit-sharing plan is eligible to be rolled over into an IRA. The withholding requirement does not affect the taxability of a distribution. Distributions from pension and profit-sharing plans will still be eligible for rollover into an IRA. However, the 20 percent withheld from the distribution will become taxable unless the employee can roll over an equivalent amount into the IRA from personal funds. The 20-percent withholding can then be claimed as a credit on the individual's Form 1040.

The 20-percent withholding requirement can be avoided if an individual arranges to have the funds transferred directly from trustee to trustee.

## Household Employee:

If you have a household employee, you may need to withhold and pay Social Security and Medicare taxes, or you may need to pay federal unemployment tax, or you may need to do both. You may also be responsible for state unemployment taxes.

You do not need to withhold federal income tax from your household employee's wages. But, if your employee asks you to withhold it, you can choose to do so.

## Tax-Exempt Organizations – Proxy Tax:

Trade associations and other organizations that collect dues or fees from members should disclose the amount of these dues or fees expected to be used for lobbying purposes. Failure to do so will result in the organization being subject to a proxy tax, at 35%, on lobbying expenditures.

## Small Tax-Exempt Organizations – Form 990-N (e-Postcards):

Small tax-exempt organizations that previously were not required to file returns may be required to file an annual electronic notice, Form 990-N, *Electronic Notice (e-Postcard) for Tax-Exempt Organizations not Required to File Form 990 or 990-EZ*. The Form 990-N is due by the 15th day of the fifth month after the close of the tax period. Organizations that do not file this notice for three consecutive years will lose their tax-exempt status.

## Charitable Contributions Substantiation:

While all contributions must be substantiated, outright contributions in excess of $250 or more, or quid-pro-quo contributions in excess of $75, require a written receipt from the charitable organization. The charitable organization must provide such information, but it is the responsibility of the taxpayer claiming a charitable deduction to be sure to have received a contemporaneous written acknowledgement. Failure to do so will cause the contribution to be nondeductible. A canceled check does not qualify as written substantiation for a contribution in excess of $250.

Contributions of vehicles (as well as boats and airplanes) require stricter documentation/receipt requirements as well as possible limitations on the amount that is tax deductible. If a vehicle is contributed to a charity that sells the vehicle to a third party without doing any major repairs, the deduction allowed will be limited to the proceeds received by the charity from the sale of the vehicle. The charity must include the amount of the proceeds received on the written acknowledgement.

**Small Employer Health Insurance Credit:**

Under the Patient Protection and Affordable Care Act, effective for tax years beginning after December 31, 2009, an eligible small employer (ESE) may claim a tax credit equal to 50% for nonelective contributions to purchase health insurance for its employees. The credit is allowed for the 2 consecutive tax year period beginning with the first tax year after 2013 for which the ESE files an income tax return claiming the credit.

An ESE is an employer with no more than 25 full-time equivalent employees (FTEs) employed during its tax year, and whose employees' annual full-time equivalent wages average no more than $55,200 in 2020. However, the full credit is available only to an employer with 10 or fewer FTEs and whose employees have average annual full-time equivalent wages from the employer of not more than $27,600 in 2020.

The contributions must be provided under a qualifying arrangement, i.e., one requiring the ESE to make a nonelective contribution for each employee who enrolls in certain defined qualifying health insurance offered by the ESE equal to a uniform percentage (not less than 50%) of the premium cost of the qualifying health plan. An ESE must offer the insurance through a small business health options program (SHOP exchange) if available. The credit is a general business credit, can be carried back for one year and carried forward for 20 years, and can offset alternative minimum tax. This credit is available to most small business and tax-exempt organizations. The credit is refundable to tax exempt organizations, even if they owe no other tax.

# *State of New Hampshire*

**New Hampshire Annual Reports:**

Corporations, Limited Liability Companies and Limited Liability Partnerships are required to file an annual report with the Secretary of State by April 1 of each year, along with a $100 fee.

**New Hire Reporting:**

All employers must file a New Hire Reporting form within 20 days after hiring a new employee or rehiring an employee. The form should also be filed for all individuals with whom you contract for services, other than casual labor, when reimbursement for services in this state is anticipated to exceed $2,500. The form is filed with the NH Department of Employment Security.

**Abandoned Property Reporting:**

All businesses that hold unclaimed monies belonging to customers/clients are required to report and turn all monies over to the State. Voiding any unclaimed check is not adequate. The State then makes efforts to locate the rightful owners and return the funds. The reports are filed annually, due November 1.

# *State of Massachusetts*

**Form 1099:**

All companies doing business in Massachusetts are subject to 1099 reporting requirements which are essentially the same as the federal reporting requirements. Copies of the federal 1099s may be used to satisfy the Massachusetts requirement.

**Electronic Filing and Payments:**

Corporations and S Corporations with gross receipts of $100,000 or more must electronically file their MA state tax returns and make all business tax payments electronically.

Partnerships with 25 or more partners, or gross receipts over $50,000 must electronically file their MA state tax returns and make all business tax payments electronically.

**Pass-through Entity Withholding Requirements:**

A pass-through entity (partnership, S corporation, or LLC) that files a return in MA will have to pay quarterly income tax withholding payments unless certain affirmations are made on form PTE-EX ("Withholding Exemption Certificate for Members of a Pass-Through Entity"). The reasons an individual would be exempt from this withholding are: 1) the member of the pass-through entity is a MA resident, 2) is part of a composite filing, or 3) taxpayer asserts that he will make estimated tax payments. This PTE-EX must be filed with the entity by the last day of the fourth month of the taxable year or within thirty days of the shareholder or member joining the organization, whichever is later.

# *States of Maine, New York & Vermont*

**Withholding:**

The states of Maine, New York and Vermont require pass-through entities to withhold income taxes from the state-sourced distributive income of nonresident partners, shareholders, or beneficiaries.

# *New England & New York*

**Remote Seller Registration:**

Other than the state of New Hampshire, the New England states and New York require out- of-state sellers which have no physical presence in their states to register for sales tax, and collect and remit these taxes if certain dollar thresholds of sales into their state and/or volume of transactions are met. The effective dates, some of which were in 2018, and the lookback period vary by state.