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2022 Small Business Advanced Tax Update

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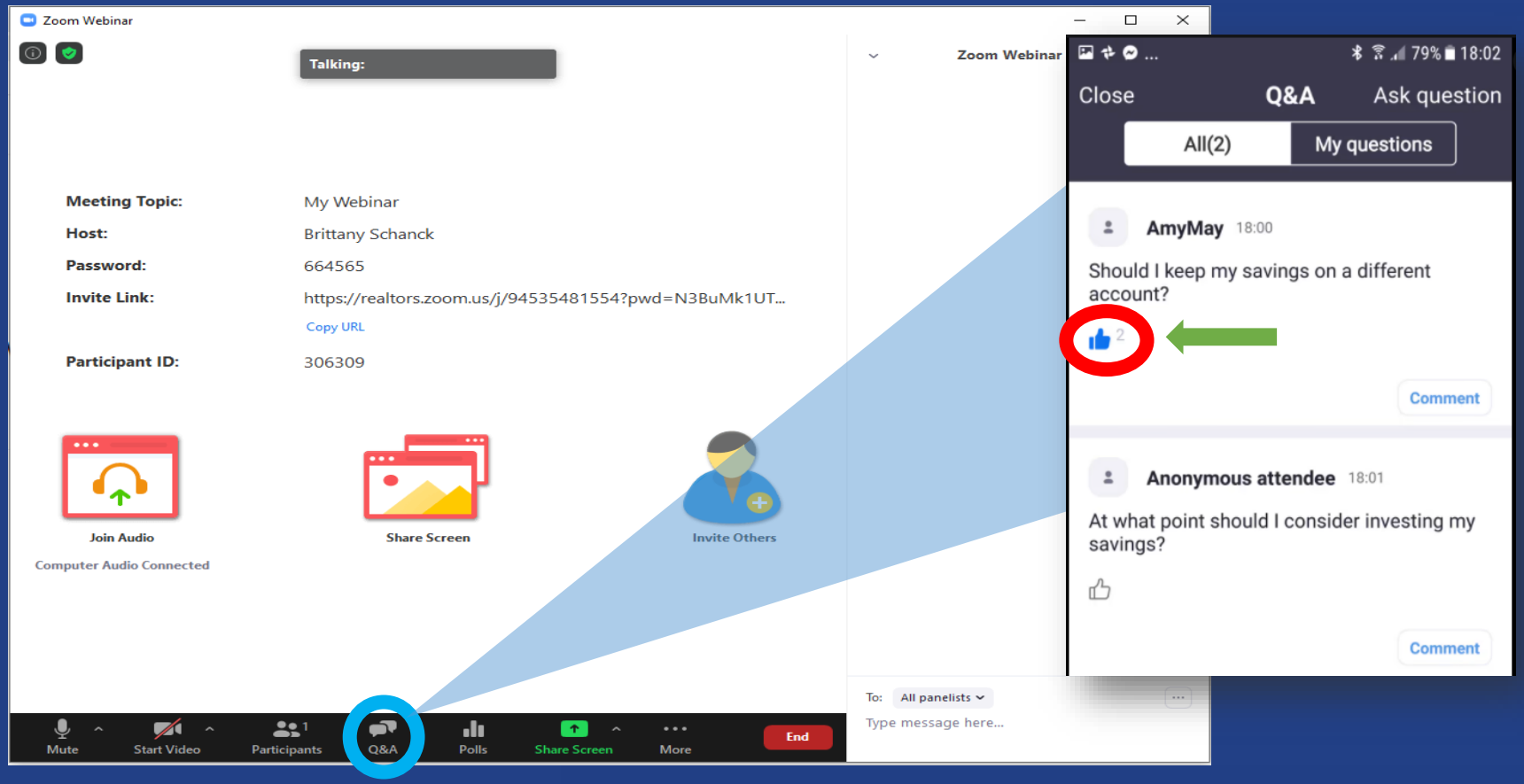

Presentation Format & Questions
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Ryan L. Losi, CPA

PIASCIK Shareholder & Executive Vice President

- Specialize in Real Estate and International Taxation
- 25 years of Real Estate & International Tax (including Tax Controversy Experience)
- Built PIASCIK's Real Estate & International Tax Practices to one of the largest in the Mid-Atlantic Region
- Former PwC International Tax Manager, with National ITS consulting team, managed 15 professionals based out of NYC
- Member, AICPA and Virginia Society of CPAs (Chairman of Tax Committee 2016-2018)
- Syndicated Tax CPE Instructor across 48 State CPA Societies and Institutes thru ACPEN
- Served as board member on a number of trade associations, business councils and privately held companies

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2022 SMALL BUSINESS ADVANCE TAX UPDATE

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Agenda

- Legislative Tax Update
- Tax Benefits to Consider for 2021 & 2022
- Tax Considerations for Investment Properties
- Like-Kind Exchanges
- Planning for Upcoming Tax Season

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Legislative Tax Update

- Consolidated Appropriations Act 2021
- American Rescue Plan Act 2021
- Infrastructure Investment and Jobs Act
- Tax Cuts & Jobs Act (TCJA) vs Build Back Better (BBB) Act

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Consolidated Appropriations Act 2021

- Bill revived several tax provisions that were set to expire at the end of 2020 –some permanently, some for shorter durations although most would not likely have a direct impact on participants in this webinar. I have listed the ones I believe impact participants in this webinar.

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Consolidated Appropriations Act 2021

- Medical expense AGI threshold for 2021 is 7.5% and permanent vs 10%
- Mortgage insurance premium deduction (2021)
- Tuition and fees deduction (2020) **expired**
- Exclusion for discharge of qual. principal residence debt (2025)
- Nonbusiness energy property credit (2021)
- Various fuels credits (various)
- Work Opportunity Credit (WOTC) (2025)

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Consolidated Appropriations Act 2021

- Employee Retention Tax Credit **Significantly** Enhanced
  - $7,000 per quarter in 2021 vs $5,000 per year in 2020
  - Can claim ERC + PPP in the same year
- Paycheck Protection Program **Second Draw** Loans (Forgivable)

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American Rescue Plan Act 2021

- More COVID-19 related funding
- Extended Unemployment Benefits
- Additional Stimulus to Individuals
  - Phaseouts starting at AGI $75K single / $150K MFJ
- Several Significant Tax Provisions
  - Expanded Child Tax Credit
  - Expanded Dependent Care Credit
  - Expanded Earned Income Tax Credit

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American Rescue Plan Act 2021

- Expanded Child Tax Credit
  - 2021 Only – Child Tax Credit increased to $3,000 ($3,600 if under age 6)
  - Fully refundable
  - Various Phaseouts starting at AGI $75K single / $150K MFJ and then $200K single / $400K MFJ

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American Rescue Plan Act 2021

- Expanded Dependent Care Tax Credit
  - 2021 Only – Child Tax Credit increased to as much as $8,000
  - Fully refundable
  - Various Phaseouts
    - 50% rate begins phaseout starting at AGI $125K for both Single / MFJ
    - 20% rate applies for AGI between $185K - $400K
    - 20% rate begins phaseout starting at $400K

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Infrastructure Investment and Jobs Act

- Expanded reporting for cryptocurrency and digital assets for brokers and businesses after 12/31/23
  - $10K vs $20K reporting threshold for transactions

- Not much related to tax in this bill…

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Build Back Better Act

- The Bill tabled in December 2021 when Senator Joe Manchin (D) publicly stated he would not support the Bill.
- The Bill undid many of the tax cuts that Trump provided businesses and individuals but only to the extent they made over $400,000

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Tax Benefits to Consider for 2021 & 2022

2022 Tax Brackets for Single Filers, Married Couples Filing Jointly, and Heads of Households

2022 Tax Rate	For Single Filers	For Married Individuals Filing Joint Returns	For Heads of Households
10%	$0 to $10,275	$0 to $20,550	$0 to $14,650
12%	$10,275 to $41,775	$20,550 to $83,550	$14,650 to $55,900
22%	$41,775 to $89,075	$83,550 to $178,150	$55,900 to $89,050
24%	$89,075 to $170,050	$178,150 to $340,100	$89,050 to $170,050
32%	$170,050 to $215,950	$340,100 to $431,900	$170,050 to $215,950
35%	$215,950 to $539,900	$431,900 to $647,850	$215,950 to $539,900
37%	$539,900 or more	$647,850 or more	$539,900 or more

Source: Internal Revenue Service

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Tax Benefits to Consider for 2021 & 2022

2022 Capital Gains Tax Brackets

	For Unmarried Individuals, Taxable Income Over	For Married Individuals Filing Joint Returns, Taxable Income Over	For Heads of Households, Taxable Income Over
0%	$0	$0	$0
15%	$41,675	$83,350	$55,800
20%	$459,750	$517,200	$488,500

Source: Internal Revenue Service

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Tax Benefits to Consider for 2021 & 2022

2022 Standard Deduction

Filing Status	Deduction Amount
Single	$12,950
Married Filing Jointly	$25,900
Head of Household	$19,400
Source: Internal Revenue Source	

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Tax Benefits to Consider for 2021 & 2022

- Qualified Business Income Deduction
- 100% Bonus Depreciation and Sec. 179 Expensing
- Pension Plans SEP IRA, Solo 401(k) or others
- Home Office Deduction
- Business Meals (100% Expensing)
- Prepaid Expenses
- Hiring Family Members

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Qualified Business Income

- QBI is net income from a qualified **domestic** trade or business

- Qualified trades or businesses include **sole proprietorships**, partnerships (GPs, LPs, LLLPs), S Corporations, LLCs, and certain trusts

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Qualified Business Income

- QBI does not include:
  - Capital gains/losses, dividends, interest, other income that is not business related
  - Reasonable compensation paid by an S Corp to its shareholders
  - Amount paid by partnership to a partner as a guaranteed payment

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Qualified Business Income

- Qualified trades and businesses do not include specified service businesses
  - Trades or businesses involving performance of services in certain fields such as law, health, accounting, actuarial science, performing arts, consulting, athletics, financial services, **brokerage services**, including investing and investment management, trading, or dealing in securities, partnership interests, or commodities or
  - Any trade or business where principal asset is the skill or reputation of one or more of its employees or owners
- Exempt from the specified service business definition – engineering & architecture

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Qualified Business Income

Brokerage Services

- Shortly after the TCJA passed but before Treasury issued regulations tax practitioners were concerned Treasury would take a wide view of “brokerage” and include any “brokered” activity like insurance, real estate, shipping, freight, travel and anyone who brokers buyers and sellers of a marketplace. Fortunately, Treasury took a very narrow view and included only financial securities brokers like stockbrokers. Realtors dodged a big bullet!!

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Qualified Business Income – Income Thresholds

2022 - $170,050 (single) or $340,100 (joint)

- If taxable income is **above** –
  - Deduction is limited to the lesser of: 20% of QBI or 20% of taxable income (less net capital gains)
  - Further limited to: The greater of 50% of qualified W-2 wages OR 25% of qualified W-2 wages plus 2.5% of unadjusted basis of qualified property

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Qualified Business Income – Income Thresholds

2022 - $170,050 (single) or $340,100 (joint)

- If taxable income is **below** –
  - Deduction is limited to the lesser of: 20% of QBI or 20% of taxable income (less net capital gains)
  - No wage limitations
  - **Specified service businesses can take deduction**
  - Limitations phased in as income exceeds the thresholds

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Still Nondeductible

- Miscellaneous itemized deductions are suspended (nondeductible thru 2018 - 2025)
  - Tax prep fees, legal fees, investment management fees, NFL agent fees, union dues, unreimbursed employee expenses, etc.
- Moving Expenses
  - No longer deductible by individuals
  - Reimbursements from employer are included in gross income (previously excluded from individual's income)

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Tax Considerations for Investment Properties

- Passive vs Nonpassive Rules
- Active Participation Election
- Material Participation Election
- Using the Aggregation Election and/or Real Estate Professional Designation (Tax Definition) to your advantage
- 100% Bonus Depreciation
- Interest Deduction (leverage can be your friend)
- Home Office Deduction (Maybe)

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Like Kind Exchanges

- Often referred to as “Sec. 1031” or “Starker” exchange
- What type of property qualifies Pre-2018 and Post-2017
- Timeline that must be met and strict titling of assets (seller of relinquished property must be buyer of replacement property)
- How to defer 100% of the gain?
- What is Boot?
- What is a Qualified Intermediary
- When does a 1031 make sense?

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Planning for Upcoming Tax Season

- Claim/Maximize the QBI deduction
- 100% expensing for business fixed assets through 2022
- Do you need to establish a Pension (SEP IRA or Solo 401(k) for yourself?
- Are you a Real Estate Professional (Tax definition) and do you need to aggregate your rentals, or do you materially participate?
- Is it time for an S Corp conversion?
- Is a Sec. 1031 in your cards?
- Don’t forget about COVID- Relief and Expanded tax credits in American Rescue Plan Act

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If you have further questions, you can reach me at:

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