

2022 WICPA BUSINESS & INDUSTRY FALL CONFERENCE

YOUR SOURCE FOR KEY UPDATES & INSIGHTS ON TIMELY ISSUES

TUESDAY, SEPT. 13
BROOKFIELD CONFERENCE CENTER
& WICPA CPE LIVESTREAM



2022 WICPA BUSINESS & INDUSTRY FALL CONFERENCE

MATERIALS AT A GLANCE

The following materials are from the morning sessions of the 2022 WICPA Business & Industry Fall Conference held on Tuesday, Sept. 13, including:

- The Wisconsin Economy in Recovery
- Executive and Equity Compensation: A Guide for CFOs
- Annual Tax Update
- Supply Chain: Price Increases & Inflation

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Nancy M.
Bonniwell,
J.D.



Terri S. Boxer,
J.D.



Robert E. Dallman,
J.D., LL.M.



Thomas P.
Guskowski,
J.D., LL.M.



Courtney A.
Hollander,
J.D., LL.M.



Megan L.W.
Jerabek, J.D.



Thomas J.
Kammerait,
J.D., CPA



Sumeeta A.
Krishnaney
J.D., MBA



Marcus S. Loden,
J.D., LL.M.



Thomas A. Myers,
J.D.



Randy S. Nelson,
J.D., CPA



Thomas J. Phillips,
J.D., LL.M.



David J. Roettgers,
J.D., CPA



John A. Sikora,
J.D.



Adam N. Skarie,
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Steven M. Szymanski,
J.D., MBA



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SAVE THE DATE!

Business & Industry Fall Conference

Tuesday, Sept. 13

Brookfield Conference Center, Brookfield

Wednesday, Oct. 26

Glacier Canyon Lodge, Wisconsin Dells

Not-for-Profit Accounting Conference

Tuesday, Sept. 20

Brookfield Conference Center, Brookfield

Tax Conference

Thursday, Nov. 3 - Friday, Nov. 4

Brookfield Conference Center, Brookfield

Accounting & Auditing Conference

Wednesday, Nov. 16

Brookfield Conference Center, Brookfield

Accounting Technology Conference

Thursday, Dec. 8

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Recipients will be announced in January and honored at the
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8:15 – 9:15 a.m.

The Wisconsin Economy in Recovery

John Koskinen, *Chief Economist, Wisconsin Department of Revenue and Wisconsin Economic Development Corp.*

Wisconsin Economic Outlook A SWOT Analysis

Wisconsin Institute for Certified Public Accountants

September 13, 2022

Quick Recap

- The issues confronting the U.S. economy are a direct results of COVID Pandemic and the massive efforts to avoid a larger collapse worked
- The combined effects of pandemic and economic remedies have accelerated long-term issues in goods supply, labor supply and inflation

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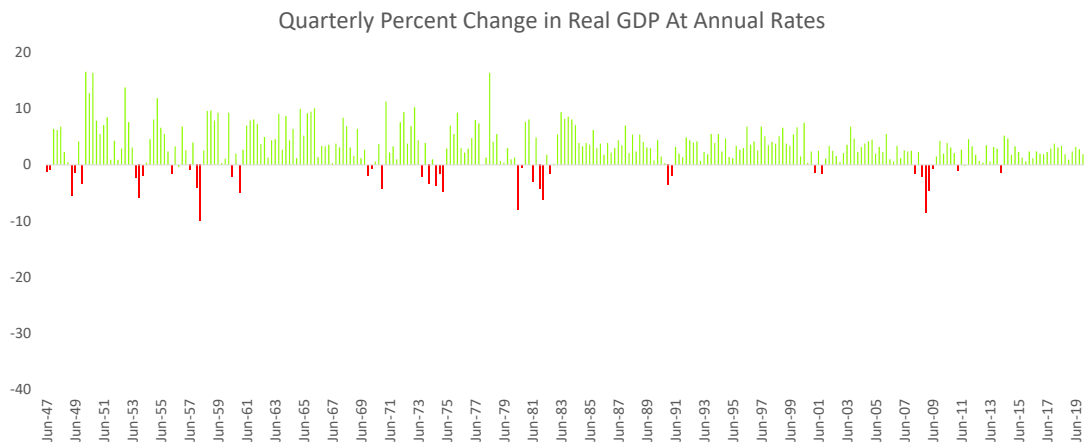
COVID Pandemic a once in 100-Year Event Second Deadliest, Second Longest Lasting

Pandemics						
Start	End	Name	US Population	U.S. Deaths	Fatality Rate Per 100,000 Population	Non-Pharmaceutical Interventions in the U.S.
Mar 1918	Aug 1919	Spanish Flu: N1N1 Virus	103,208,000	675,000	654.02	Major Cities Implemented Closures of Schools & Mass Entertainment Venues
Feb 1957	Aug 1959	Asian Flu: H2N2 Influenza Virus	171,984,130	116,000	67.45	None
Jul 1968	Dec 1969	Hong Kong Flu: H3N2 Influenza Virus	200,706,052	100,000	49.82	None
Apr 2009	Aug 2010	Swine Flu: N1N1pdm09 Influenza Virus	308,169,976	16,000	5.19	Selected School Closings, 980 nationwide, affecting 677,000 students
Dec 2019	TBD	COVID-19: Corona Virus	329,135,084	835,300	252.34	National Emergency. 45 States issue Shelter-in-Place orders. Mandated closure of non-essential businesses. School closings.

Sources: Center for Disease Control. Projected COVID-19 Deaths from University of Washington, Institute for Health Metrics and Evaluation

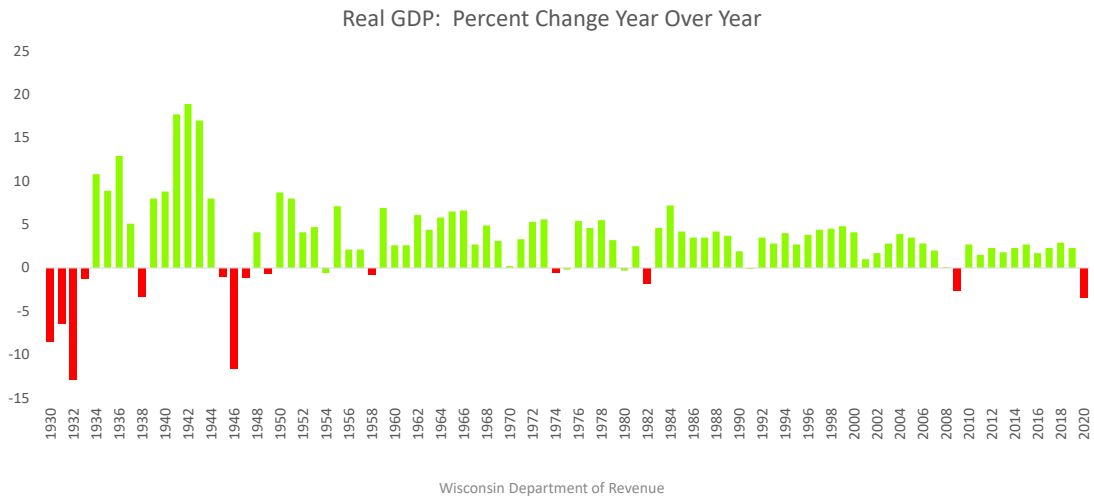
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COVID Contraction: Worst Quarter in U.S. Economic History



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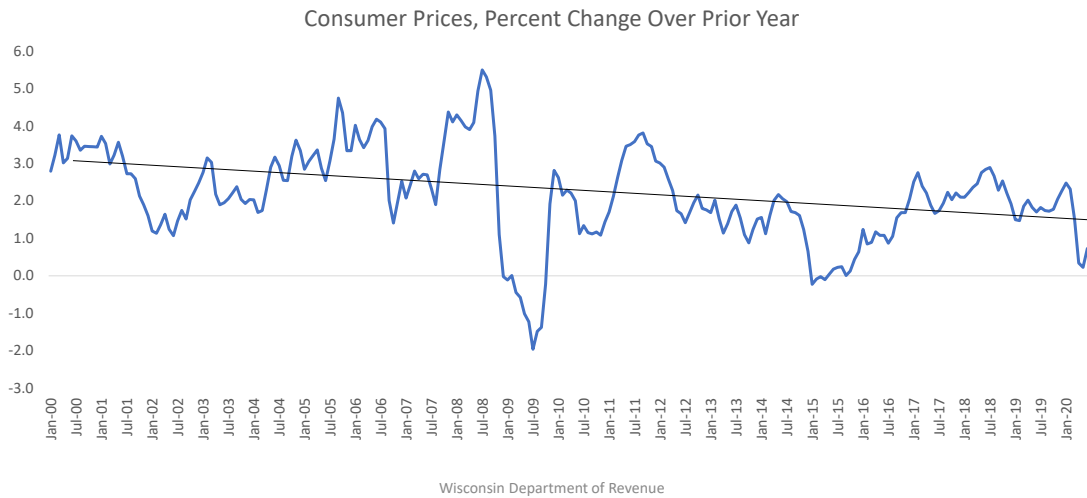
For the Year, 2020 COVID Contraction: Worst Since WW2 Demobilization



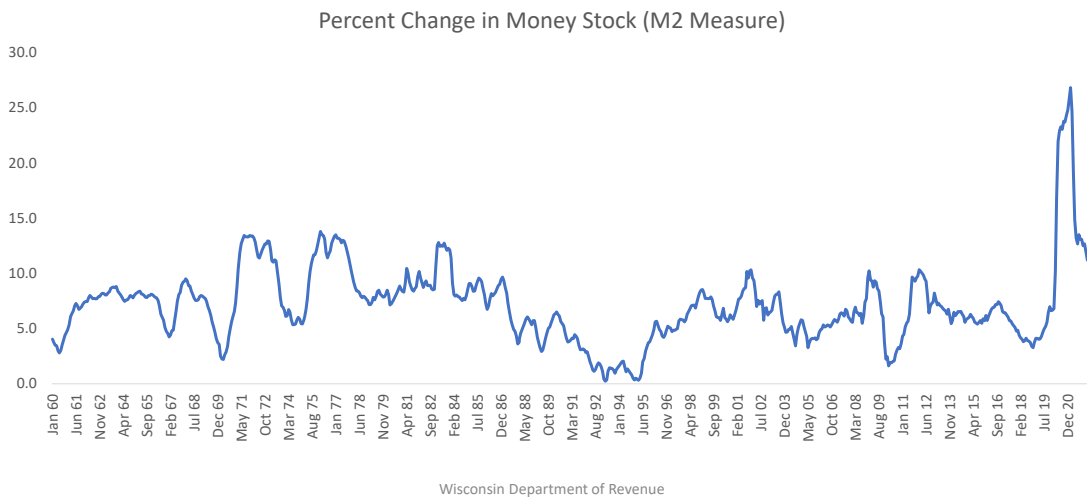
U.S. Unemployment Rate Reached a Post-War High in Just Two Months



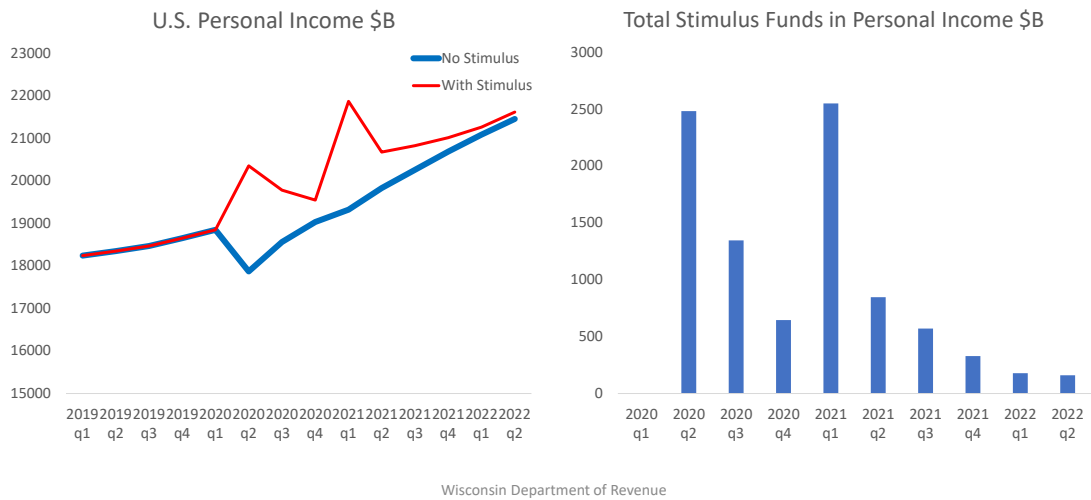
Inflation Was Not Seen as a Risk in 2020



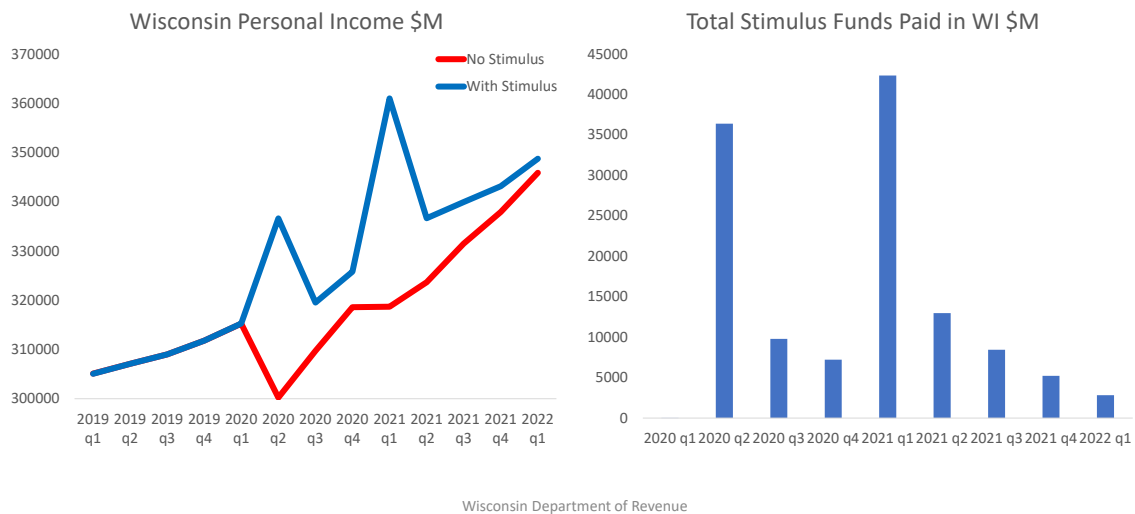
To Avoid an Economic Collapse the Federal Reserve Boosted the Economy with a Record Expansion in Money Supply



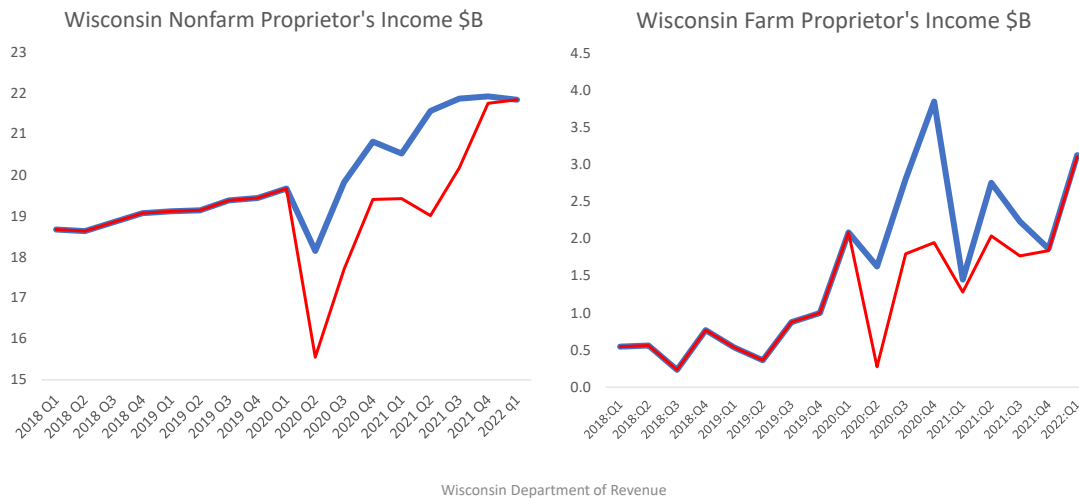
Stimulus Funds Lifted U.S. Personal Income



Stimulus Funds Lifted Wisconsin Personal Income Particularly 2020 Q2 and 2021 Q1



Stimulus Boosted WI Proprietor's Income Now Ahead of Pre-Pandemic Levels W/O Stimulus



COVID Contraction: Shortest in U.S. Economic History

Start Date	End Date	Length in Months	Start Date	End Date	Length in Months	Start Date	End Date	Length in Months
June 1857	December 1858	18	September 1902	August 1904	23	November 1948	October 1949	11
October 1860	June 1861	8	May 1907	June 1908	13	July 1953	May 1954	10
April 1865	December 1867	32	January 1910	January 1912	24	August 1957	April 1958	8
June 1869	December 1870	18	January 1913	December 1914	23	April 1960	February 1961	10
October 1873	March 1879	65	August 1918	March 1919	7	December 1969	November 1970	11
March 1882	May 1885	38	January 1920	July 1921	18	November 1973	March 1975	18
March 1887	April 1888	13	May 1923	July 1924	14	January 1980	July 1980	6
July 1890	May 1891	10	October 1926	November 1927	13	July 1981	November 1982	18
January 1893	June 1894	17	August 1929	March 1933	43	July 1990	March 1991	8
December 1895	June 1897	18	May 1937	June 1938	13	March 2001	November 2001	8
June 1899	December 1900	18	February 1945	October 1945	8	December 2007	June 2009	18
						February 2020	April 2020	2
Average Duration		23			18			10

Source: National Bureau of Economic Research

Wisconsin Department of Revenue

Recession Watch: Is the U.S. in a Recession?

What is a Recession

- The official business cycle dating entity is the National Bureau of Economic Research (NBER) Business Cycle Dating Committee.
- A recession is whatever the NBER Business Cycle Dating Committee says it is.
- NBER: “a recession involves a significant decline in economic activity that is spread across the economy and lasts more than a few months”
- The NBER does not define a recession in terms of two consecutive quarters of decline in real GDP.

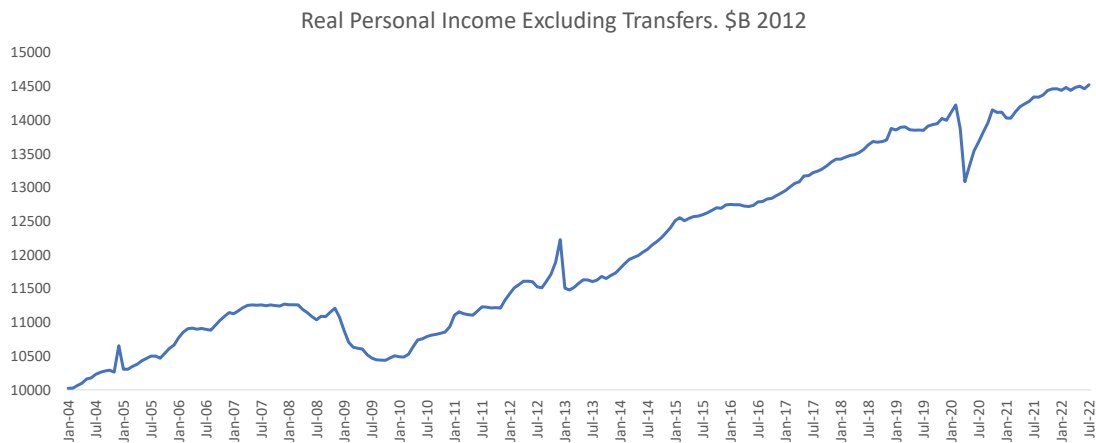
NBER Uses Six Indicators to Date Recessions

Greatest Weight to Real Personal Income Less Transfers and Nonfarm Payroll Employment

1. **Real personal income less transfers (PILT)**
2. **Nonfarm payroll employment**
3. Real personal consumption expenditures
4. Wholesale-retail sales adjusted for price changes
5. Employment as measured by the household survey
6. Industrial production

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1) Real Personal Income Less Transfers Rising



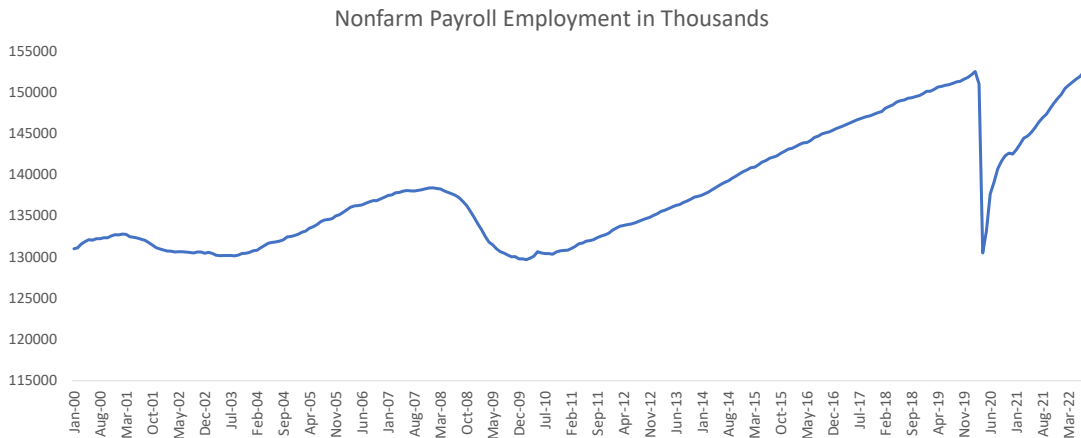
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2) Nonfarm Payroll Employment Gaining

12 Month: +6,388,000

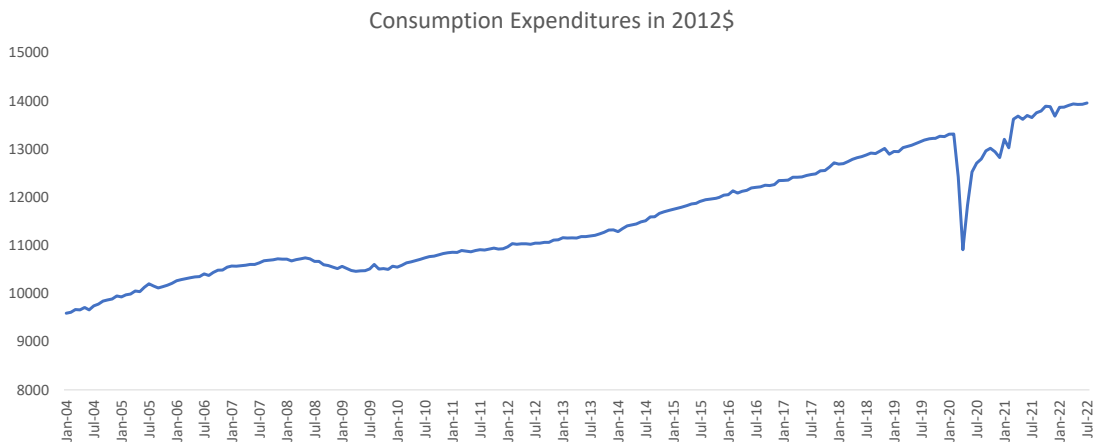
6 Month: +2,792,000

3 Month: 1,224,000



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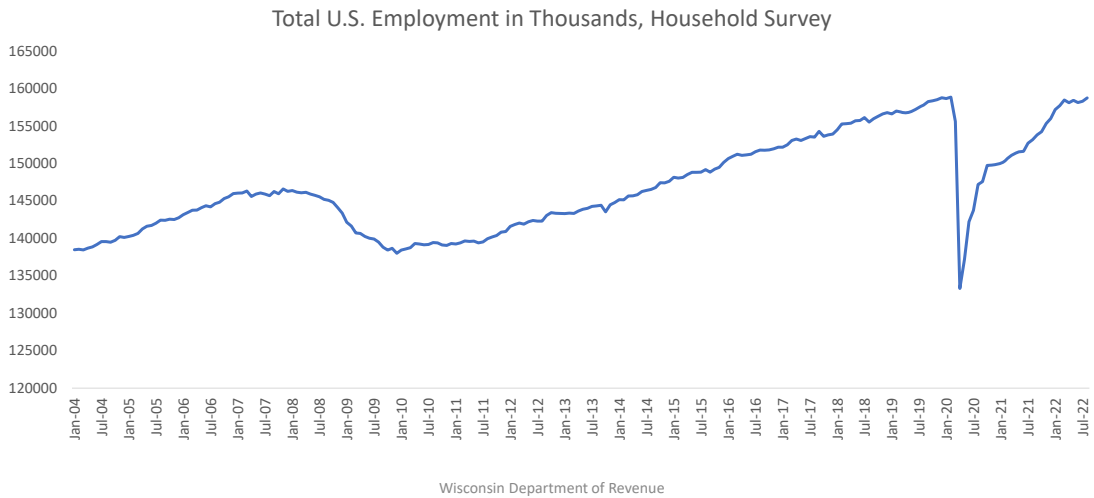
3) Real Personal Consumption Expenditures Still Rising



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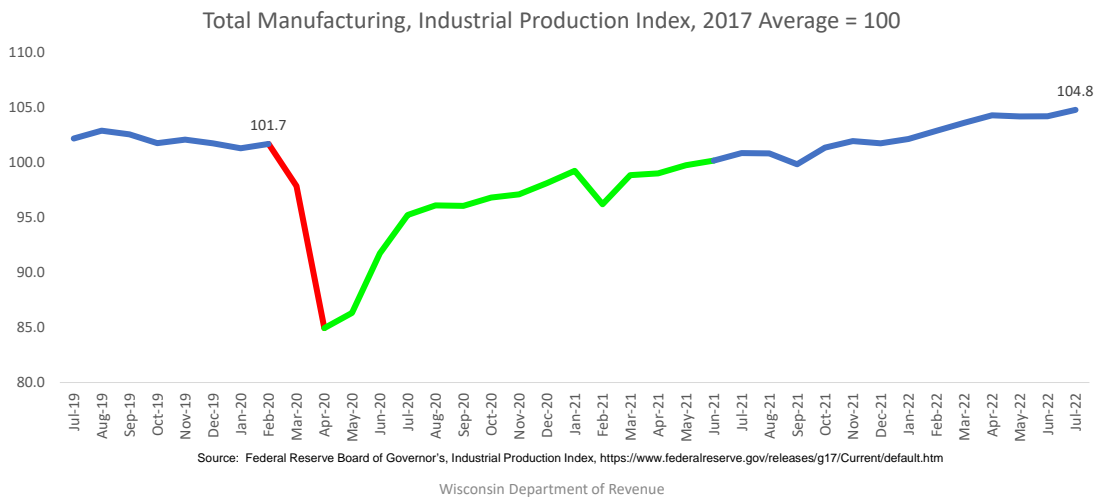
5) Household Survey Employment :

12 Months: 5,586,000 6 Months: +1,116,000 3 Months: +186,000



6) Industrial Production

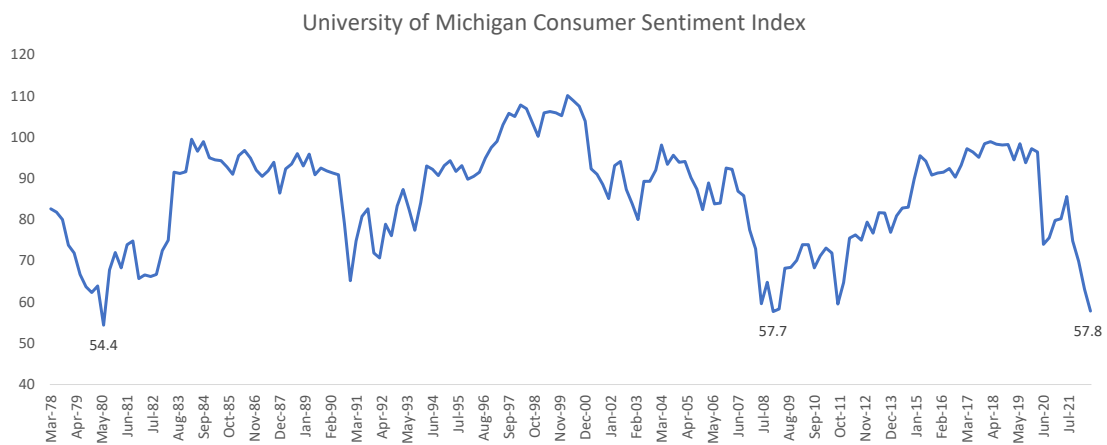
Total Industrial Production Above Pre-Pandemic Levels And Still Rising



Why Does It Feel Like a Recession Even if it is not technically one (yet)

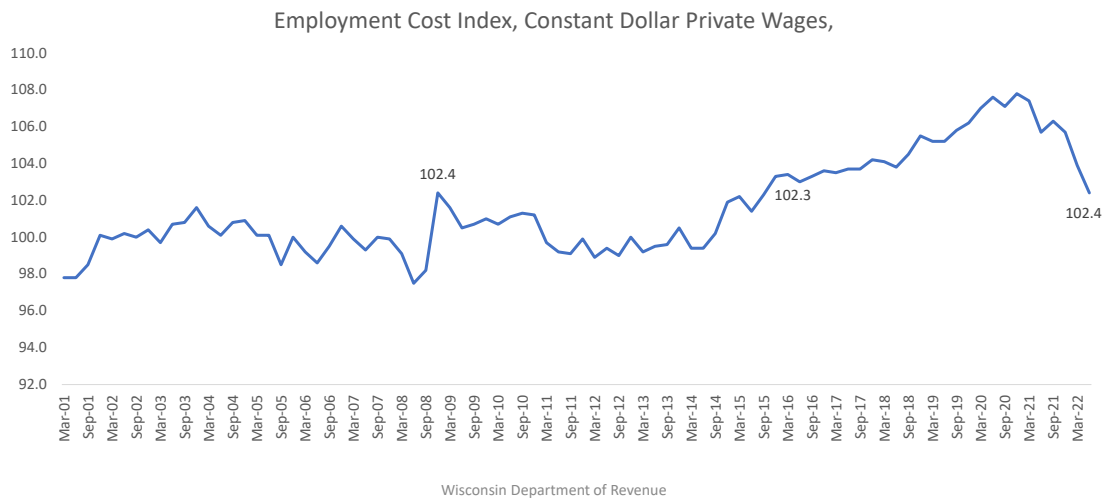
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Consumer Sentiment Near All Time Low

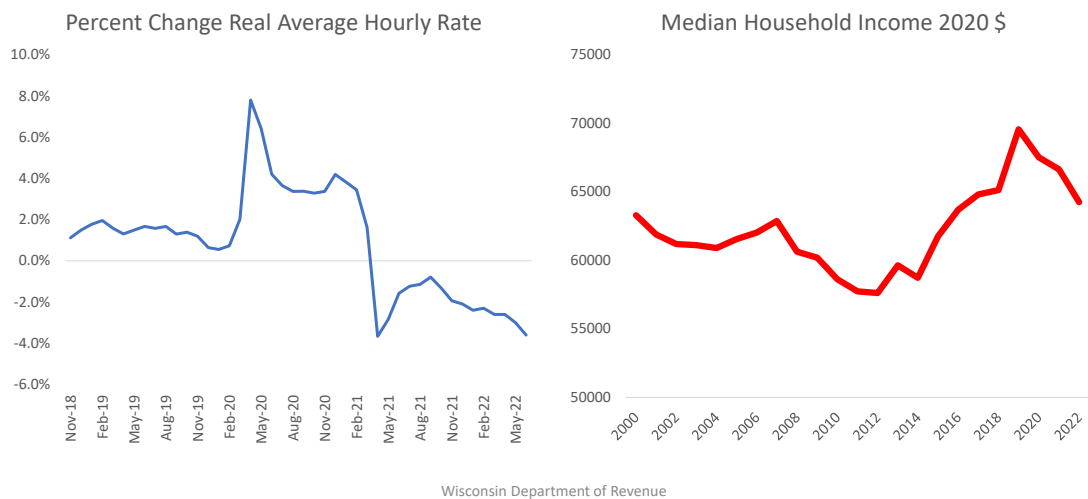


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Real Wages Retreat to Levels of Seven Years Ago



Real Wage Income Falling For 15 Consecutive Months Five Year Set Back for Household Income



A SWOT Look at Wisconsin's Economy

Strengths

1. Employment and Labor Force
2. Entrepreneurship
3. Income Growth
4. Manufacturing
5. Public Sector Finances
6. Housing & Construction

Weaknesses

1. Labor Shortage
2. Supply Chain Disruption
3. Agricultural Sector Volatility

Opportunities

1. Domestic In-Migration
2. Low Cost of Living
3. Reshoring
4. Solid Consumer Finances
5. Exports

Threats

1. Inflation
2. Federal Reserve Tightening
3. Wage Pressure
4. Energy Prices
5. Construction Prices
6. International Events

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A SWOT Look at Wisconsin's Economy

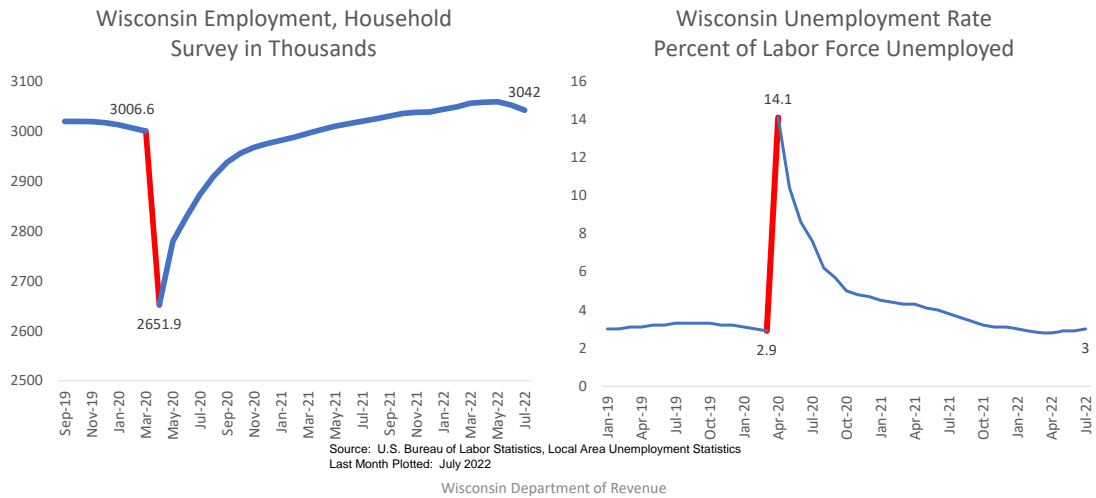
Strengths

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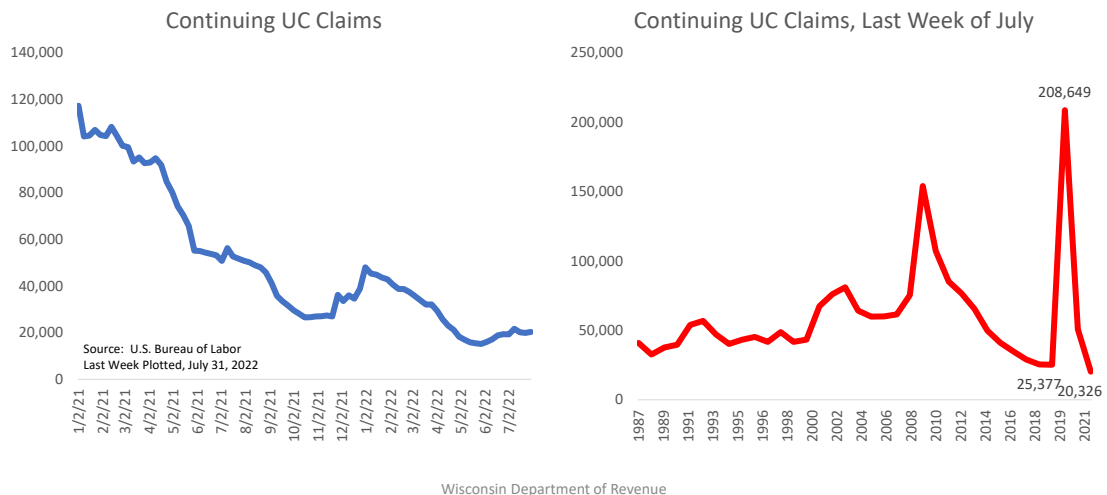
Strength #1: Employment and Labor Force

Wisconsin Employment 36,000 Above Pre-Recession Levels And Unemployment Rate Running At Record Lows

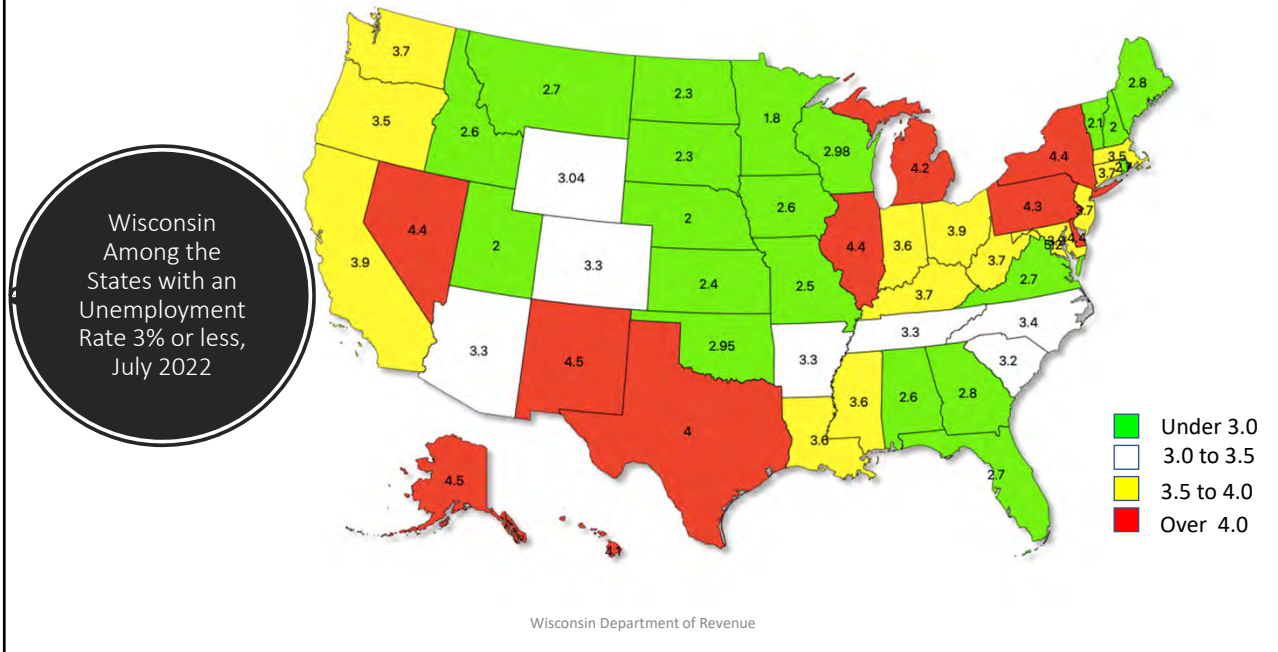


Strength #1: Employment and Labor Force

Record Low Wisconsin Residents Receiving Unemployment Benefits



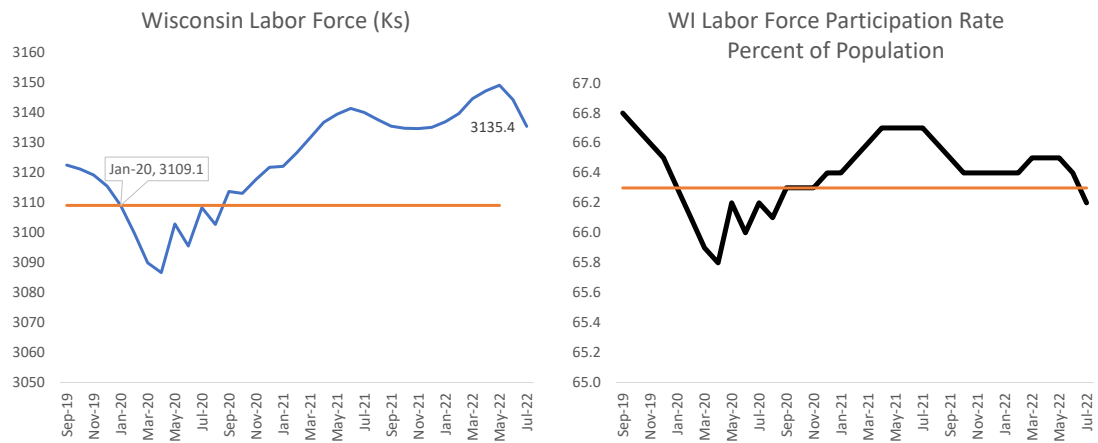
Strength #1: Employment and Labor Force



Strength #1: Employment and Labor Force

Wisconsin's Labor Force Above Pre-Pandemic Levels Labor Force Participation At Pre-Pandemic Levels

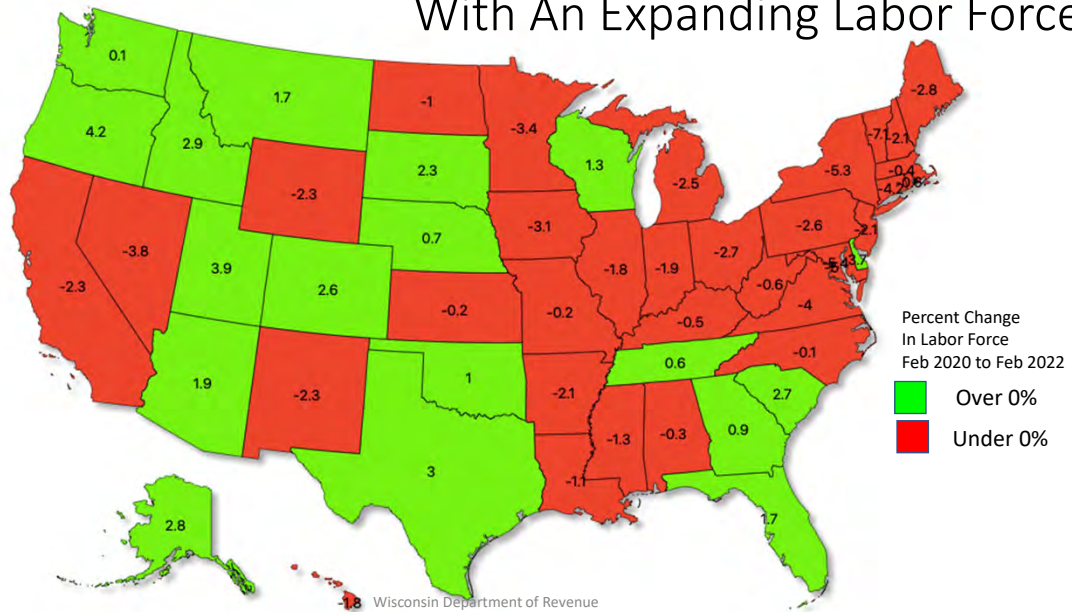
Reference Line = January 2020



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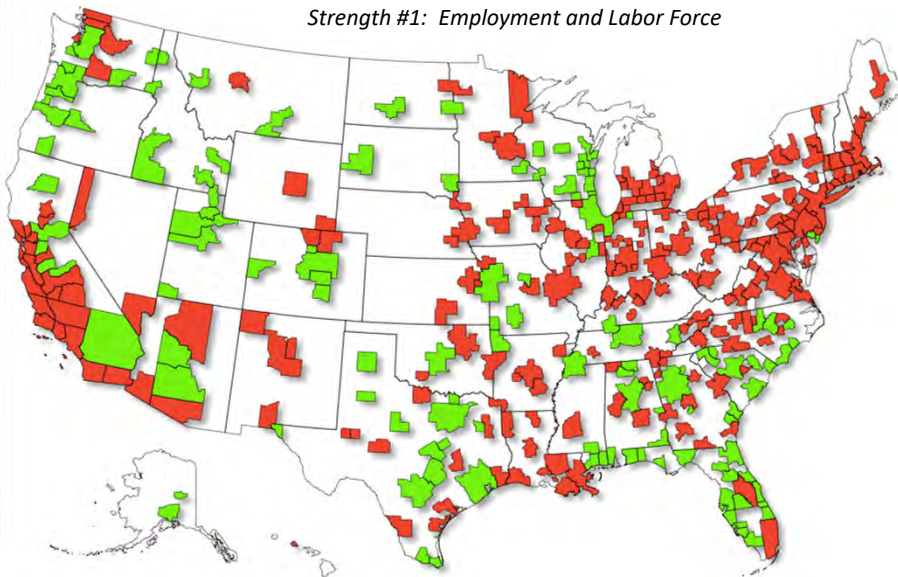
Strength #1: Employment and Labor Force

Wisconsin Among the States With An Expanding Labor Force



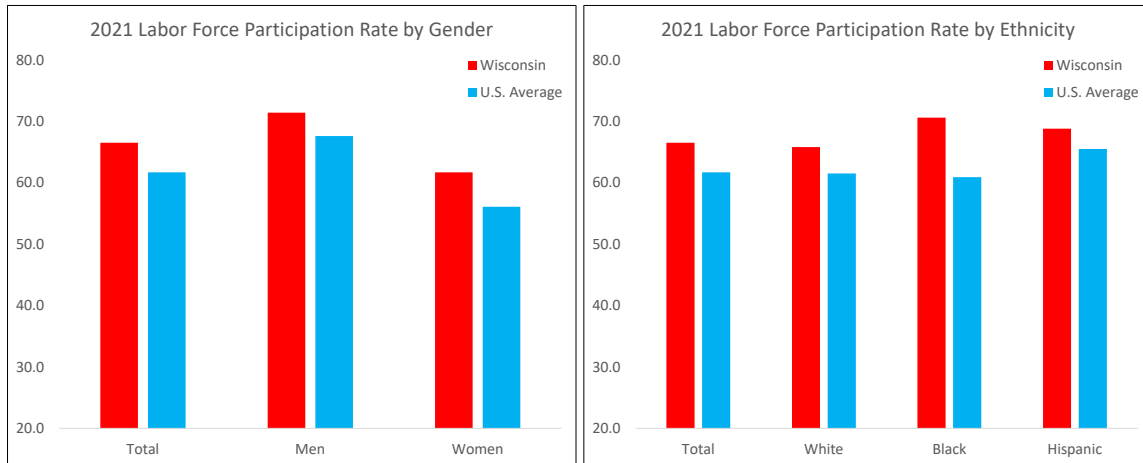
Labor
Force
Change
Since
Feb.
2020

Strength #1: Employment and Labor Force



Strength #1: Employment and Labor Force

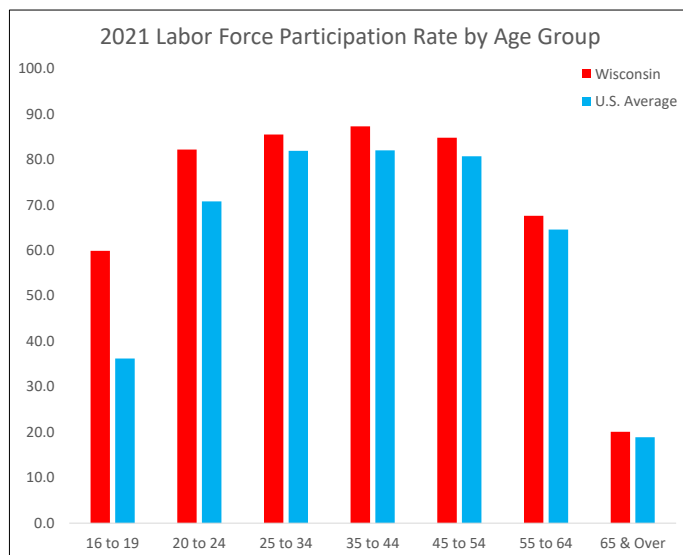
Wisconsin Workers More Engaged than the U.S. Average by Gender or Ethnicity



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Strength #1: Employment and Labor Force

Wisconsin
Workers
More
Engaged than
the U.S. at
Every Age
Group

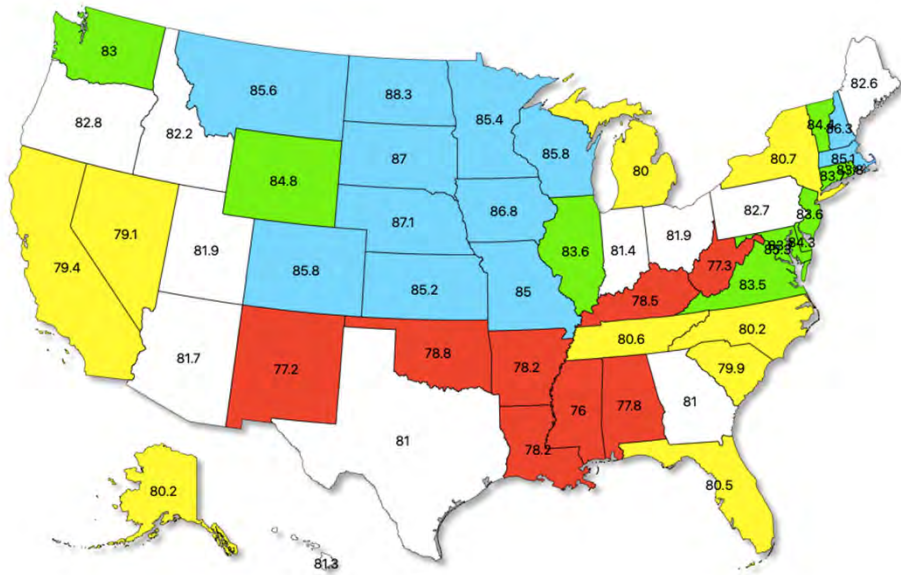


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Strength #1: Employment and Labor Force

For Prime Working Age Population, Wisconsin has the 6th Highest Labor Force Participation Rate

U.S. Average 77.6%



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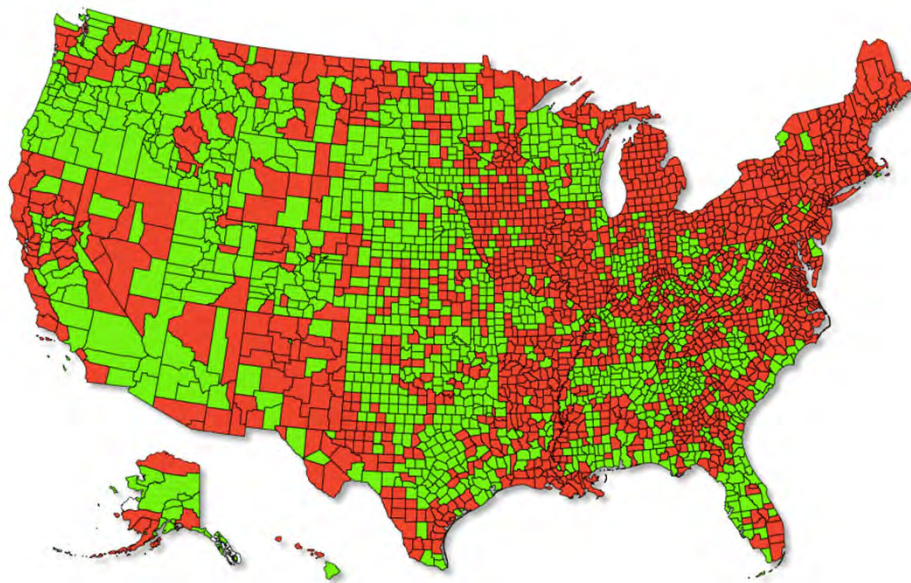
Strength #1: Employment and Labor Force

Take A Satellite View, Wisconsin Employment Gains Spread Across the State

Change in Employment, Feb 2020 to Feb 2022

Source: U.S. Bureau of Labor Statistics, LAUS

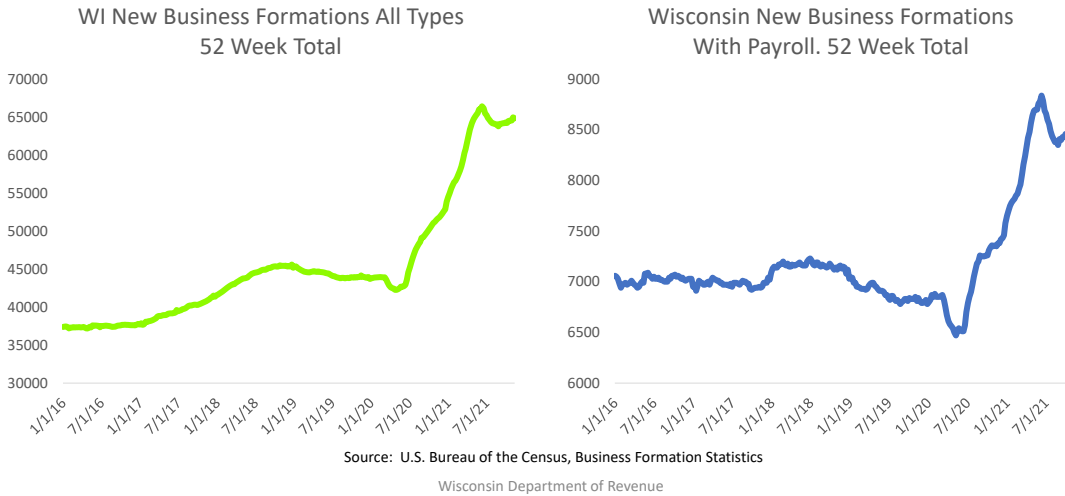
Over 0%
Under 0%



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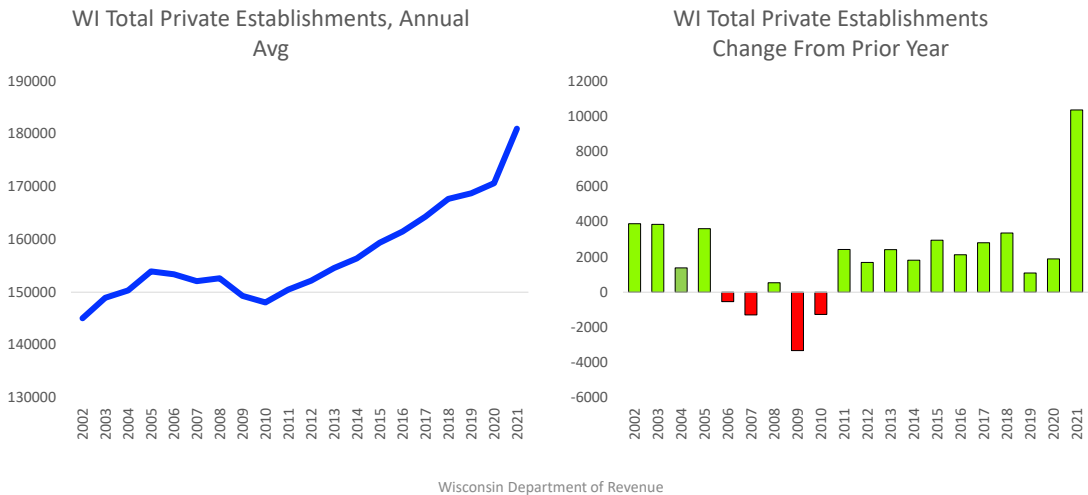
Strength #2: Wisconsin Entrepreneurship

Wisconsin Entrepreneurship Surged Coming Out of Contraction



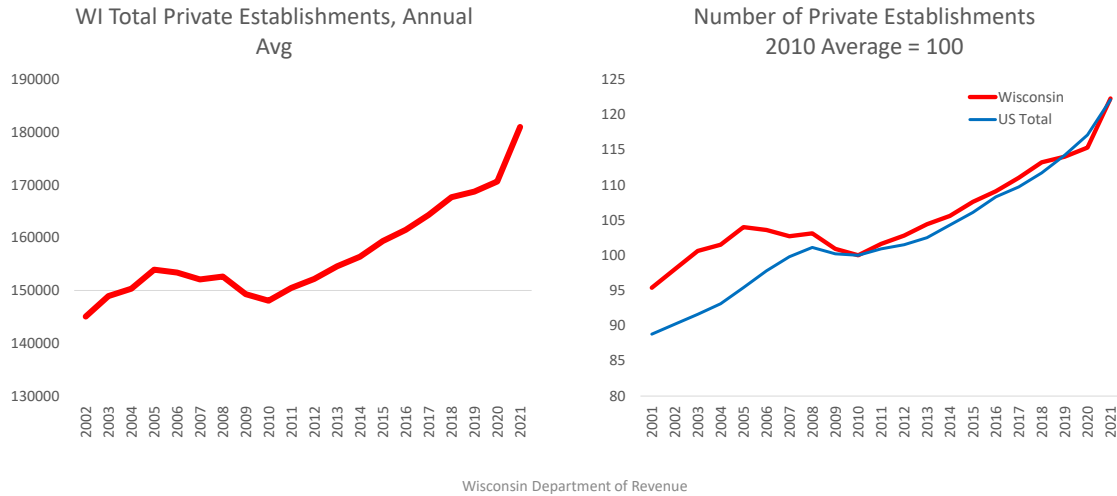
Strength #2: Wisconsin Entrepreneurship

Wisconsin Total Number of Businesses Rose Sharply in 2021



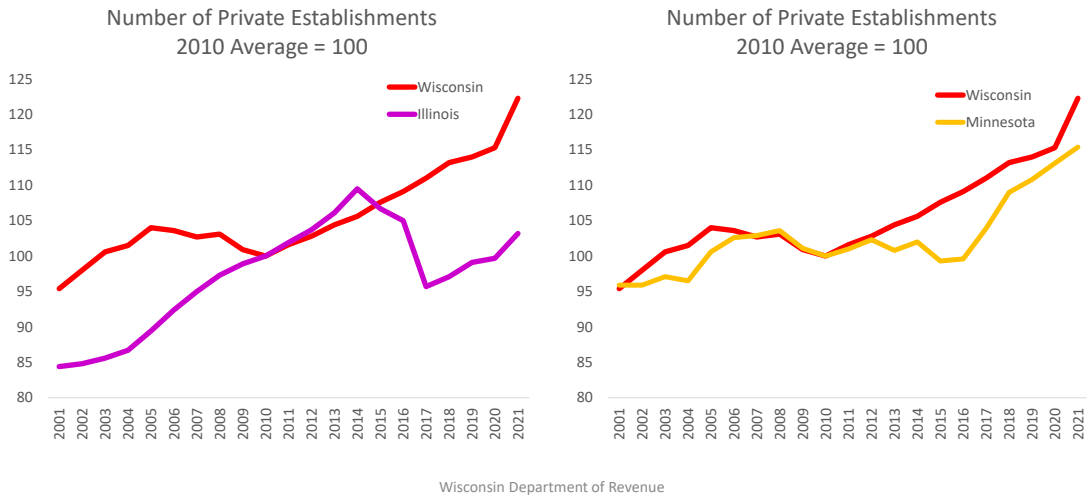
Strength #2: Wisconsin Entrepreneurship

Since 2010, Wisconsin Has Matched U.S. Growth in Businesses



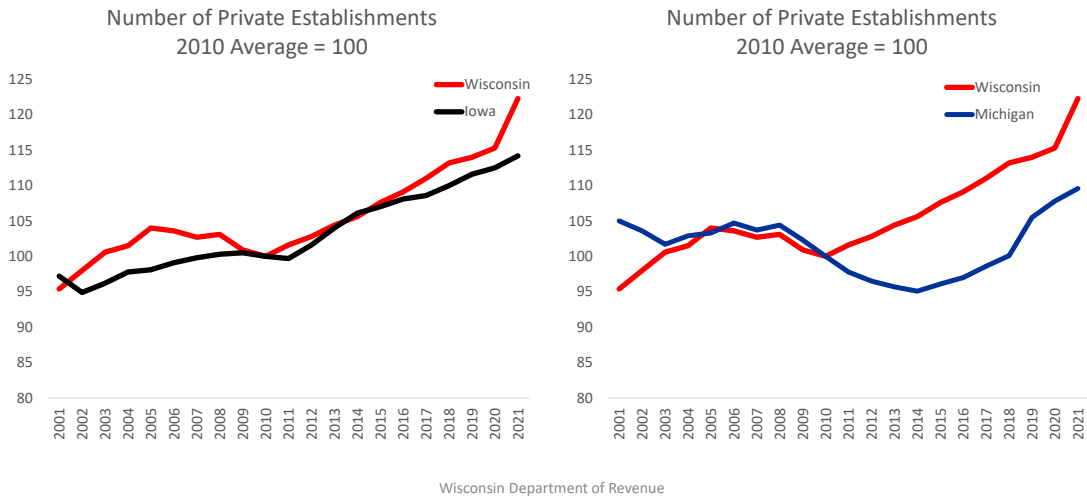
Strength #2: Wisconsin Entrepreneurship

Wisconsin Business Growth Ahead of Illinois and Minnesota



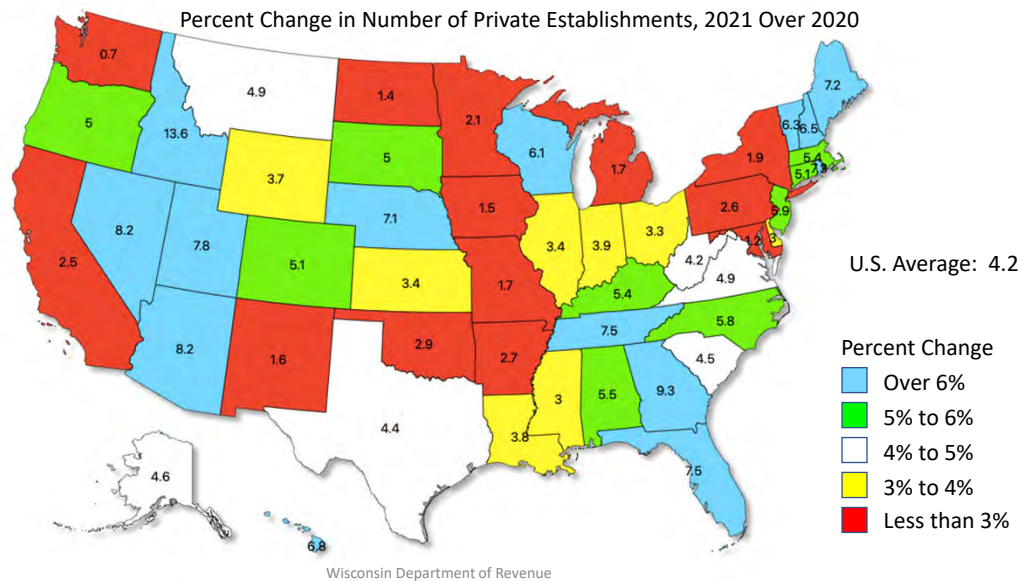
Strength #2: Wisconsin Entrepreneurship

Wisconsin Business Growth Running Ahead of Iowa and Michigan



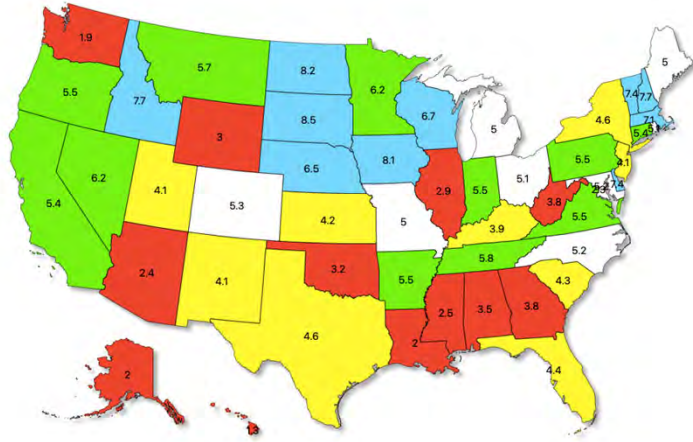
Strength #2: Wisconsin Entrepreneurship

Wisconsin Among Top States in Business Growth for 2021



Strength #3: Income Growth

Wisconsin
Ranked 9th
Income
Growth 1st
Quarter 2022

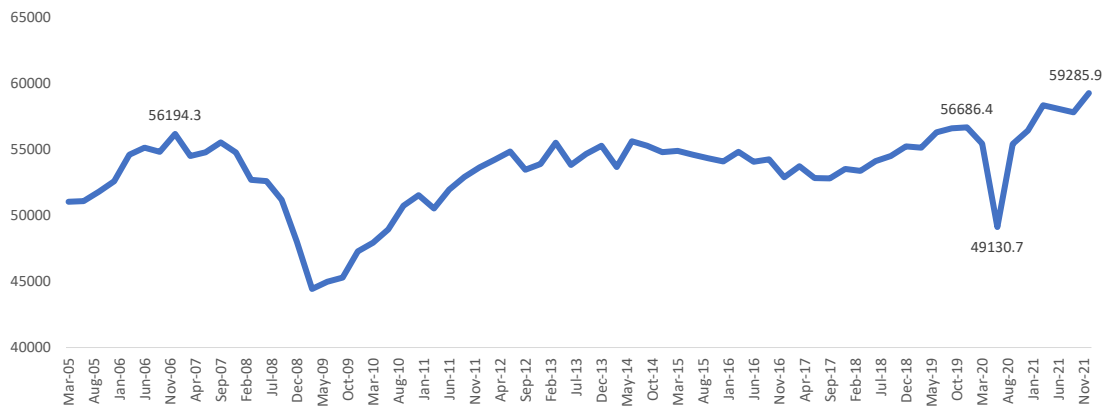


Wisconsin Department of Revenue

Strength #4: Manufacturing




Wisconsin Manufacturing Real GDP
Reaches New High 2021 Q4

Wisconsin Manufacturing Real GDP



Wisconsin Department of Revenue




2021
4th Quarter Total
Manufacturing
Real GDP
Percent of Peak

	100% of Peak
	90% to 99.9% of Peak
	Under 90% of Peak

[illegible]

Wisconsin Department of Revenue

2021
4th Quarter
Nondurable
Manufacturing
Real GDP
Percent of Peak

	100% of Peak
	90% to 99.9% of Peak
	Under 90% of Peak

Wisconsin Department of Revenue

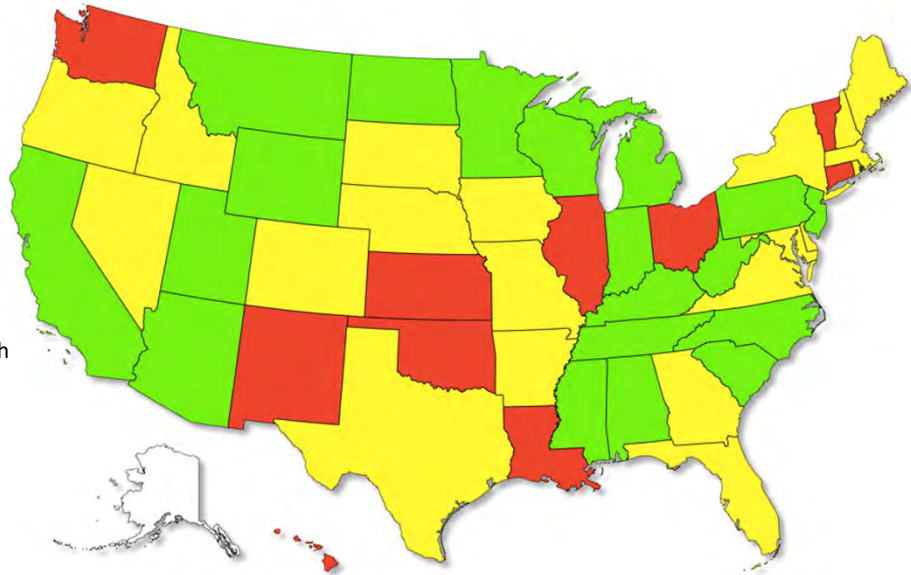
Strength #4: Manufacturing

2021
4th Quarter
Durable
Manufacturing
Real GDP
Percent of Peak

100% of Peak = 2021 Q4 New High

- 100% of Peak
- 90% to 99.9% of Peak
- Under 90% of Peak

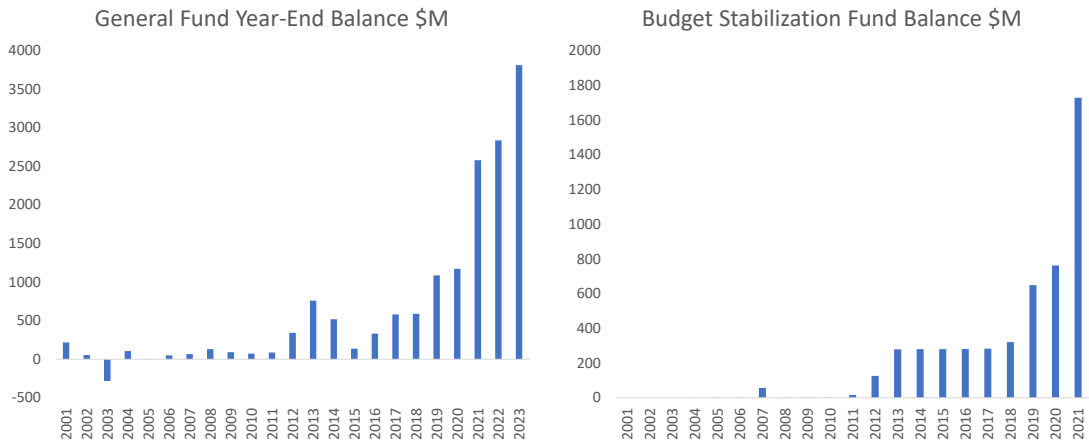
22 States at Peak



Wisconsin Department of Revenue

Strengths #5: Public Sector Finances

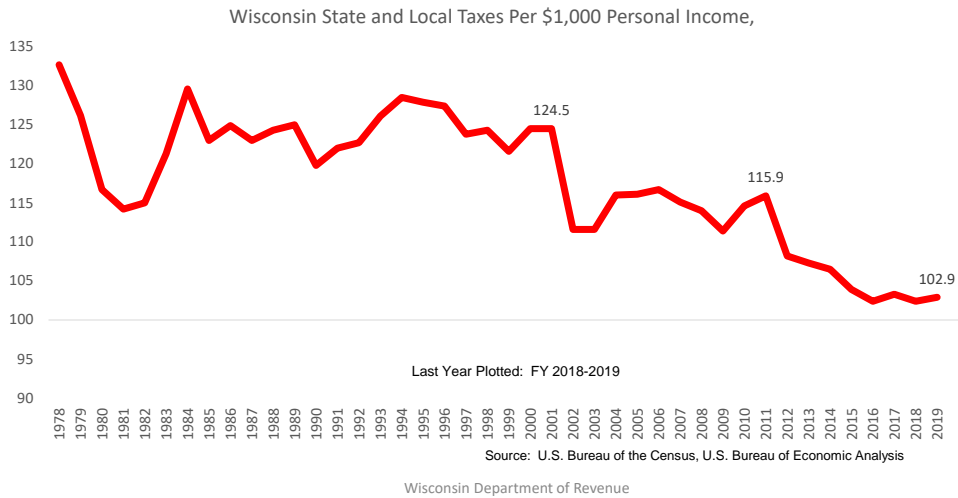
State Budget Balances All-Time High



Wisconsin Department of Revenue

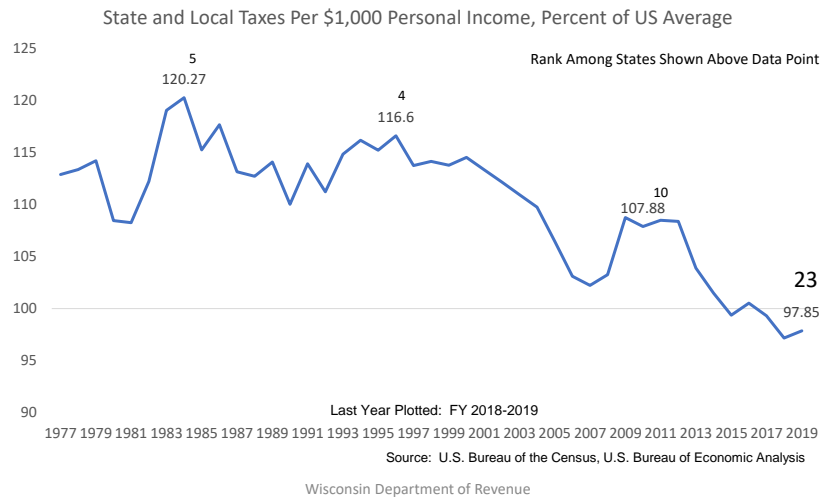
Strength #5: Public Sector Finances

Wisconsin's State and Local Tax Burden Near a Five Decade Low



Strength #5: Public Sector Finances

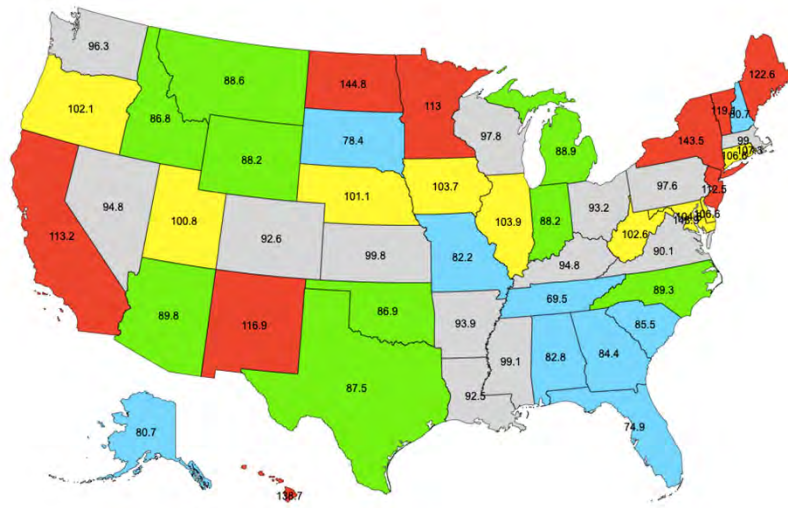
Wisconsin's State and Local Tax Burden Now Below the U.S. Average for All States



Strength #5: Public Sector Finances

Wisconsin's State & Local Tax Burden in Middle Tier of States

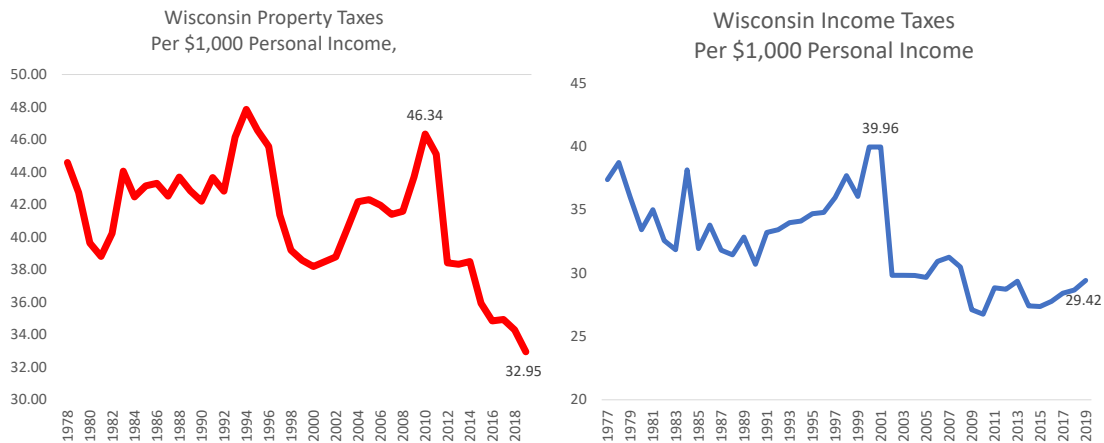
State & Local Taxes Per \$1,000 Personal Income, Percent of U.S. Average



Wisconsin Department of Revenue

Strength #5: Public Sector Finances

Property Tax and Income Tax Burden Down Sharply Since 2010

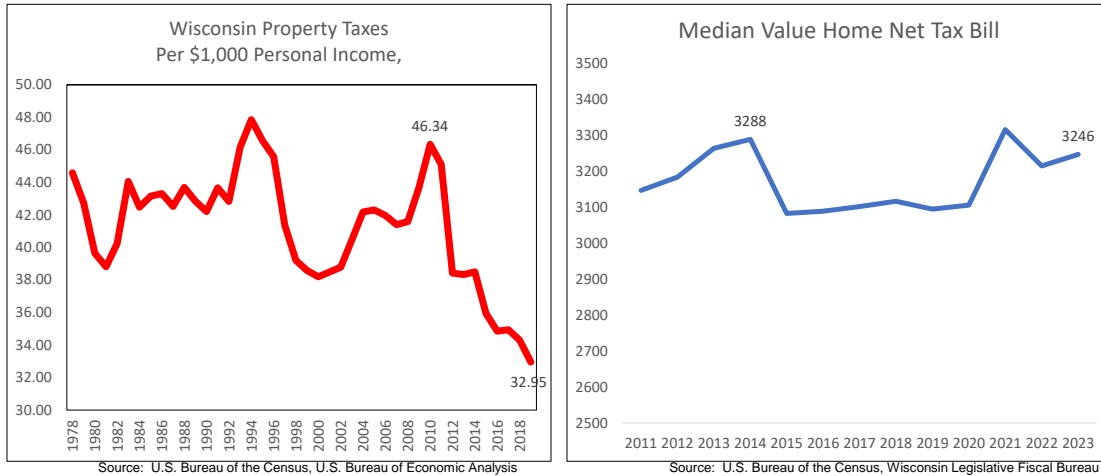


Source: U.S. Bureau of the Census, U.S. Bureau of Economic Analysis

Wisconsin Department of Revenue

Strength #5: Public Sector Finances

Property Tax Burden Reductions: Typical Homeowner Net Tax Bill Nearly Flat



Strength #5: Public Sector Finances

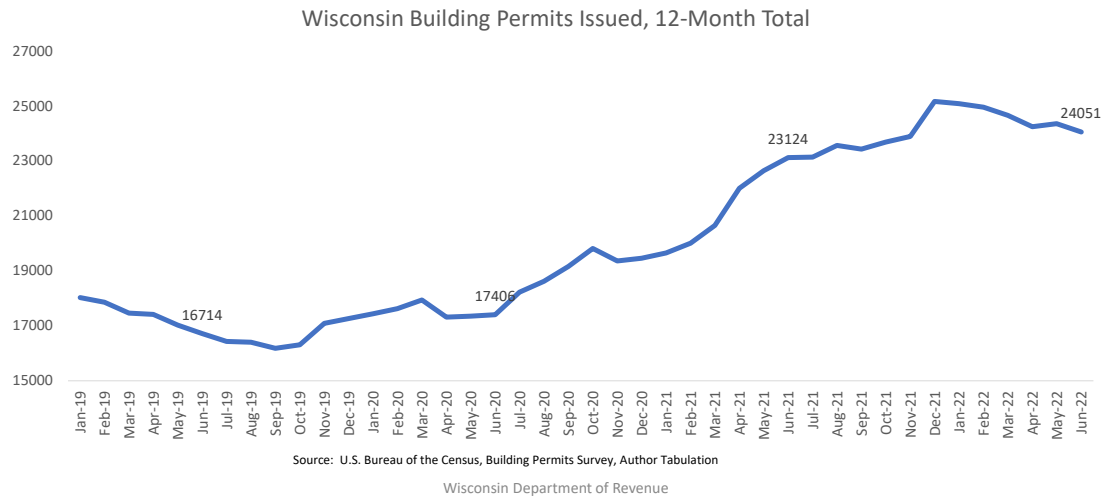
Additional Income Tax Cuts are in the Pipeline

Income Bracket	2018	2019	2020	2021
\$0 to \$15,960	4.00%	3.86%	3.54%	3.54%
\$15,960 to \$31,910	5.21%	5.04%	4.65%	4.65%
\$31,910 --\$351,310	6.27%	6.27%	6.27%	5.30%
Over \$351,310	7.65%	7.65%	7.65%	7.65%

Wisconsin Department of Revenue

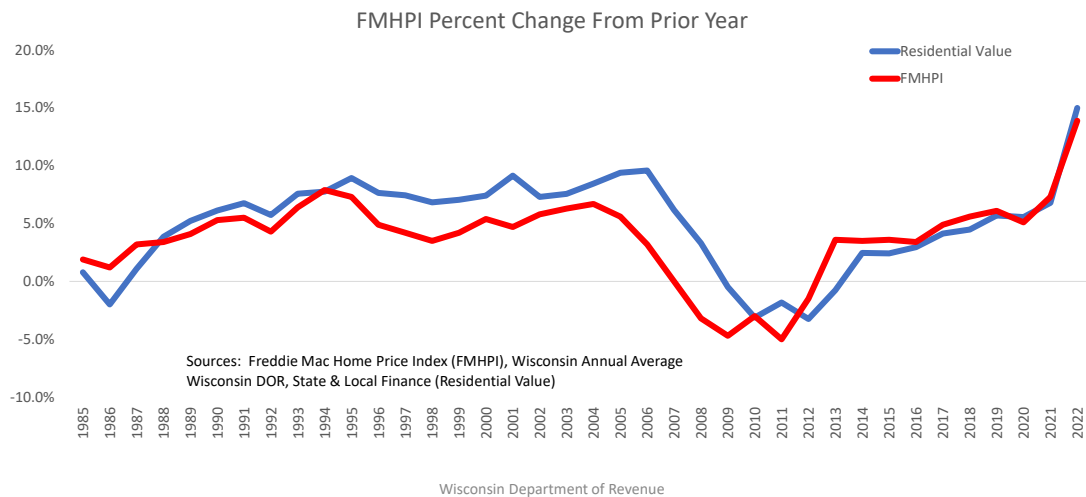
Strength #6: Housing and Construction

Wisconsin Housing Construction Bounces Back Highest Building Permit Total in Over 15 Years



Strength #6: Housing and Construction

WI Home Price Index Strongest Rise in over 40 Years

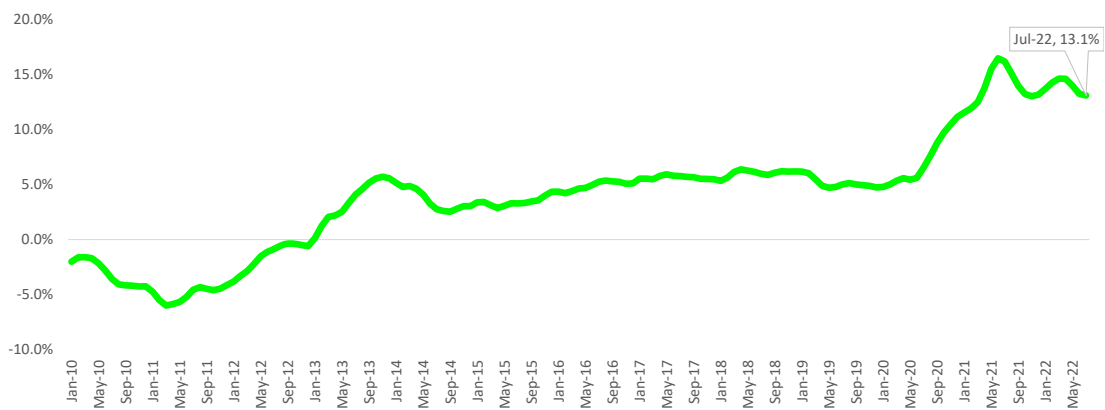


Strong
Gains in
Value
Across the
State

The map displays the percentage of the population aged 65 and over in 1990 for each county in the United States. The data is as follows:

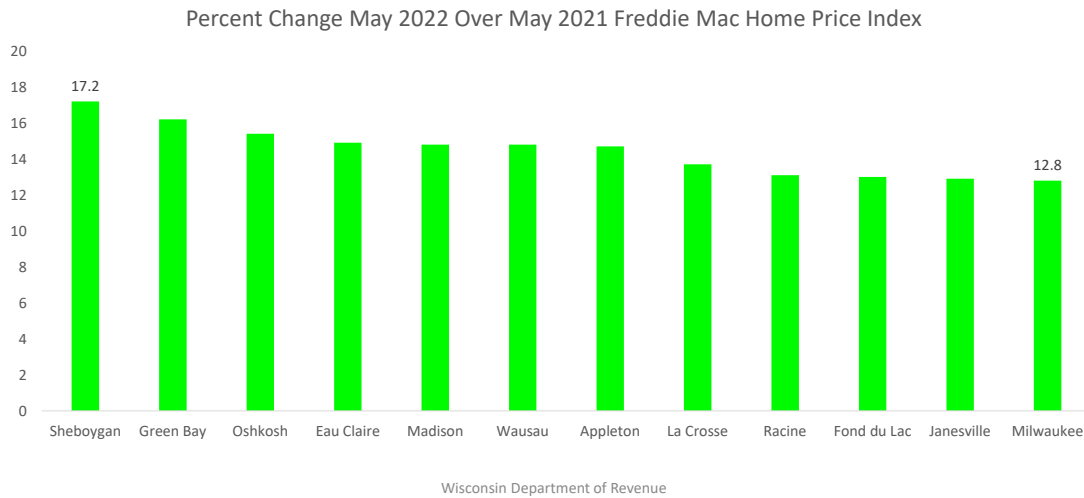
County	Percentage (%)
Alaska	17.5
Arizona	10.8
Arkansas	10.3
California	14.5
Colorado	15.8
Connecticut	17.3
Delaware	10.6
District of Columbia	13.9
Florida	10.6
Georgia	15.9
Hawaii	12.9
Idaho	14.5
Illinois	13.2
Indiana	8.6
Iowa	11.8
Kansas	11.3
Kentucky	8
Louisiana	10.6
Maine	17.4
Maryland	16.9
Massachusetts	17.3
Michigan	16.2
Minnesota	16.2
Mississippi	10.3
Missouri	13.2
Montana	13.2
Nebraska	11.3
Nevada	14.5
New Hampshire	17.4
New Jersey	16.5
New Mexico	15.2
New York	17.8
North Carolina	10.6
North Dakota	13.2
Ohio	8.6
Oklahoma	11.1
Oregon	14.5
Pennsylvania	16.7
Rhode Island	13.7
South Carolina	10.6
South Dakota	13.2
Tennessee	15.4
Texas	10.3
Utah	11.3
Vermont	17.4
Virginia	15.4
Washington	16.2
West Virginia	10.3
Wisconsin	14.5
Wyoming	13.2

Home Price Increases Have Eased But Still Double-Digit Increase Through July



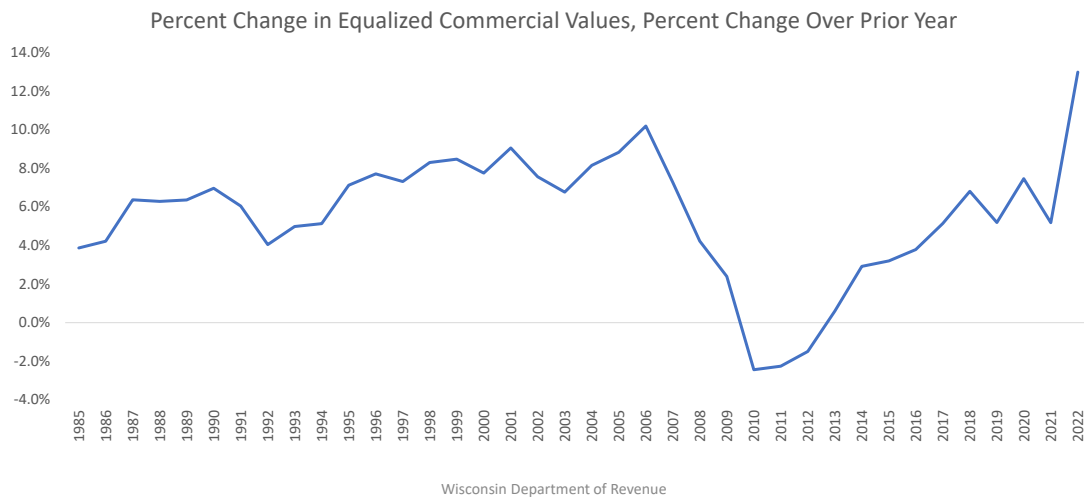
Strength #6: Housing and Construction

All WI MSA Still Showing Strong Appreciation in Home Value



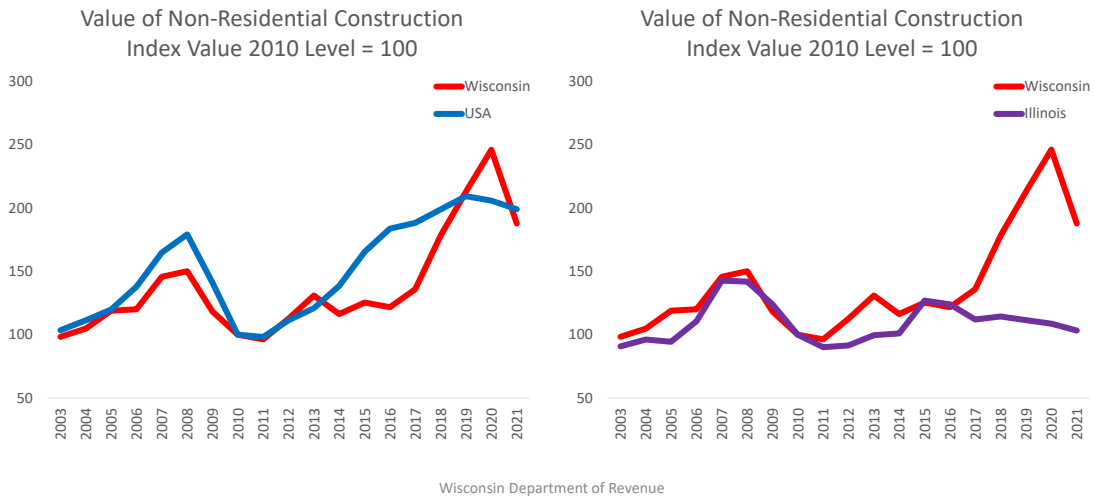
Strength #6: Housing and Construction

Wisconsin Commercial Values Did Not Falter During COVID Contraction



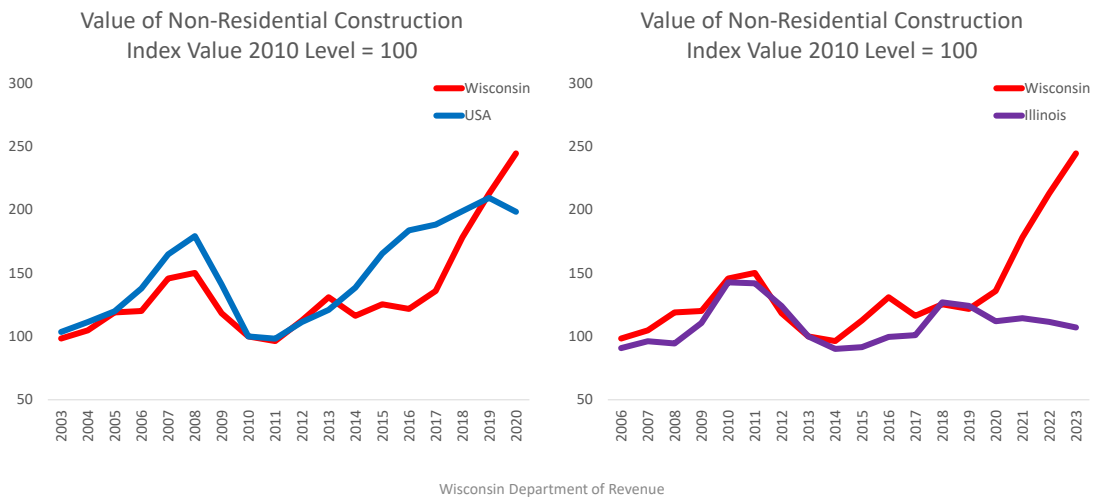
Strength #6: Housing and Construction

Wisconsin Non-Residential Construction Outpaced The U.S. in 2020



Strength #6: Housing and Construction

Wisconsin Non-Residential Construction Outpaced The U.S. in 2020



A SWOT Look at Wisconsin's Economy

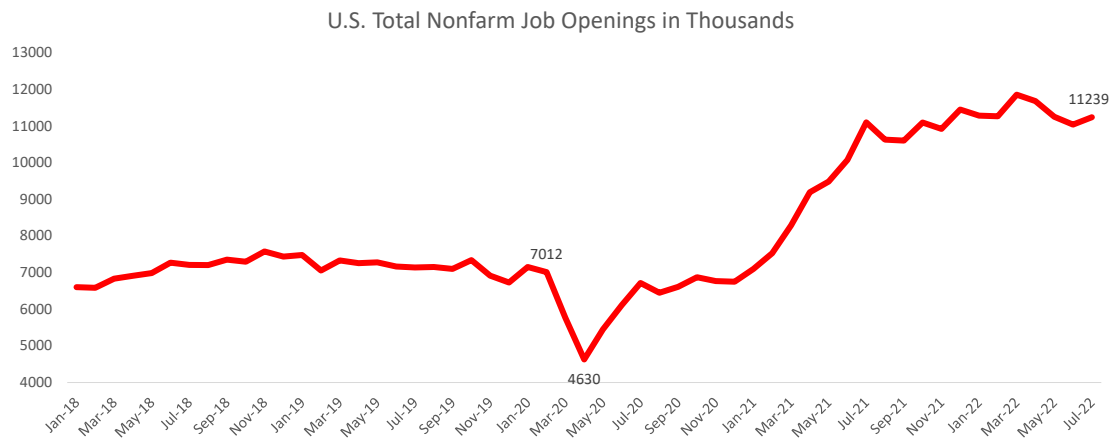
Weaknesses

1. Labor Shortage
2. Supply Chain Disruption
3. Agricultural Sector Volatility

Wisconsin Department of Revenue

Weakness #1: Labor Shortage
Labor Market Still Tight

Total U.S. Job Openings
Exceed 10 Million Since June 2021



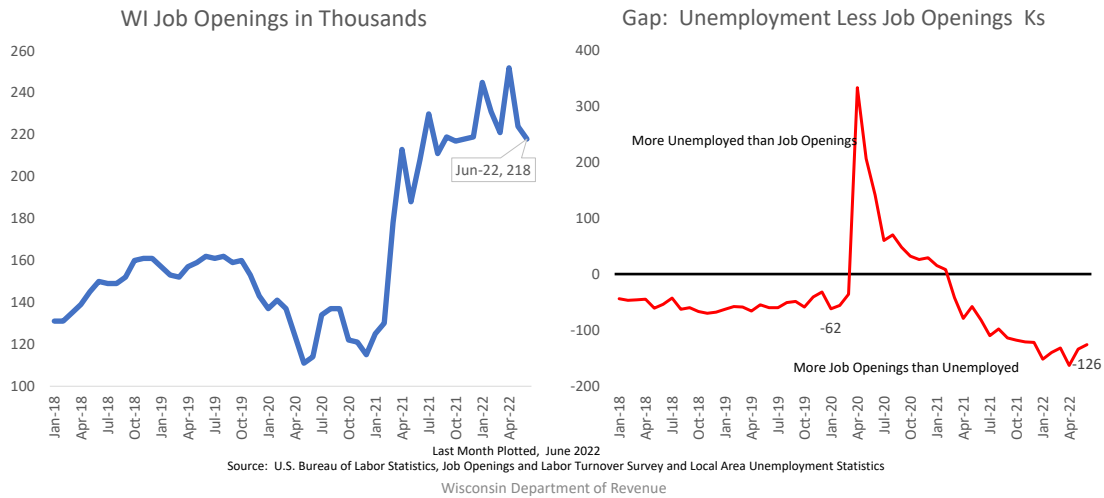
Wisconsin Department of Revenue

Weakness #1: Labor Shortage

Wisconsin Job Openings: Remain High June 2022

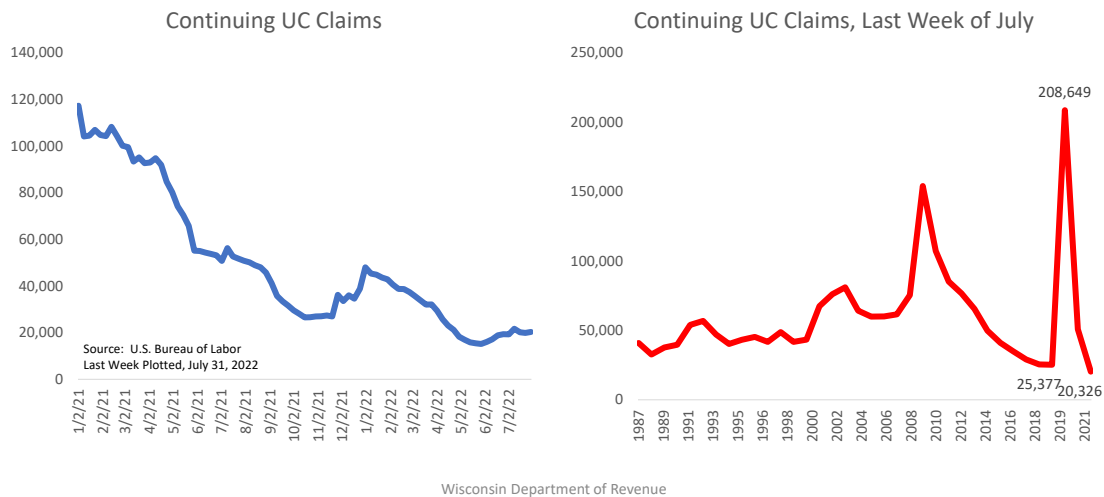
Consistently Over 200,000 Since June 2021

Gap Between Openings and Unemployed: Also New Record



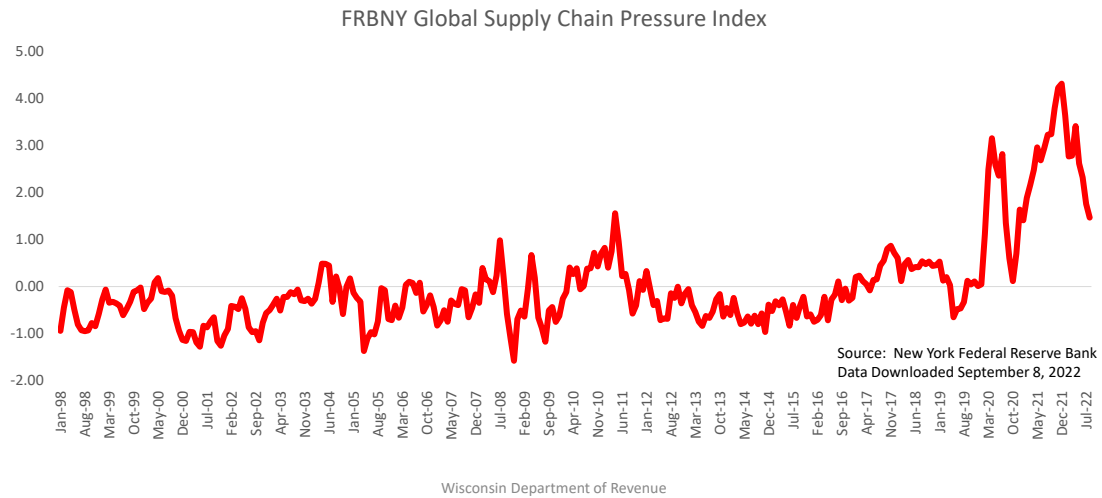
Weakness #1: Labor Shortage

Fewer Wisconsin Residents Receiving Unemployment Benefits



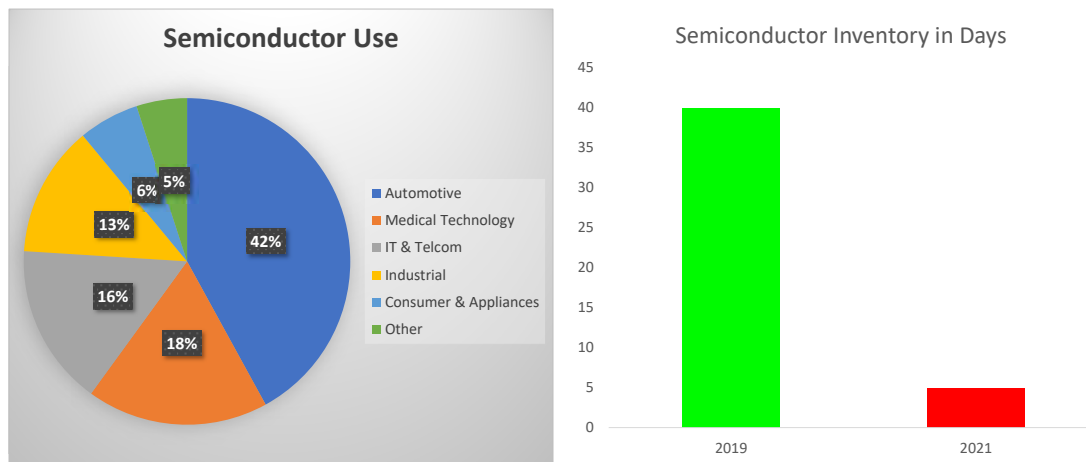
Weakness #2: Supply Chain Disruption

Supply Chain Pressure Still Tight



Weakness #2: Supply Chain Disruption

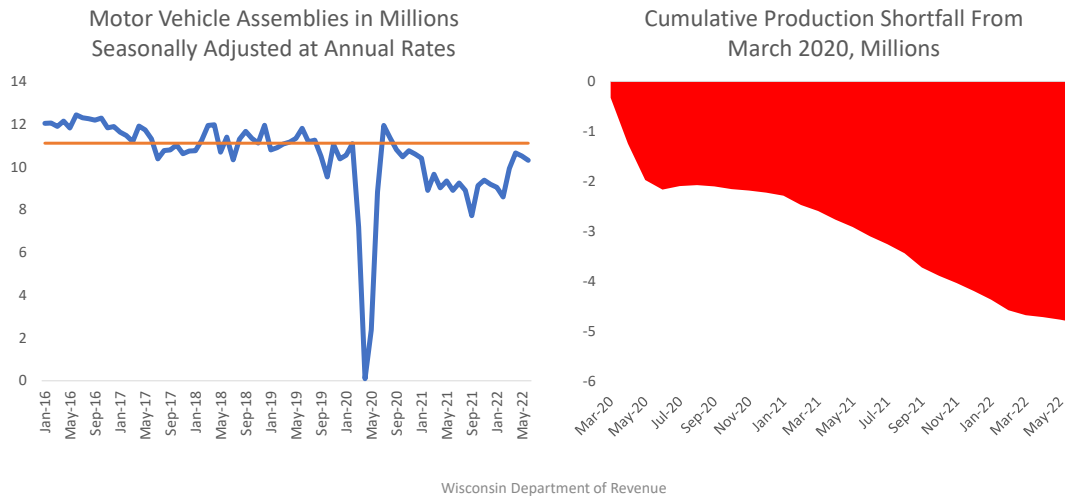
Semiconductor Supply Chain Remains Vulnerable to Disruption



Weakness #2: Supply Chain Disruption

Why New and Used Car Prices High

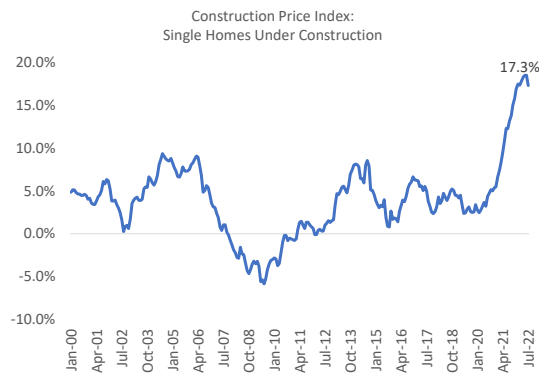
Motor Vehicle Production Still Recovering



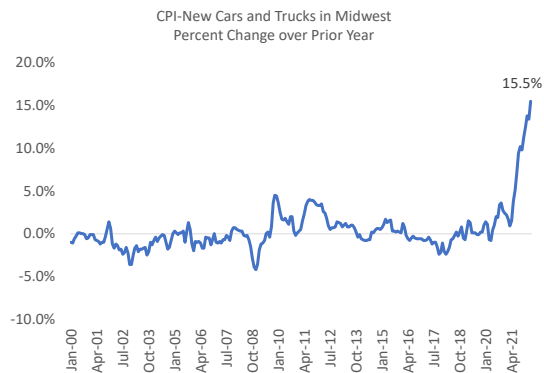
Weakness #2: Supply Chain Disruption

Rising Materials Prices Reflected in Final Products

Single Home Construction Inflation Highest in over 57 Years



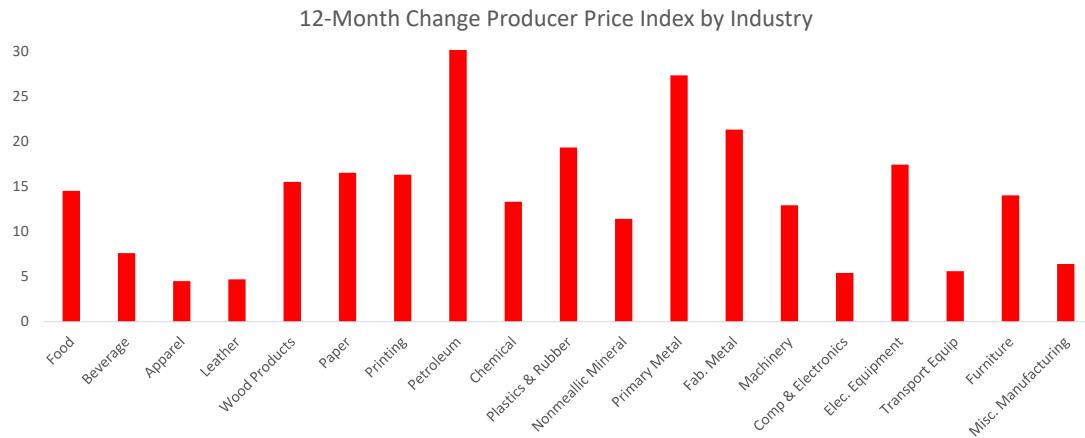
New Cars & Trucks Inflation Highest in 65 Years



Wisconsin Department of Revenue

Weakness #2: Supply Chain Disruption

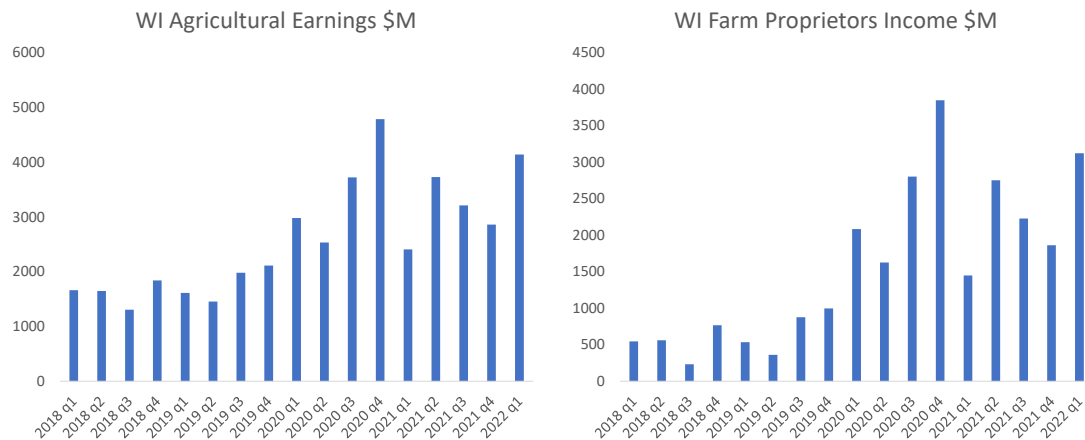
Manufacturing Price Increases Varies Widely by Industry



Wisconsin Department of Revenue

Weakness 3: Agricultural Volatility

Wisconsin's Large Agricultural Sector Can be the Swing Sector in the Wisconsin Economy

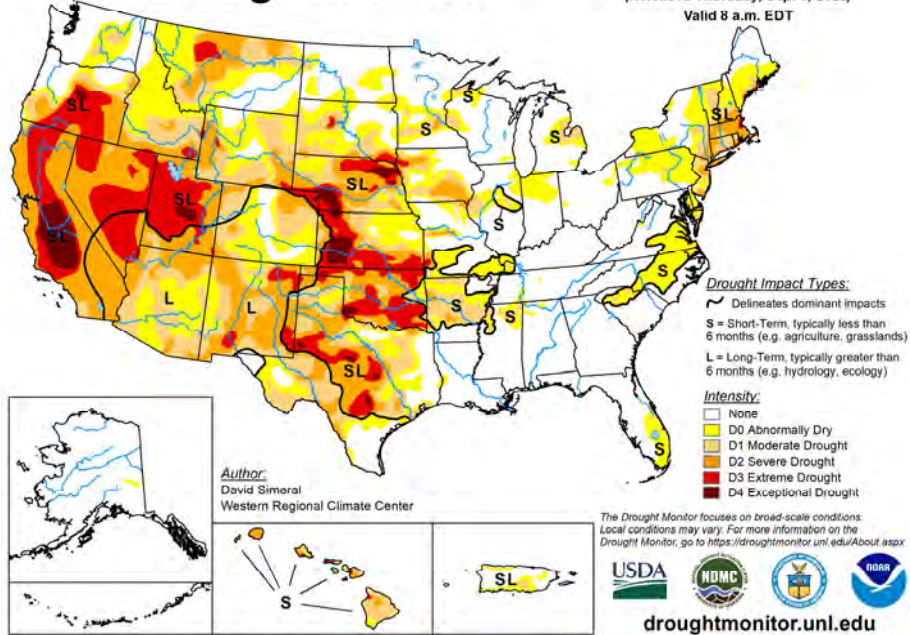


Wisconsin Department of Revenue

Weakness 3: Agricultural Volatility

U.S. Drought Monitor

September 6, 2022
(Released Thursday, Sep. 8, 2022)
Valid 8 a.m. EDT



A SWOT Look at Wisconsin's Economy

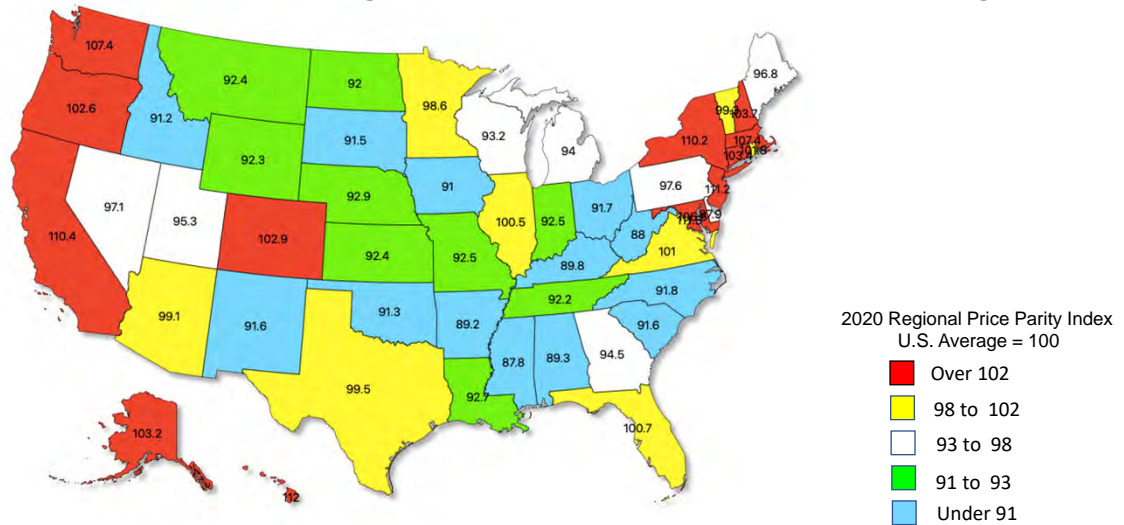
Opportunities

1. Domestic In-Migration
2. Low Cost of Living
3. Reshoring
4. Solid Consumer Finances
5. Exports

Wisconsin Department of Revenue

Opportunities 1): Cost of Living

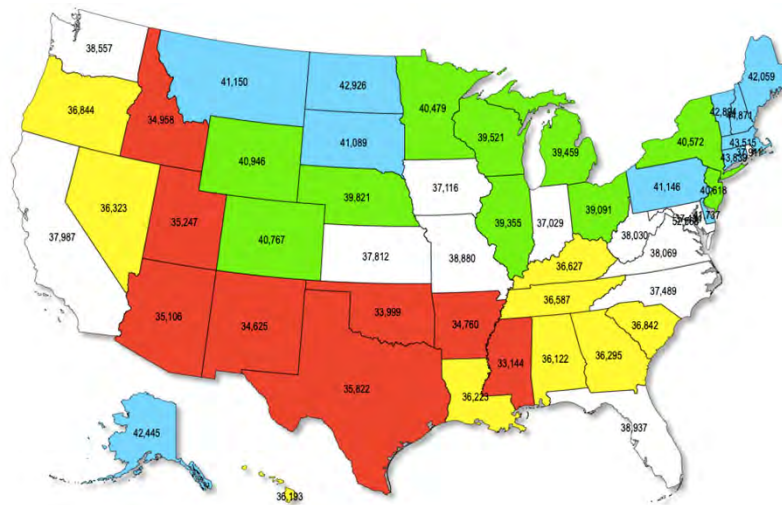
Wisconsin's Cost of Living Ranks 29th -- 7% Below U.S. Average



Wisconsin Department of Revenue

Opportunities 1: Cost of Living

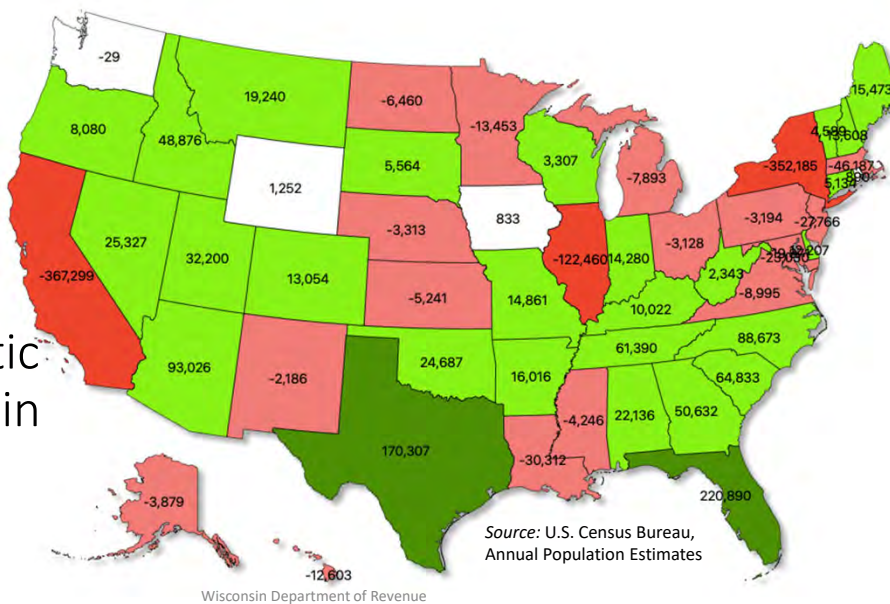
Wisconsin's Real Per Capita Income Above U.S. Average



Wisconsin Department of Revenue

Opportunities 2): Net Migration

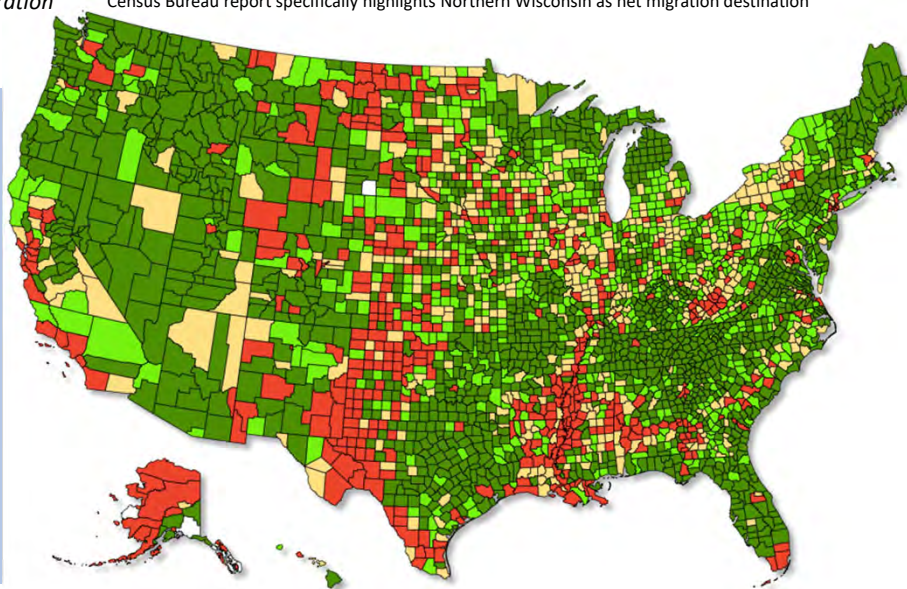
Wisconsin Gained Population from Domestic In-Migration in 2021



Opportunities 2): Net Migration

Census Bureau report specifically highlights Northern Wisconsin as net migration destination

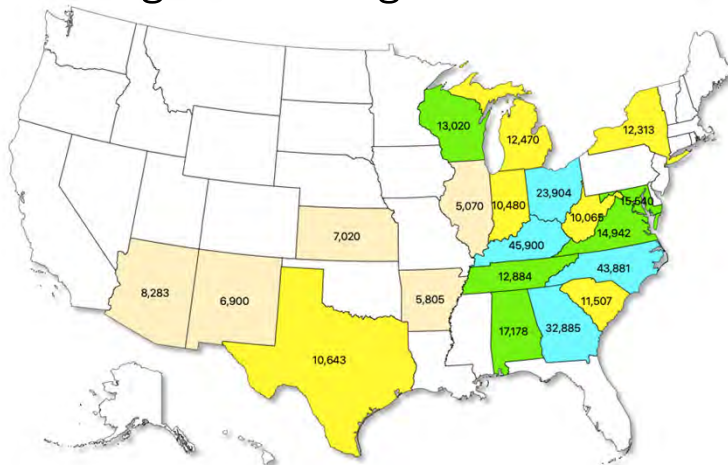
2021 Population Change from Net Domestic Migration Per 1,000 Residents



Opportunities 3): Manufacturing Re-Shoring

Wisconsin Among States Increasing Employment From Reshoring and Foreign Direct Investment

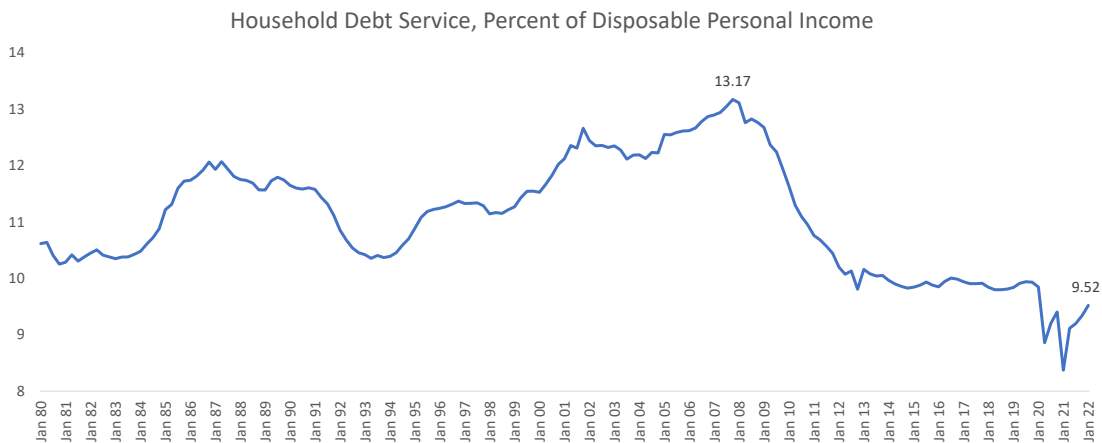
Re-shoring and Foreign Direct Investment Job Announcements First Half 2022



Wisconsin Department of Revenue

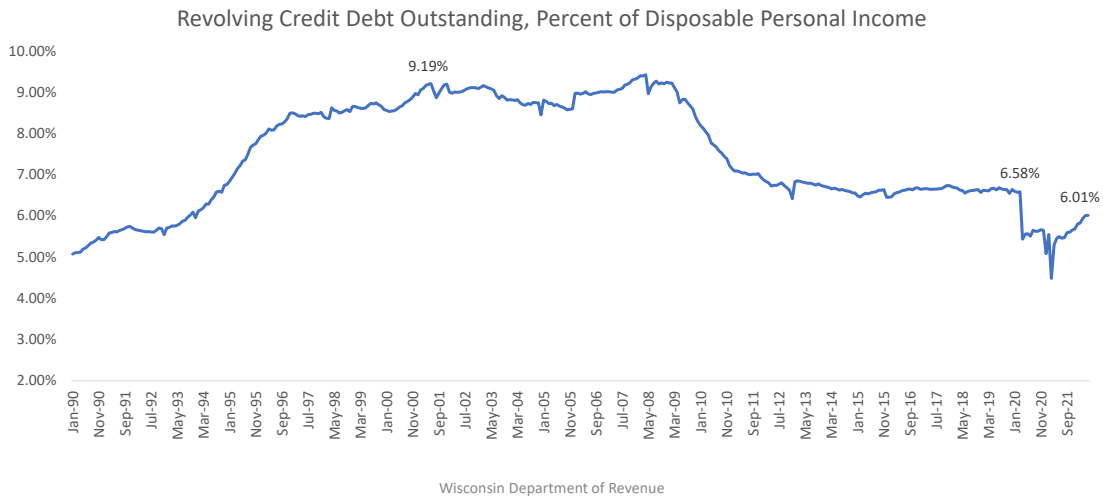
Opportunities 4: Solid Consumer Finances

Household Debt Service Near Record Lows

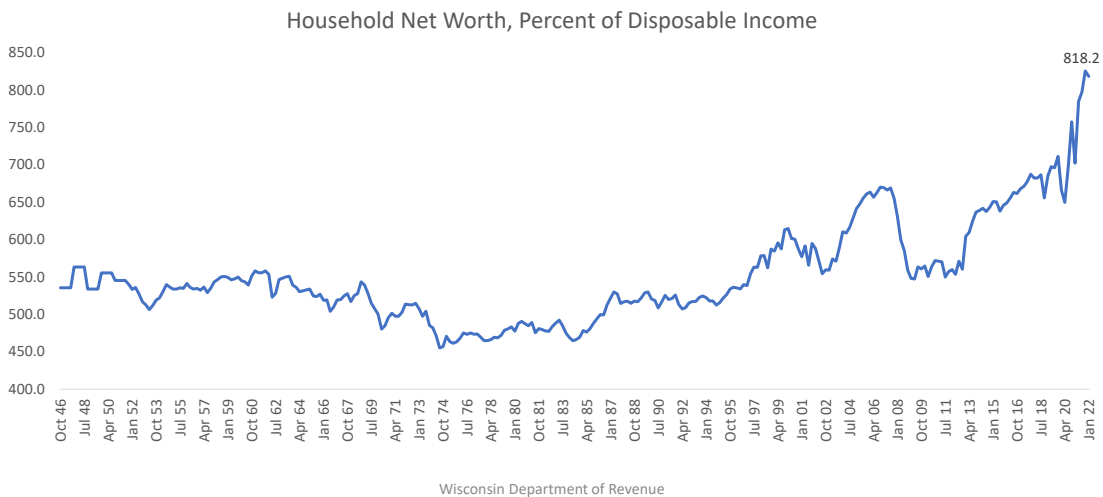


Wisconsin Department of Revenue

Consumer Revolving Credit Remains Below Pre-Pandemic Levels



Household Net Worth Still Near Record Highs



Opportunities 4: Solid Consumer Finances

U.S. Retail Sales Rebound

July 2022 Retail Sales +9.8% over a year ago



Opportunities: 4):
Solid Consumer
Finances

Wisconsin
Consumers Have
Less Debt and
Low Delinquency
Rates

Source: Federal Reserve Bank of New York, State Level
Household Debt Statistics, 2021 Q4

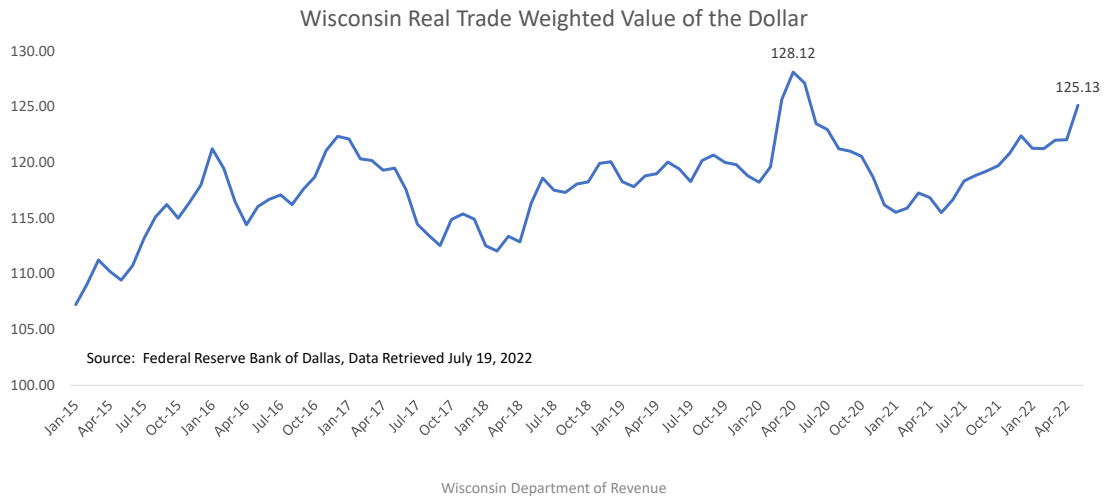
	Pre Capita Consumer Debt 2021 Q4			
	U.S. Average	Wisconsin		
	Amount	Amount	Percent of U.S. Avg.	Rank in U.S.
Auto	4,960	4,300	86.7%	45
Credit Card	3,060	2,510	82.0%	44
Mortgage	38,830	30,300	78.0%	35
Student Loans	5,640	5,030	89.2%	38
Total	55,480	44,470	80.2%	37

	Loan Delinquency Rates 2021 Q4			
	U.S. Average	Wisconsin		
	Percent	Percent	Percent of U.S. Avg.	Rank in U.S.
Auto	4.04	2.52	62.4%	40
Credit Card	8.22	5.34	65.0%	51
Mortgage	0.42	0.34	80.2%	36
Student Loans	5.00	3.98	79.6%	40

Wisconsin Department of Revenue

Opportunities: 5: Exports

Wisconsin Trade Weighted Value of the Dollar Rising Again



Opportunities: 5: Exports

Wisconsin Exports Recovered from COVID Contraction Up 18% Over Pre-Pandemic Levels



A SWOT Look at Wisconsin's Economy

Threats

1. Inflation
2. Federal Reserve Tightening
3. Wage Pressure
4. Energy Prices
5. Construction Prices
6. International Events

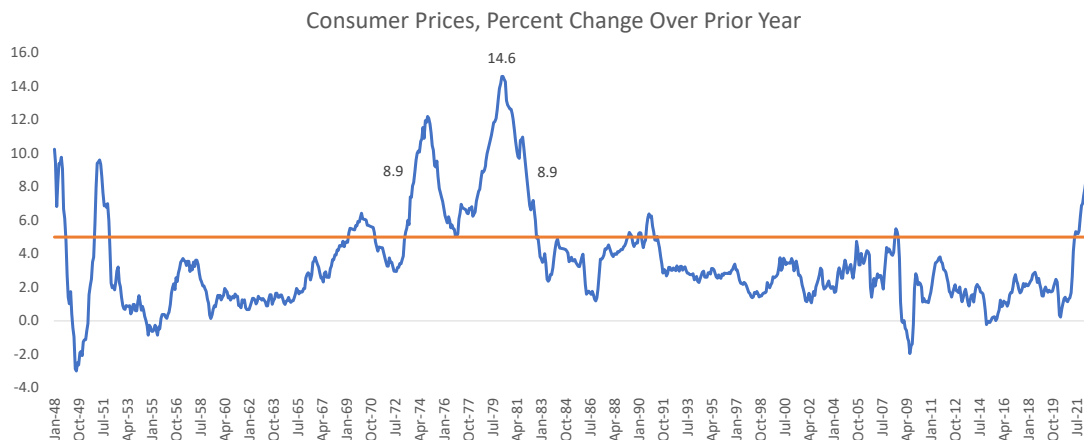
Wisconsin Department of Revenue

Threats 1: Inflation

Consumer Prices up 8.5% in July Over Prior Year

June's 9.1% highest Inflation Rate Since Nov. 1981

Inflation has rarely been over 5%



Wisconsin Department of Revenue

Threats 1: Inflation

Consumer Inflation at 41 Year High

Energy Leads
But Other Commodities
Rising Now

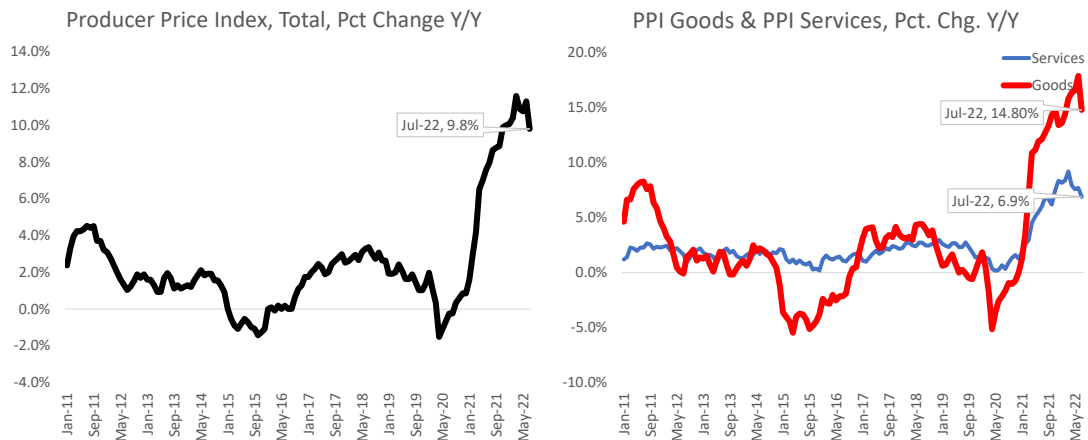
Service Price Inflation Now
Rising, Too

Particularly Shelter

Expenditure category	Relative importance	Year Over Year Pct. Change Jun 2022
All items	100.000	9.1
Food	13.423	10.4
Energy	8.665	41.6
Energy commodities	5.194	60.6
Motor fuel	4.927	60.2
Electricity	2.541	13.7
Utility (piped) gas service	0.930	38.4
All items less food and energy	77.912	5.9
Commodities less food and energy commodities	21.249	7.2
Apparel	2.459	5.2
New vehicles	4.026	11.4
Used cars and trucks	3.975	7.1
Medical care commodities	1.480	3.2
Services less energy services	56.663	5.5
Shelter	32.285	5.6
Rent of primary residence	7.239	5.8
Owners' equivalent rent of residences	23.657	5.5
Medical care services	6.821	4.8
Transportation services	5.855	8.8

Threats 1: Inflation

Producer Prices: Up Nearly 10% Nine Consecutive Months Prices for Goods Over 10% For 15 Consecutive Months



Wisconsin Department of Revenue

Threats 1: Inflation

More Price Pressure Up Stream

Producer Price Index by Processing Stage

	Inflation Rate: 12 Month Percent Change, July 2022					
	Producer Prices by Stage of Production					Consumer Prices
	Intermediate Demand				Final Demand	
	Stage 1	Stage 2	Stage 3	Stage 4		
Goods	18.8	25.0	23.6	13.7	14.8	13.6
Services	5.3	7.0	7.1	4.6	6.9	6.2
Total	12.2	15.6	15.4	8.9	9.8	9.1

Wisconsin Department of Revenue

Threats 1: Inflation

Import Prices Had Kept Inflation in Check

No Longer, Import Inflation is Highest in 20 Years

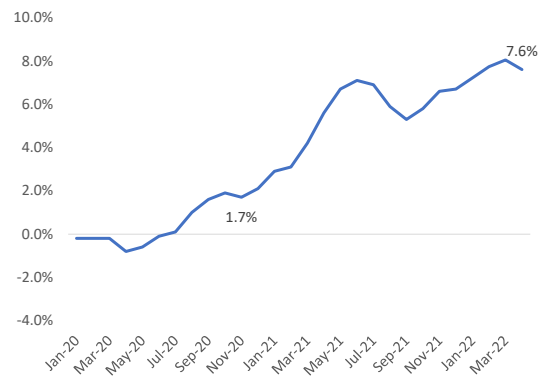
Same Month Over Prior Year Percent Change Import Prices Excluding Computers & Energy

Source: U.S. Bureau of Labor Statistics, Import Price Index,

That Was Then



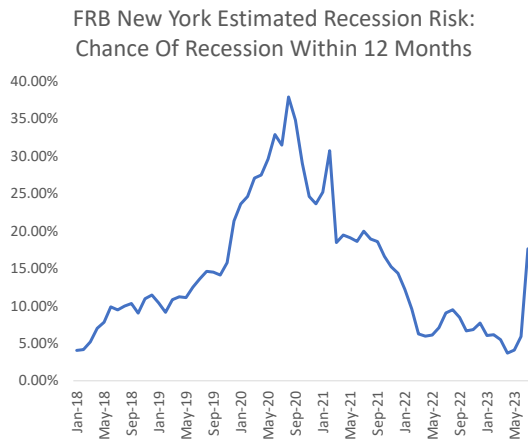
This is Now



Wisconsin Department of Revenue

Threats 2: Federal Reserve Tightening

Yield Spread Moves To Increase Recession Risk Recession Chance By July 2023 to 17%

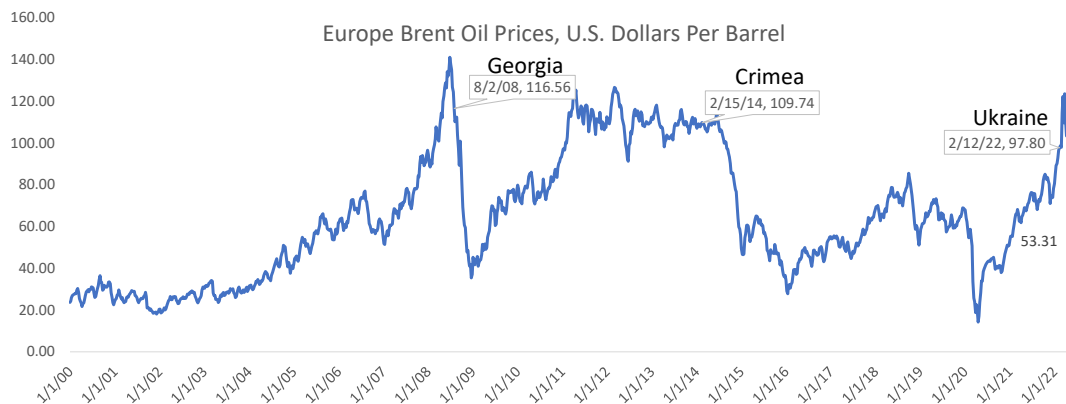


- Federal Reserve policy remains decidedly stimulative.
- Multiple interest rate moves likely in 2022

Wisconsin Department of Revenue

Threats 3: Energy Prices

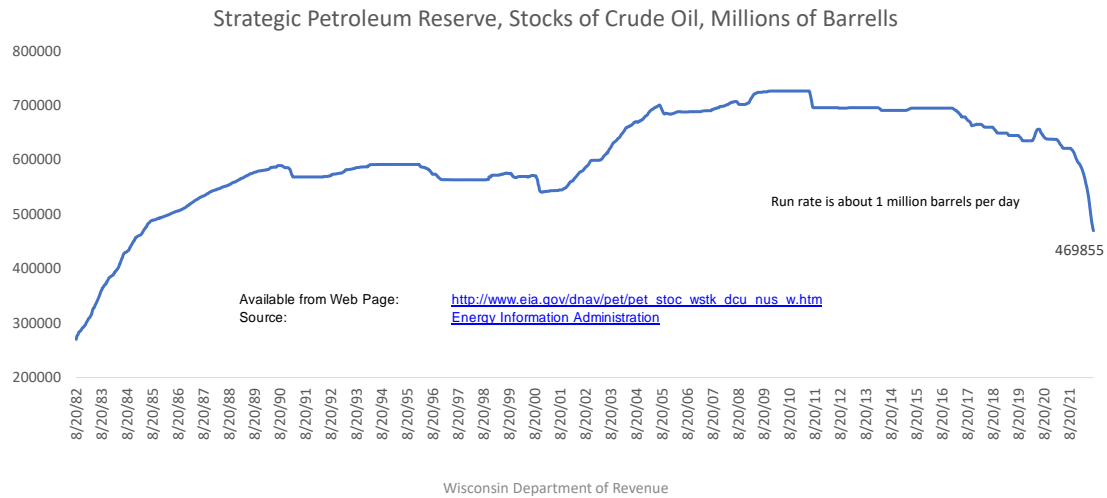
Oil Price Shock Russia Invades Ukraine: West Responds with Economic Sanctions



Wisconsin Department of Revenue

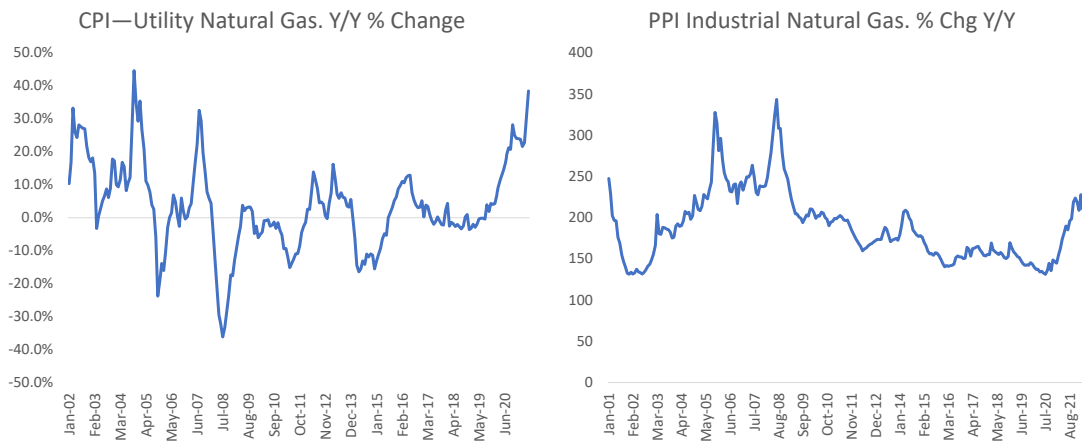
Threats 3: Energy Prices

To Moderate Oil Prices, Release Oil from Reserves Moves SPR to Lowest Levels Since 1985



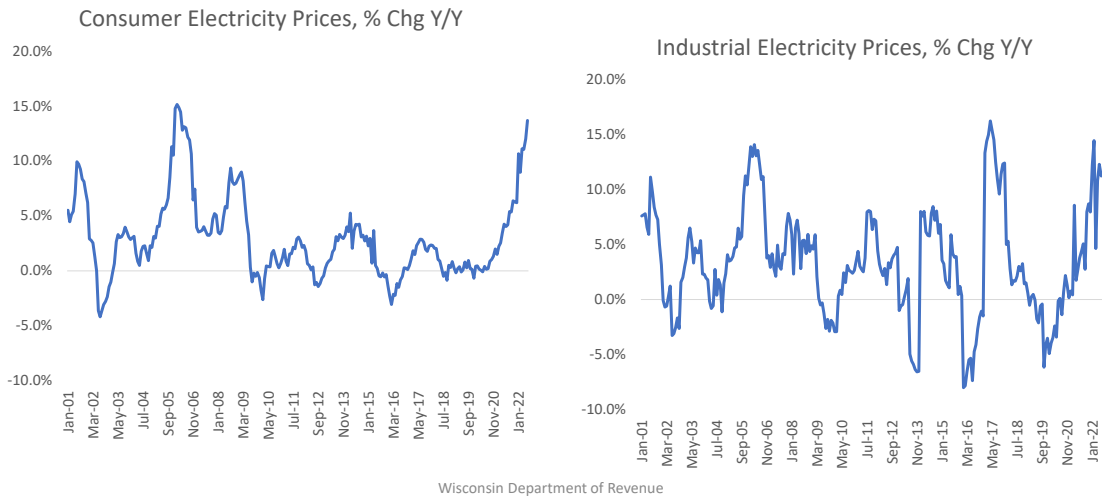
Threats 3: Energy Prices

Natural Gas Prices: From Flat to Double-Digit Increases



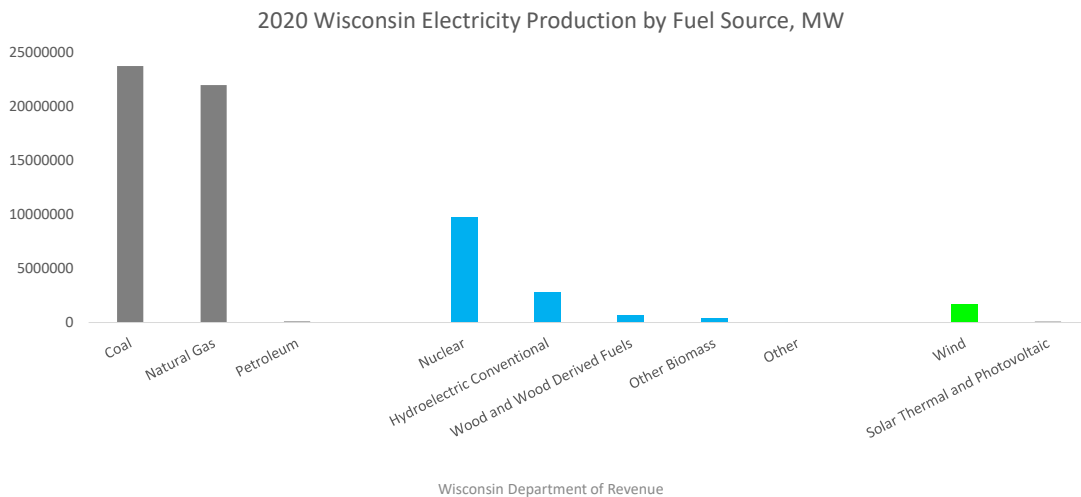
Threats 3: Energy Prices

Electricity Prices Rise Double-Digit



Threats 3: Energy Prices

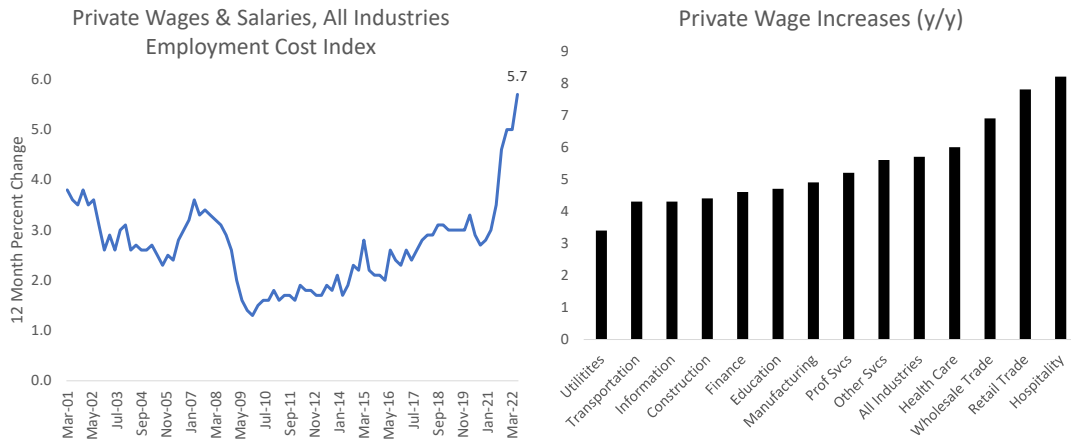
Intermittent Energy Provides Little of WI Electricity



Threats 4: Wage Pressure

Wage Increases Highest in 21 Years

Wage Pressure Greatest in Industries With Largest Labor Shortages

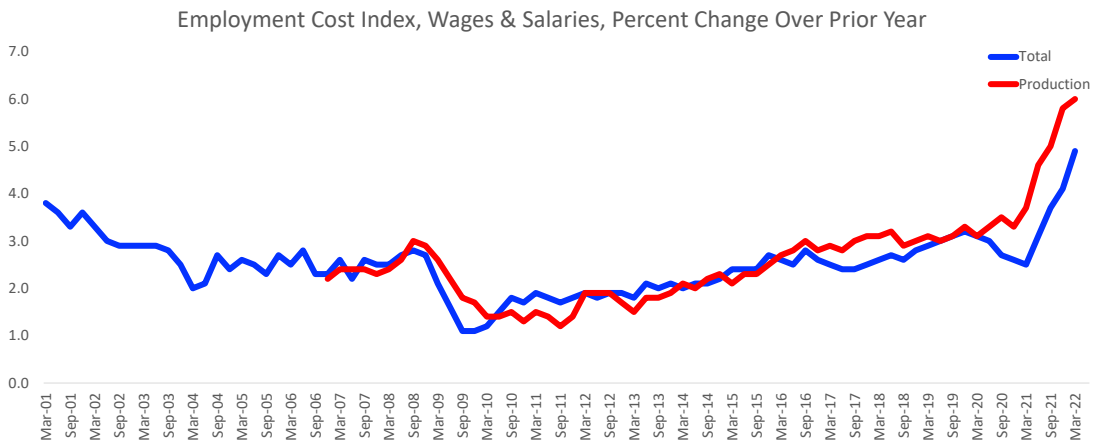


Source: U.S. Bureau of Labor Statistics, Employment Cost Index, Data Retrieved, August 10, 2022

Wisconsin Department of Revenue

Threats 4: Wage Pressure

Manufacturing Wage Increases at 21-Yr High



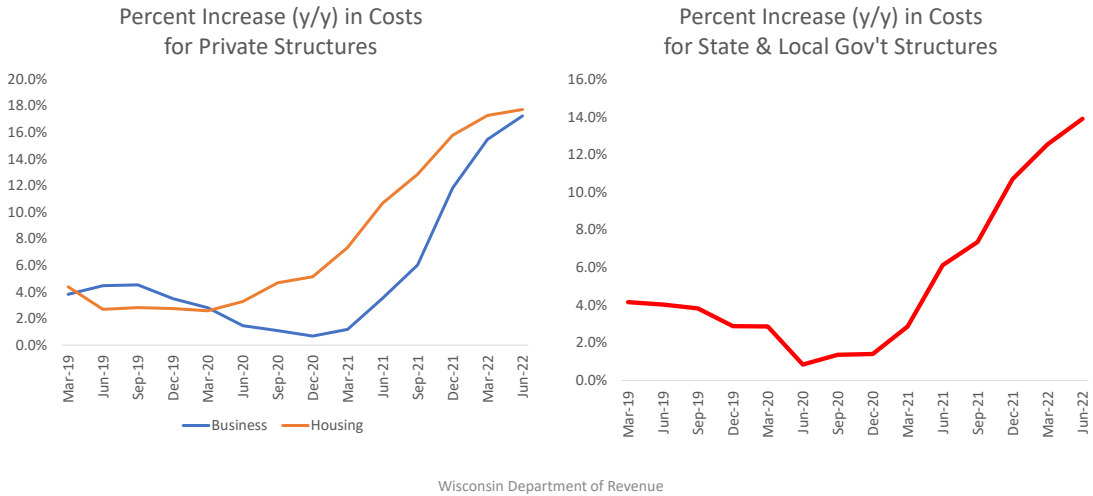
Source: U.S. Bureau of Labor Statistics, Employment Cost Index, Data Retrieved, August 10, 2022

Wisconsin Department of Revenue

Threats 5: Construction Costs

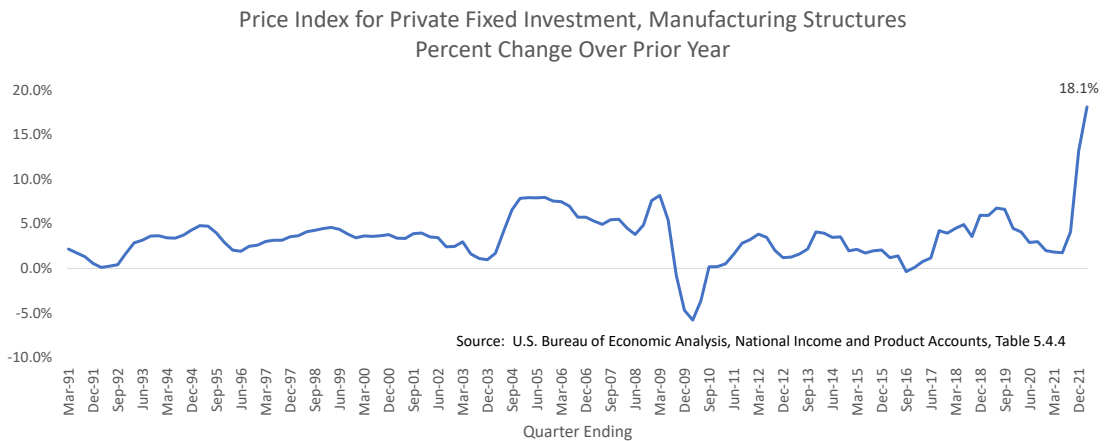
Construction Costs Rising Rapidly

Double-Digit Increases in Cost of Building New Structures
Highest Rate of Increase Since 1974



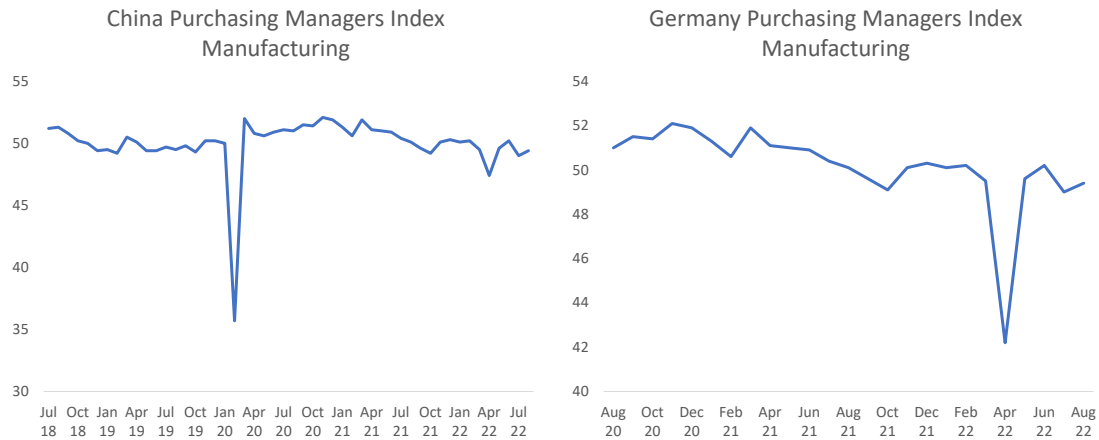
Threats 5: Construction Costs

Costs of Constructing Manufacturing Structures Reaches a Record High



Threats 6: International Events

Exposure to Slowdowns in Rest of World



Wisconsin Department of Revenue

U.S. Outlook

Lower Growth,
Higher Prices,
Higher Interest Rates

Wisconsin Department of Revenue

Federal Reserve Moves To Phase-In Higher Interest Rates

Higher Inflation, Lower Growth, Higher Rates

- Federal Reserve revises real GDP, inflation, and interest rate outlook.
- Fed will phase-out bond purchases designed to keep long-term rates low.
- Fed plans seven interest rate moves in 2022.
- FOMC's June Outlook lifts short-term rates by 250 basis points in 2022 compared to December's outlook.

	Real GDP. Pct. Chg.		
	2022	2023	2024
Sep-21	3.8	2.5	2.0
Dec-21	4.0	2.2	2.0
Mar-22	2.8	2.2	2.0
Jun-22	1.7	1.7	1.9

	Unemployment Rate		
	2022	2023	2024
Sep-21	3.8	3.5	3.5
Dec-21	3.5	3.5	3.5
Mar-22	3.5	3.5	3.6
Jun-22	3.7	3.9	4.1

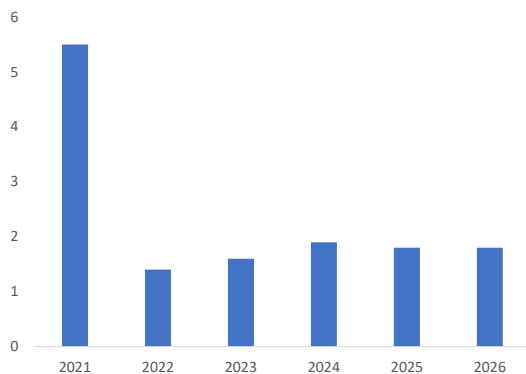
	Inflation Rate		
	2022	2023	2024
Sep-21	2.2	2.2	2.1
Dec-21	2.6	2.3	2.1
Mar-22	4.3	2.7	2.3
Jun-22	5.2	2.6	2.2

	Federal Funds Rate		
	2022	2023	2024
Sep-21	0.3	1.0	1.8
Dec-21	0.9	1.6	2.1
Mar-22	1.9	2.8	2.8
Jun-22	3.4	3.8	3.4

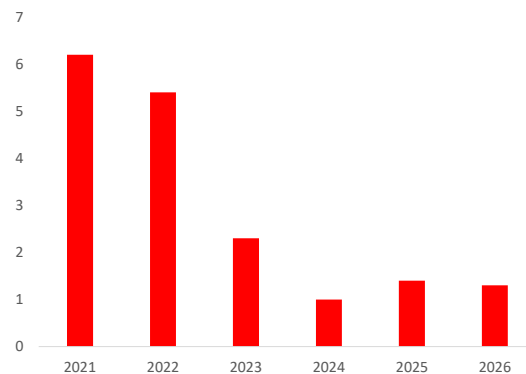
Wisconsin Department of Revenue

U.S. Economic Outlook Economy Downshifts to Lower Growth

Percent Change Real GDP
% Change Q4/Q4

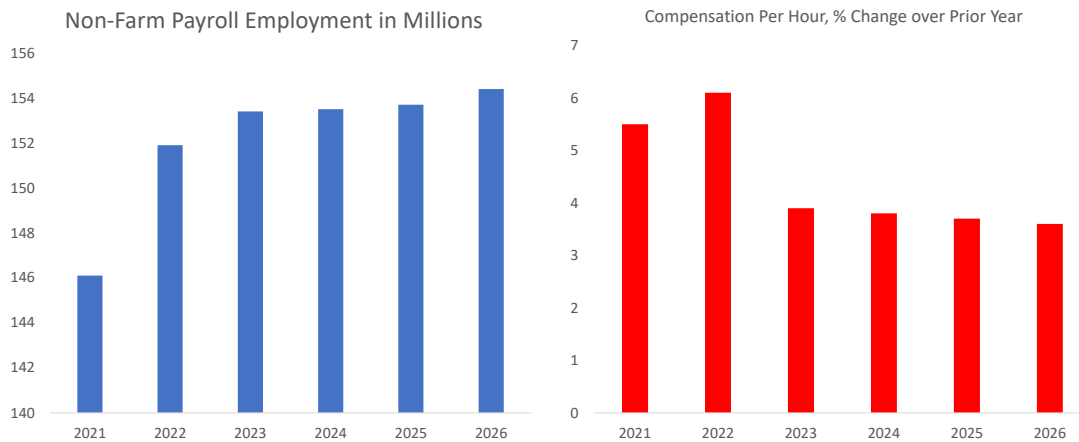


Manufacturing Industrial Production
% Change over Prior Year



Wisconsin Department of Revenue

Labor Markets Costs Moderate with Lower Employment Growth

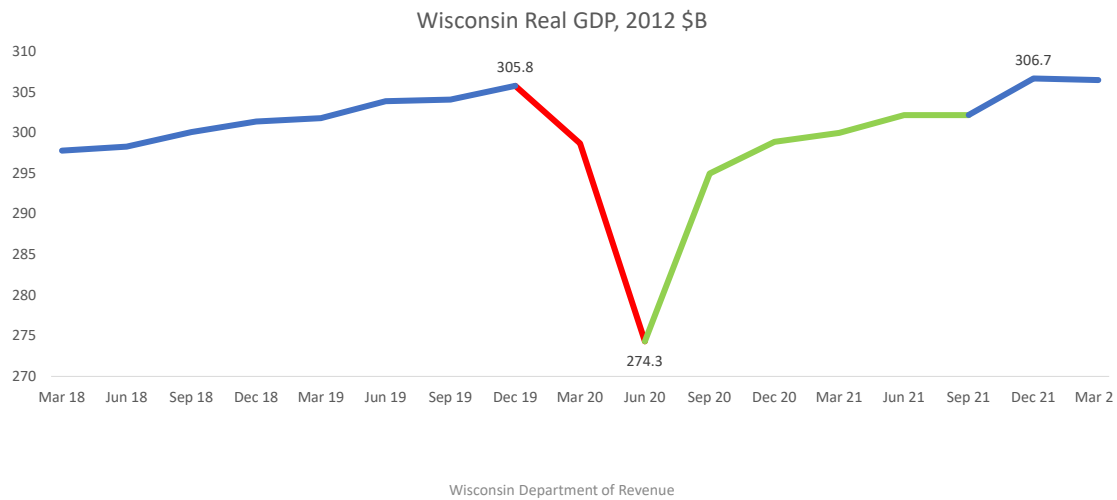


Wisconsin Department of Revenue

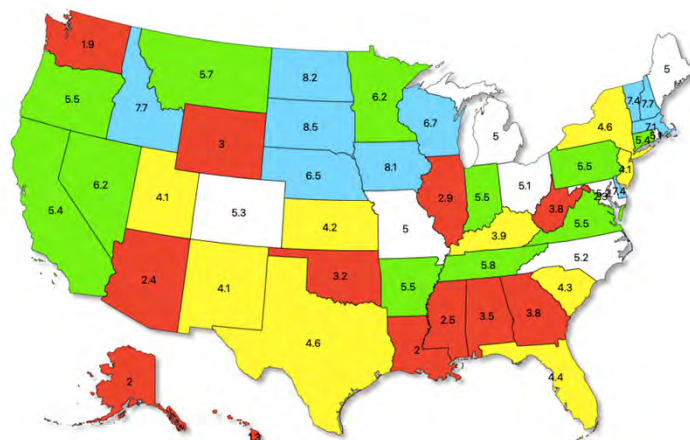
Wisconsin Outlook

Wisconsin Department of Revenue

Wisconsin Real GDP Recovered from COVID Contraction 2021 Q4

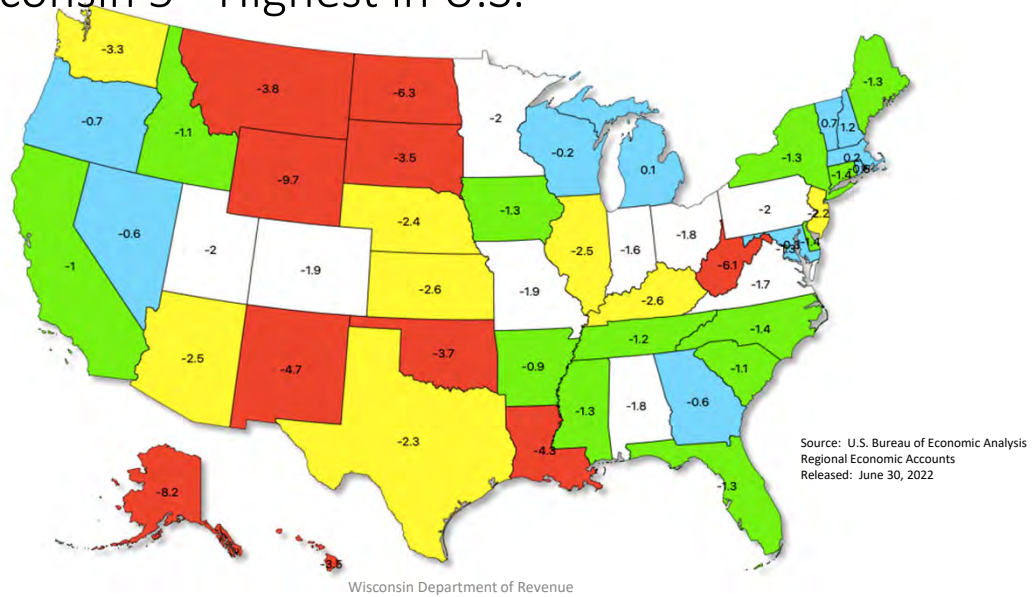


Wisconsin
Ranked 9th
Income
Growth 1st
Quarter 2022

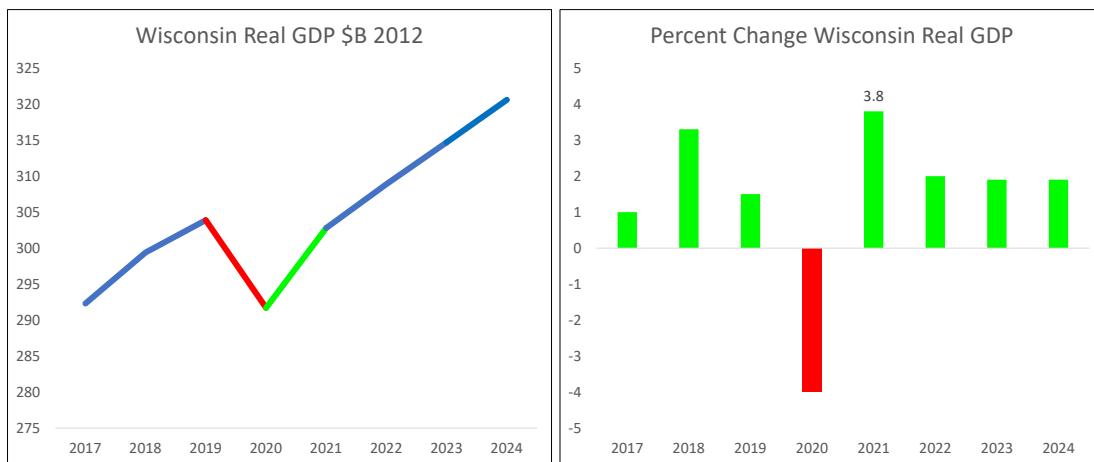


1st Quarter 2022 Real Gross Domestic Product, Percent Change

Wisconsin 5th Highest in U.S.



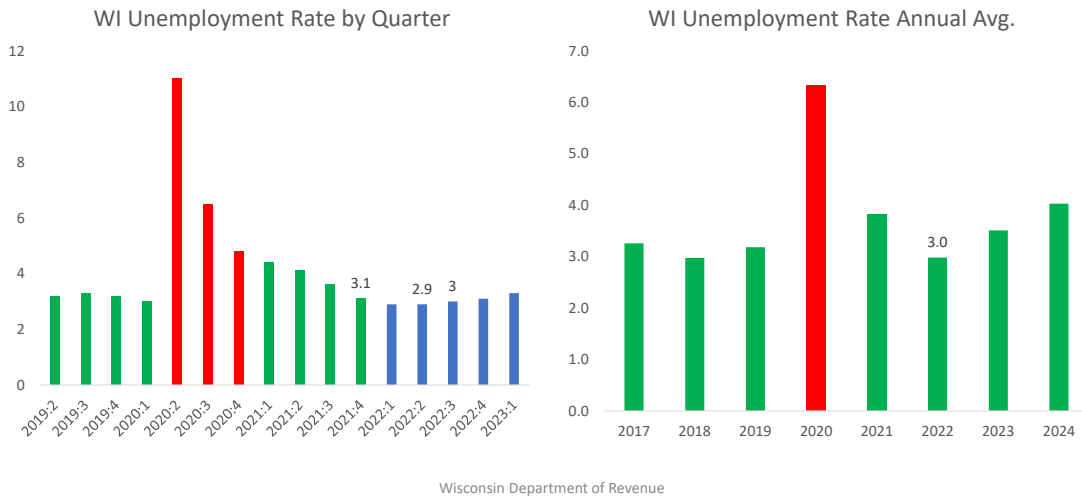
Wisconsin Outlook Strong Growth Carries Over to 2022



Wisconsin Department of Revenue

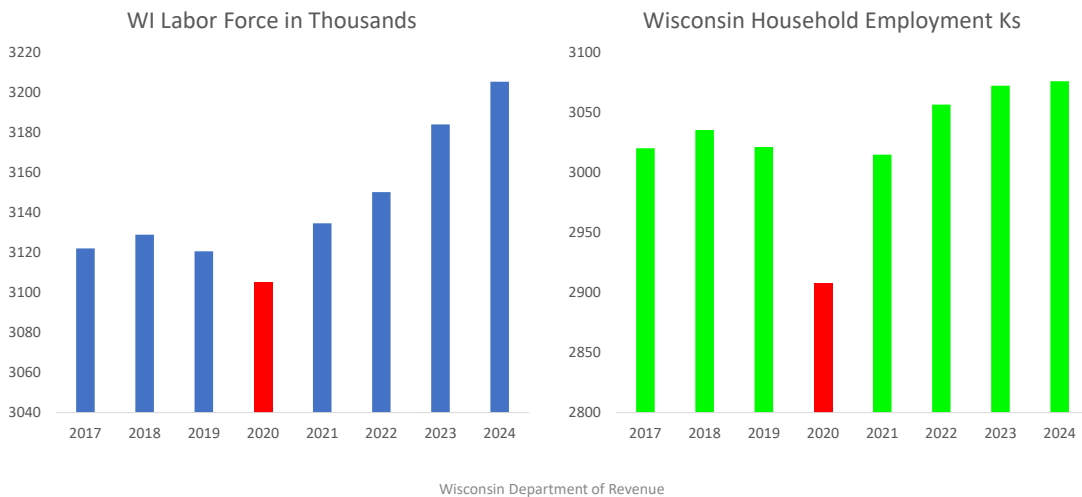
Wisconsin's Economic Outlook: Unemployment Rate

Full Employment Reached in 1st Quarter 2021, Sustained Through 2024
Reaches Record Low in 2022

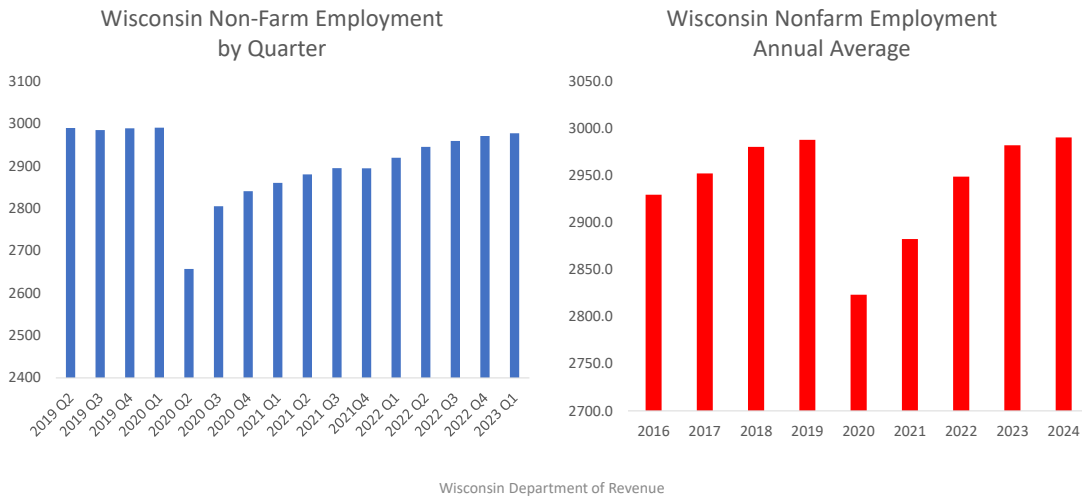


Wisconsin Economic Outlook

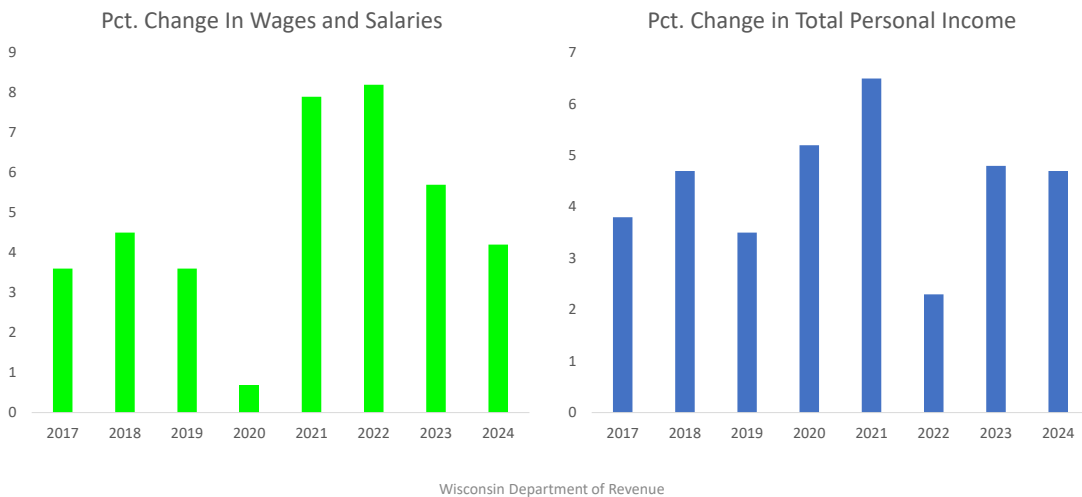
Labor Force Expansion Continues in 2022



Wisconsin Employment Rebounding Fully Recovered by 2023



Wisconsin Economic Outlook: Personal Income Supported by Wage Growth & Stimulus in 2021 Strong Wage Growth More Than Offsets Stimulus Phase-Out in 2022



An Invitation to Partner with DOR

1. Participate in a roundtable discussion
 - Business Development and Government Relations Unit provides business and government outreach
2. Stay Informed with DOR research
 - DOR's Research & Policy publishes reports and interactive data on the economy and public finance

Wisconsin Department of Revenue





Business Development and Government Relations



WHERE TO START

- One Stop Business Registration
- Certifications, Licenses, and Permits
- Trademarks/Tradenames
- Business Development Resources



TAX INCENTIVES

- Tax Incentives for Businesses
- Interactive Incentive Finder
- Opportunity Zones
- Hiring Incentives



DATA ANALYSIS

- Data Publications/Reports
- State Agency Reports, Data, and Information
- State Construction Projects and Bidding
- Become a Vendor to the State with VendorNet



WORKFORCE

- Wisconsin Job Center for Employers
- Occupational Health
- Apprenticeships
- Employer Training Resources

DOR Makes Its Continuing Research Easily Available.

DOR prepares far-reaching data reports on a variety of topics.

They can be found here.

- <https://www.revenue.wi.gov/Pages/Report/Home.aspx>

The location includes interactive tools for custom reports

For Example,

- Comparative data on school district taxes can be found here
 - <https://www.revenue.wi.gov/Pages/RA/School-District-Tax-Statistics.aspx>
- Quarterly reports on the Wisconsin Economy can be found here
 - <https://www.revenue.wi.gov/Pages/Report/WI-Economic-Outlook.aspx>

9:35 – 10:35 a.m.

Executive & Equity Compensation: A Guide for CFOs

Michael Wieber, *Partner, Quarles & Brady LLP*



Executive and Equity Compensation: A Guide for CFOs and CPAs

Presented by: Michael Wieber, Partner

September 13, 2022

Quarles & Brady LLP

Presenter



Michael Wieber, Partner
(414) 277-5109
michael.wieber@quarles.com

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Executive Compensation Goals

- A successful compensation program serves at least three main purposes.
 - It must attract executives with the skills, experiences and behavioral profile necessary to succeed in the position.
 - It must be sufficient to retain these individuals, so they do not leave for alternative employment .
 - It must motivate them to perform in a manner consistent with the strategy and risk-profile of the organization and discourage self-interested behavior.

Elements of Executive Compensation

- The compensation package includes some or all of the following:
 - Annual Salary
 - Annual Bonus
 - Long-term Incentives
 - Traditional Deferred Compensation
 - Equity Alternatives (Benefits Paid in Stock)
 - Synthetic Equity (Cash Payments Based on Stock Value)
 - Sale Bonus
 - LLC Alternatives (Capital and Profits Interests)

Traditional Deferred Compensation

- Supplemental to Main Plan
 - Deferrals
 - Matching Contributions
 - Employer Profit Sharing Contributions
 - Defined Benefit Options (less popular now)
- Additional Stand-Alone Benefit
 - Sky is the limit.

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Traditional Deferred Compensation *cont.*

- Limited to Select Group of Highly Compensated and Management Employees.
- Need not be nondiscriminatory.
- Participants generally allowed to select investment "measurement."
- Generally paid at termination or after period of years.
- Generally paid in lump sum or installments.
- Can use vesting schedule.

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Equity Alternatives

- Stock Options—The right to purchase stock at a stipulated price during a specified period of time.
 - Incentive Stock Options (ISOs)
 - Nonqualified Stock Options (NSOs)
- Stock-Settled Stock Appreciation Rights—Effectively a stock option without the requirement of paying the exercise price.
- Restricted Stock—Stock issued subject to forfeiture if specified conditions are not satisfied.
- Restricted Stock Units (Settled in Stock)—Promise to issue stock if specified conditions are satisfied.

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Section 409A of the Internal Revenue Code

- Section 409A of the Internal Revenue Code was enacted to prevent perceived abuses relating to distribution timing and the ability to accelerate or delay payouts. The IRS definition of deferred compensation is much broader than the traditional definition of deferred compensation.
 - Generally applies to traditional deferred compensation.
 - It can apply to stock options and SARs. Section 409A does not normally apply to restricted stock or restricted stock units.
- If an arrangement is subject to Section 409A and does not satisfy the Section 409A substantive requirements, the employee is penalized:
 - Amounts are subject to income tax as vested.
 - Retroactive interest
 - Additional 20% tax for employee

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Section 409A Applied to Stock Options and SARs

- A stock option or SAR with an exercise price equal to or greater than the fair market value of the underlying stock at the time of grant will qualify for the stock option exception and will not be subject to Section 409A.
- A stock option or SAR that is automatically exercised and only exercised upon a permitted distribution event (e.g., separation from service or CIC) will comply with Section 409A (regardless of whether the option was granted at a discount and regardless of whether the option was previously vested).

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Incentive Stock Options (ISOs)

- Numerous Federal Tax Requirements
 - Plan must specify aggregate number of shares and identify eligible employees or class of employees.
 - ISO treatment limited to options on the first \$100,000 of stock that first becomes exercisable in any calendar year.
 - Option granted only to employees.
 - Exercised while an employee, or within three months of termination, or one year of disability.
 - Ten-year term (five-year term for 10% or more shareholders).
 - Exercise price of at least FMV on grant date (110% of FMV for 10% or more shareholders).

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Tax Effects -- ISOs

- Employee

- Alternative Minimum Tax (AMT) adjustment at exercise.
 - Equal to spread, unless stock sold in year of exercise.
 - AMT is in addition to regular (ordinary and capital) tax to be paid later on.
- Capital gains on sale of stock if qualifying disposition.
- Required holding period for acquired stock of two years from grant, one year from exercise (disqualifying disposition rule).

- Employer

- No corporate tax deduction unless disqualifying disposition.
- Tax withholding not required.

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Nonqualified Stock Options

- No statutory limitations.
- May include nonemployees.
- Employer can establish vesting requirements.
- Employer can impose restriction on the shares acquired—but restrictions may cause the stock to become restricted property.

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Tax Effects – Nonqualified Stock Options

- Employee
 - Ordinary income tax at exercise.
 - Capital Gain upon sale.
 - No opportunity for Section 83(b) election on the option grant.
- Employer
 - Deduction equal to employee's ordinary income.
 - Withholding and reporting at time of deduction.

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Stock Option Example

- Facts. Employee is granted an option to purchase 1,000 shares of stock for \$10 per share when the stock is worth \$10 per share. The option becomes vested if the employee continues in employment for five years. The employee works for five years and exercises the option when the stock is worth \$100 per share.
- The employee pays the \$10,000 exercise price and receives stock worth \$100,000. The employee recognizes \$90,000 of ordinary income upon exercise and has a basis of \$100,000 in the acquired stock.
- The employer receives a \$90,000 tax deduction.

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Stock Appreciation Rights (SARs)

- Right to receive a benefit equal to the increase in the value of the stock over a specified period of time.
- Similar to a stock option, but there is no requirement to pay an exercise price.
- Employee Tax Treatment
 - Ordinary income tax at exercise.
 - Capital Gain upon sale of stock received.
 - No opportunity for Section 83(b) election on the SAR grant.
- Employer Tax Treatment
 - Deduction equal to employee ordinary income.
 - Withholding and reporting at time of deduction.

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Stock Appreciation Right Example

- Facts. Employee is granted a stock appreciation right for 1,000 shares of stock with a base price of \$10 per share when the stock is worth \$10 per share. The SAR becomes vested if the employee continues in employment for five years. The employee works for five years and exercises the SAR when the stock is worth \$100 per share.
- The spread at exercise is \$90,000. The employee receives 900 shares worth \$90,000. The employee recognizes \$90,000 of ordinary income upon exercise and has a basis of \$90,000 in the 900 shares of acquired stock.
- The employer receives a \$90,000 tax deduction.

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Restricted Stock Grants

- A share of stock with limitations on its transferability and subject to a substantial risk of forfeiture.
- Substantial risk of forfeiture under Section 83 of the Code.
 - Rights in property are conditioned upon future performance of services or the occurrence of a condition related to the transfer (e.g., IRR).
- Terms that will be considered a substantial risk of forfeiture:
 - Vesting based upon the employee's continued employment.
 - Vesting based upon a performance vesting condition.
 - Requirement that property be sold to the company at lesser of FMV or cost upon voluntary termination.
- Terms that will not be considered a substantial risk of forfeiture:
 - Forfeiture upon termination for cause.
 - Forfeiture for competition.

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Section 83 Restricted Property Tax Rules

- General Rule. An employee who acquires property that is subject to a substantial risk of forfeiture will recognize ordinary income at the time the restrictions lapse. The employee will then recognize ordinary income equal to the then fair market value of the property minus the amount, if any, paid for the property.
- Special Rule. An employee may make an election under Section 83(b) of the Code to recognize income at the time of grant. An employee who makes a Section 83(b) election will recognize ordinary income at the time of grant equal to the then fair market value of the property minus the amount, if any, paid for the property.
- The employee's tax basis in the property equals the amount paid for the property plus the amount the employee includes in income.
- The employee's holding period will begin when ordinary income is recognized (vesting date or acquisition date if Section 83(b) election).

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Section 83(b) Election Requirements

- Election must be made no later than 30 days after the date of the transfer.
- Filed with the IRS office at which the employee regularly files his or her tax returns.
- Written statement must be attached to the employee's tax return for the year of the transfer.
- Employee must send a copy of the Section 83(b) election to the employer.
- Rev. Proc. 2012-29 includes sample language.
- An employer may condition a grant or purchase upon the employee either making or not making a Section 83(b) election.

Restricted Stock: Tax Consequences to Employer

- Employer is generally entitled to a deduction equal to the amount of ordinary income recognized by the employee and at the same time. Therefore, the amount and timing of the deduction depends on whether the employee makes a Section 83(b) election.
- If the recipient is an employee, the employee's income is subject to withholding.
 - Sources of cash to pay tax obligation:
 - Employee makes payment to employer.
 - Withhold from normal salary.
 - Bonus to employee.

Restricted Stock Example

- Facts. Employee is granted 1,000 shares of stock when the stock is worth \$10 per share. The employee forfeits the stock if he or she terminates employment within three years of grant. The employee works for three years and at the end of three years the stock is worth \$100 per share.
- No Section 83(b) Election. The employee has no taxable income upon grant, and the employer has no tax deduction. The employee recognizes \$100,000 of ordinary income upon vesting, and the employer receives a \$100,000 tax deduction.
- Section 83(b) Election. The employee recognizes \$10,000 of ordinary income upon grant, and the employer receives a \$10,000 tax deduction. Any subsequent gain for the employee is capital gain.

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Restricted Stock Units

- A promise to issue stock to an employee if specified conditions are satisfied—stock is not issued until the conditions are met.
- Conditions can be service based and/or performance based.
- Employee recognizes taxable income when stock is issued based upon the value of the stock at that time (assuming no Section 83 restrictions).
- Employer receives a tax deduction at the same time and in the same amount.

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Restricted Stock Unit Example

- Facts. Employee is granted the right to receive 1,000 shares of stock if he or she continues in employment for three years. The employee works for three years and at the end of three years the employee is issued 1,000 shares of stock worth \$100 per share.
- The employee recognizes \$100,000 of ordinary income upon issuance of the stock.
- The employer receives a \$100,000 tax deduction.

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Synthetic Equity

- In general, so-called synthetic equity is a promise to make a cash payment to an individual based upon the satisfaction of specified conditions where the amount paid is based upon the value of the company's stock.
- Synthetic equity alternatives include:
 - Phantom Stock or Cash-Settled Restricted Stock Units.
 - Stock appreciation right where the individual receives a cash payment equal to the share that would otherwise be issued.

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Phantom Stock or Cash-Settled RSUs

- The employer establishes conditions that determine if, and how many, phantom shares will be earned.
- The employee receives a cash payment equal to the number of phantom shares earned multiplied by the value of the common stock at that time.
- Employee recognizes taxable income equal to the amount of cash paid.
- Employer receives a tax deduction at the same time and in the same amount.

Cash-Settled Stock Appreciation Right

- A cash-settled SAR provides a cash benefit to an employee that is based upon the appreciation in value of a specified number of shares.
- A cash-settled SAR can be subject to service conditions and/or performance conditions.
- Employee recognizes taxable income equal to the amount of cash paid.
- Employer receives a tax deduction at the same time and in the same amount.

Sale Bonus

- A sale bonus is a calculated amount that will be paid to an employee upon a sale of the business.
- The bonus formula can be established in any number of ways:
 - X% of net sales proceeds
 - X% of net sales proceeds in excess of a floor amount
 - X% of the first \$50 million of net sales proceeds and a larger or smaller percent of net sales proceeds above \$50 million
 - A sales bonus can also be based upon the value of a stated number of shares of stock (which is essentially phantom stock).
 - The sales bonus can also be subject to a cap (i.e., maximum payment).

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Sale Bonus *cont.*

- A sale bonus can be structured to provide a delayed payout if desired. For example, the sale bonus could provide for a 50% payout at closing, and the second 50% paid if the employee continues in employment for a stated period of time following the sale.
- Employee recognizes taxable income equal to the amount of cash paid.
- Employer receives a tax deduction at the same time and in the same amount.

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LLC Alternatives

- Capital Interests. A capital interest is an interest that entitles the holder to share in liquidating distributions in connection with a liquidation of the LLC immediately after the interest is granted. The tax treatment of a capital interest is similar to that of a share of stock in a C corporation.
- Profits Interests. A profits interest is generally (with certain exceptions) an interest that, on a liquidation of the partnership immediately after the grant of the profits interest, would not allow the recipient to participate in liquidating distributions. Rather, the recipient would only share in future appreciation. As a general matter, the receipt of a profits interest is not taxable to the recipient at the time of grant or vesting, but instead results in a capital gain for the employee upon sale.
 - Generally recommended to make a "protective" 83(b) election.

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Questions ?

Thank you



Michael Wieber, Partner
(414) 277-5109
michael.wieber@quarles.com

9:35 – 10:35 a.m.

Annual Tax Update

Jenny Kramer, CPA, *Tax Partner, Sikich LLP*



WICPA Business and Industry Fall Conference

ANNUAL TAX UPDATE - SEPTEMBER 13, 2022

SIKICH.COM

JENNY KRAMER, CPA
SIKICH LLP

2022 FEDERAL TAX UPDATE

- Bipartisan Infrastructure Bill – November 2021
- Partisan Reconciliation Package – “Inflation Reduction Act of 2022”
- “SECURE 2.0” Retirement Act
- Scheduled TCJA Tax Changes in 2022/2023 and 2026
- Employee Retention Credit (ERC)





BIPARTISAN INFRASTRUCTURE BILL

SIGNED INTO LAW NOVEMBER 15, 2021



BIPARTISAN INFRASTRUCTURE BILL

Politics

- Infrastructure bill loosely tethered to reconciliation package, "Build Back Better" Act
- Bill received some bipartisan support
- Passed first in Senate on August 10, 2021
- On November 5, 2021, after several months of political drama, the Infrastructure bill passed in the House by a 228-206 margin
- President signed it into law on **November 15, 2021**



BIPARTISAN INFRASTRUCTURE BILL

\$550 billion in new funding, including much of the following:

- \$110 billion in additional finding for **Roads, Bridges, and Major Projects**
- \$66 billion for **Passenger and Freight Rail**
- \$11 billion in for **Safety** - includes highway and pedestrian safety programs
- \$39 billion for **Transit System Funding** - with focus on repair backlog (mostly buses)
- \$65 billion for **Broadband** - grants to states for broadband deployment and affordability
- \$17 billion for **Ports and Waterways** - for waterway and coastal infrastructure
- \$25 billion for **Airports** - more funding for runways, gates, and taxiways
- \$55 billion for **Water Infrastructure** - including drinking water and wastewater
- \$73 billion for **Power and Grid** - covers grid reliability and supply chain for clean energy
- \$46 billion for **Resiliency** - cybersecurity with infrastructure, waste/flood mitigation, etc.
- \$7.5 billion for **Low-Carbon and Zero-Emission Vehicles** - school buses and ferries



BIPARTISAN INFRASTRUCTURE BILL

Tax Related "Pay Fors"

- New **cryptocurrency** information reporting requirements on "brokers."
 - ✓ About \$28 billion projected to be collected from enhanced cryptocurrency reporting. Largest revenue item in bill.
 - ✓ Cryptocurrency will be defined as a "specified security" and its exchanges subject to new special reporting requirements and steep consequences for noncompliance.
- **Bill also provides that digital assets valued at \geq \$10,000 can be considered "cash" under Section 6050I. Any trade or business receiving \geq \$10,000 in cryptocurrency must file a Form 8300.**
- **Reporting effective for 2023. IRS guidance needed.**



BIPARTISAN INFRASTRUCTURE BILL

Tax Related "Pay Fors"

- **Employee Retention Credit (ERC) ends 9/30/2021, rather than 12/31/2021. New Start-up Business type of ERC (from American Rescue Plan) still available for Q4 2021 – up to \$50,000.**
- No amounts in Infrastructure bill attributed to additional revenue collected from enhanced IRS audits and compliance efforts. While not part of Infrastructure bill, expected to be in reconciliation package.
- **No major business or individual income tax changes included in Infrastructure bill.** Again, many tax changes left for reconciliation package.



PARTISAN RECONCILIATION PACKAGE "INFLATION REDUCTION ACT OF 2022" FORMERLY "BUILD BACK BETTER" - BBB



BUILD BACK BETTER BACKGROUND

- Started nearly one year ago
- Introduced under special “reconciliation” rules
- Moved through House Ways and Means Committee.
- Eventually passed by the House (November 2021)
- Started out at \$3.5 trillion package, but trimmed back to \$2 trillion when passed by House
- Many tax provisions and tax hikes in House passed version, but less than originally planned
- BBB, however, stalled in Senate by Senator Joe Manchin (December, 2021)



BUILD BACK BETTER BECOMES THE INFLATION REDUCTION ACT OF 2022

- Talks continued in 2022 between Manchin and Senate Majority Leader Schumer - Little progress made
- On July 14, 2022 Manchin announced he would not support BBB with higher taxes and energy provision - Would only support ACA subsidy relief and Medicare drug plans
- With BBB seemingly done, GOP decided to move forward with CHIPS semiconductor bill to address supply chain issues
- On July 27, 2022 Manchin shocked many in Washington when a deal was announced with Schumer hours after CHIPS bill approved in Senate
- On August 4, 2022 Sinema indicated she would support the bill after negotiating changes to drop the carried interest tax increase provision



BUILD BACK BETTER BECOMES THE INFLATION REDUCTION ACT OF 2022

- On August 7, 2022 the Senate passed the Inflation Reduction Act of 2022 with a vote of 51-50 (tie-breaking vote cast by VP Harris)
- On August 12, 2022 the House passed the Inflation Reduction Act of 2022 with a vote of 220-207
- On August 16, 2022 signed into law by President Biden



INFLATION REDUCTION ACT OF 2022

- Key Provisions in the bill:

Revenue Raised

15% Corporate Minimum Tax
Prescription Drug Pricing Reform
IRS Tax Enforcement
1% Excise Tax on Repurchase of Corporate Stock
\$461(l) Loss Limitation 2-year Extension

\$737 billion

222 billion
265 billion
124 billion
74 billion
52 billion

Investments

Energy Security and Climate Change
ACA Extension
Western Drought Resiliency

\$437 billion

369 billion
64 billion
4 billion



INFLATION REDUCTION ACT OF 2022

- **15% Corporate Minimum Tax for “Applicable Corporations” – Effective for tax years beginning after December 31, 2022**
 - NOT an S Corporation, Regulated Investment Company, or REIT
 - Annual adjusted financial statement income in excess of **\$1 billion** (calculated as a 3-year floating average)
 - There are several adjustments that are made in determining adjusted financial statement income, including utilizing tax depreciation deductions rather than financial statement depreciation



INFLATION REDUCTION ACT OF 2022

- **1% Excise Tax on Repurchase of Corporate Stock – Effective for repurchases after December 31, 2022**
 - 1% of the fair market value of any stock repurchased during the tax year by the corporation.
 - “Covered Corporations” include:
 - Any domestic corporation whose stock is traded on an established securities market
 - “Covered Corporations do NOT include:
 - Part of a reorganization under §368(a) and no gain or loss is recognized by the shareholders
 - If contributed to an employer sponsored retirement plan or similar plan
 - Total value of the stock repurchased during the tax year does not exceed \$1 million
 - Repurchase by a dealer in securities in the ordinary course of business
 - Repurchases by a RIC or REIT
 - To the extent the repurchase is treated as a dividend



INFLATION REDUCTION ACT OF 2022

- IRS Enhanced Enforcement
 - \$4 billion for taxpayer services
 - \$45 billion for enhanced enforcement activities (not just for audits, but many other activities)
 - \$25 billion for operations support (for a variety of operational needs).
 - \$6 billion for technology modernization and improvements
 - The bill indicates it is not the intent of these IRS changes to be aimed at households making less than \$400,000 of income per year.
 - Includes \$15 million to study a “free direct e-file tax return system”
 - U.S. Treasury Secretary Yellen directed the IRS to produce a detailed plan of deployment within 6 months.



INFLATION REDUCTION ACT OF 2022

- Extends the expanded Affordable Care Act (ACA) program through 2025 (versus expiring at the end of 2022) equating to continued greater availability of premium tax credit subsidies.
- Extends the limitation on Excess Business Losses of Noncorporate Taxpayers under §461(l) to any tax year beginning before December 31, 2029 (previously only to tax years beginning before January 1, 2027).
- Extends or creates numerous credits, deductions, and other incentives for various energy measures - selected items covered in the following slides, but this is not a comprehensive list.



INFLATION REDUCTION ACT OF 2022

Clean Vehicle Credits

- \$7,500 electric vehicle tax credit is renewed for January 2023 – 2032
- Removes the 200,000 vehicle cap starting in 2023
- **Can be applied at point of sale if purchased from a dealer (2023 and after)**
- New requirements include U.S. assembly & “critical minerals” come from U.S. or country with a free trade agreement with the U.S. (starting in 2024)
- Vehicles must have MSRP under \$55k for cars and \$80k for SUVs and trucks
- Income threshold of \$150,000 (\$300,000 married) to qualify
- Used cars will qualify for a \$4,000 credit if cost \$25,000 or less (income threshold also drops to \$75,000 single / \$150,000 married)
- Applies to certain plug-in hybrids as long as they meet requirements and have a battery over 7kWh



INFLATION REDUCTION ACT OF 2022

Qualified Commercial Clean Vehicles (For Businesses)

- New credit for qualified vehicles acquired and ***placed in service after December 31, 2022***
- The credit per vehicle is the lesser of:
 - 15% of the vehicle's cost (30% for vehicles not powered by a gasoline or diesel engine) or
 - The incremental cost of the vehicle over the cost of a comparable vehicle powered solely by a gasoline or diesel engine.
- Must have a battery capacity of not less than 15kWh if over 14,000 pounds / 7kWh if under 14,000 pounds and be charged by an external electricity source
- **Max Credit: \$7,500** for < 14,000 pounds / **\$40,000** for > 14,000 pounds



INFLATION REDUCTION ACT OF 2022

Advanced Manufacturing Production Credit

- For the production of “eligible components” and sold to an unrelated person
- Eligible components include: Solar energy components, Wind Turbine components, inverters, qualified battery components, and applicable critical minerals
- Credit amount varies by component type
- Components produced and sold after December 31, 2022
- Phase out of the credit occurs 2030 - 2033



INFLATION REDUCTION ACT OF 2022

Extension of Incentives for Biodiesel, Renewable Diesel and Alternative Fuels

- Extended to December 31, 2024:
 - Biodiesel and Renewable Diesel Credit
 - Biodiesel Mixture Credit
 - Alternative Fuel Credit
 - Alternative Fuel Mixture Credit
- Extended to December 31, 2032
 - Alternative Fuel Refueling Property Credit (*several modifications were made to the credit requiring specific measures are met to maximize the credit*)



INFLATION REDUCTION ACT OF 2022

Extension, Increase, and Modification of Nonbusiness Energy Property Credit

- Extended to property placed in service before January 1, 2033
- Increases the credit & modifies the qualified expenditures
- **Repeals the lifetime credit limitation**
- **\$1,200 per taxpayer per year new limitation** (with separate limitations for various property)
- New Identification Number Reporting Requirement for property placed in service after December 31, 2024



INFLATION REDUCTION ACT OF 2022

Bill provides for \$9 billion in total energy rebates for taxpayers who do not exceed 150% of Area Median Income (vs. Tax credits previously discussed).

- \$8,000 to install heat pumps.
- \$1,750 for a heat-pump water heater.
- \$840 for a heat-pump clothes dryer.
- \$4,000 to upgrade electrical panel.
- \$1,600 to insulate and seal a house.
- \$2,500 for improvements to electrical wiring.
- Maximum rebate per homeowner is \$14,000.
- Administered by states.



INFLATION REDUCTION ACT OF 2022

IRC Section 179D

- Deduction for installing qualifying energy efficient systems and buildings – new and improvements to existing
- Lowers energy reduction standards from 50% to 25%
- Maximum Deduction increased to \$2.50 - \$5.00 /sq ft if meet “prevailing wage and apprenticeship requirements”
- New Retrofit Plan deduction for properties at least 5 years old
- Effective for property placed in service ***after December 31, 2022***, including Retrofit property which is subject to a retrofit plan established ***after December 21, 2022***.



INFLATION REDUCTION ACT OF 2022

Energy Efficient Home Credit

- Extended to home acquired before January 1, 2033
- Credit increased to \$500, \$1,000, \$2,500, or \$5,000 depending on energy efficiency requirements satisfied.
- Highest credits are available if “prevailing wage requirements” are met



INFLATION REDUCTION ACT OF 2022

Prevailing Wage / Apprenticeship Requirements

- Employees, contractors and subcontractors must be paid wages not less than prevailing rates as determined by the Secretary of Labor
- Apprenticeship requirement that certain labor hours be performed by apprentices (before 2023 = 10% / 2023 = 12.5% / after 2023 = 15%), and there must be one apprentice for each taxpayer, contractor, or subcontractor that employs four or more individuals.



INFLATION REDUCTION ACT OF 2022

Tax Credit Utilization

- Under the new law, credits can be treated as an income tax payment or can be transferred. This allows certain taxpayers to monetize the credit if they wouldn't otherwise be able to due to their situation.
- Credits eligible to be transferred (sold) to other taxpayers are as follows:
 - Alternative fuel
 - Renewable electricity
 - Carbon oxide sequestration
 - Zero-emission nuclear power
 - Clean hydrogen
 - Advanced manufacturing production
 - Clean electricity production
 - Clean fuel production
 - Energy credit under Section 48
 - Advanced energy project credit under 48C
 - Clean electricity investment credit
- Payment and transfer provision are effective for tax years beginning after 12/31/2022.





NOTICE 2022-36



NOTICE 2022-36

Waiver and Abatement of Certain Penalties for Taxpayers for late filing of various 2019 and 2020 returns.

- Forms 1040 (Individuals), 1041 (trusts), 1120 (corporations), 1120-S (S Corporations), 1165 (Partnerships), 990-PF (Private Foundations) and various foreign reporting forms such as 5471, 5472, and 3520 **for the 2019 and 2020 tax year if these tax returns are filed by September 30, 2022.**
- Informational returns (i.e. Form 1099s) if
 - For the 2019 year – filed by August 1, 2020
 - For the 2020 year – filed by August 1, 2021
- No need to request relief, the IRS has indicated they will issue penalty refunds.





“SECURE 2.0” RETIREMENT BILL



**WAIT....REMIND ME WHEN AND WHAT
WAS “SECURE 1.0”?**



QUICK RECAP BEFORE THE SEQUEL – “SECURE ACT OF 2019”

- **“RELEASE DATE”:** December 20, 2019
- **“STARRING”:**
 - Mandates most non-spouses inheriting IRAs fully distribute the account within 10 years
- **“CO-STARRING”**
 - Provides modifications to retirement plans to allow small businesses to set them up easier and with less cost to administer and allow part-time employees to participate
 - Required Minimum Distributions (RMDs) starting age pushed back from 70 ½ to 72
 - Allows 401(k) plans to offer annuities
 - Allows the use of 529 accounts for qualified student loan repayments up to \$10,000 annually
 - Permits penalty-free withdrawals of \$5,000 from 401(k) accounts for birth or adoption of a child.



QUICK RECAP BEFORE THE SEQUEL – “SECURE ACT OF 2019”

- **Mandates most non-spouses inheriting IRAs fully distribute the account within 10 years**
 - **Original Interpretation:** Distribute funds at any time during the 10-year window, including waiting until the 10th year before taking any distributions
 - **Proposed Regulations issued February 23, 2022:** When death occurs on or after the account holder’s required beginning date, Required Minimum Distributions are required in years one through nine, with the remaining balance required to be withdrawn in year ten.
 - **Does not apply for a ROTH IRA, but be cognizant of potential five-year rule applicability**





“SECURE 2.0” RETIREMENT BILL



“SECURE 2.0” RETIREMENT BILL

- “Securing a Strong Retirement Act of 2021” (H.R. 2954)
- Commonly referred to as “SECURE 2.0”
- Bill passed House by wide margin on March 29, 2022.
- Bi-partisan support.
- Follows up on many retirement provisions in SECURE 1.0 enacted in 2019.



“SECURE 2.0” RETIREMENT BILL

- Bill now moves to Senate where it also has bi-partisan support.
- Senate made several changes in its version of this retirement bill.
- While SECURE 2.0 has strong bi-partisan backing in both the House and Senate, differences must be reconciled.
- Final passage of SECURE 2.0 is expected in 2022, but may not occur until later in year – likely during “lame duck session” following November elections.



“SECURE 2.0” RETIREMENT BILL

Selected Items in SECURE 2.0 as passed by House

- **Expanding automatic enrollment in retirement plans (effective for plan years after 2023).** Provision requires 401(k) and 403(b) plans to automatically enroll participants in plans upon becoming eligible. Employees may opt out of coverage. Initial automatic enrollment amount is $\geq 3\%$ but $< 10\%$.
 - Exception for small businesses with ≤ 10 employees; new businesses (in business for < 3 years); church plans; and governmental plans.
- **Modification of credit for small employer pension plan startup costs (effective for tax years after 2022).** The three-year small business start-up credit is currently 50% of administrative costs, up to annual cap of \$5,000. Bill increases start-up credit from 50% to 100% for employers with up to 50 employees. In addition, bill provides additional credit, except in case of defined benefit plans.



“SECURE 2.0” RETIREMENT BILL

Selected Items in SECURE 2.0 as passed by House

- **Increase in age for required beginning date for mandatory distributions.** Under current law, participants are generally required to begin taking distributions at age 72. Rationale is to make individuals spend retirement savings during their lifetime and not use for estate planning purposes. SECURE 1.0 generally increased RMD age to 72.
- SECURE 2.0 increases **RMD age** further **to age 73 starting on 1/1/2023; increases to age 74 starting on 1/1/2030; and to age 75 starting on 1/1/2033.**



“SECURE 2.0” RETIREMENT BILL

Selected Items in SECURE 2.0 as passed by House

- **Higher catch-up limit to apply at age 62, 63, and 64.** Under current law, employees who have attained age 50 are permitted to make **“catch-up contributions”** under a retirement plan in excess of applicable limits. The general limit on catch-up contributions for 2021 is \$6,500.
- SECURE 2.0 increases these “catch-up” limits to **\$10,000** (indexed to inflation), for individuals who have attained ages 62, 63, and 64. **Effective for taxable years beginning after 2023.**



“SECURE 2.0” RETIREMENT BILL

Selected Items in SECURE 2.0 as passed by **House**

- **Treatment of student loan payments as elective deferrals for purposes of matching contributions.** This provision intended to assist employees who may not be able to save for retirement due to their student debt load, and thus miss out on available matching employer contributions.
- Bill allows such employees to receive those matching contributions by reason of repaying their student loans. **Effective for contributions made for plan years after 2022.**



“SECURE 2.0” RETIREMENT BILL

Selected Items in SECURE 2.0 as passed by **House**

- **Deferral of tax for certain sales of employer stock to employee stock ownership plan sponsored by S Corporation.** Section 1042 permits an individual owner of stock in a non-publicly traded C Corporation with an ESOP may elect to defer gain recognition from stock sale to ESOP if seller reinvests the sales proceeds into qualified replacement property, publicly traded stocks/securities. After sale, ESOP must own $\geq 30\%$ of the employer's stock.
- The bill expands the Section 1042 gain deferral provisions with a 10% limit on the deferral to sales of employer stock to S Corporation ESOPs. **Effective for deferrals made after December 31, 2027.**



“SECURE 2.0” RETIREMENT BILL

Selected Items in SECURE 2.0 as passed by **House**

- **Reduction in excise tax on certain accumulations in qualified retirement plans.** The bill reduces penalty for failure to take RMDs from 50% to 25%. Further, if a failure to take a RMD from an IRA is corrected in a timely manner, the excise tax on the failure is further reduced from 25% to 10%. **Effective for taxable years after 2022.**
- **Expansion of Employee Plans Compliance Resolution System (EPCRS).** Due to growing complexity of retirement plan administration, the Bill expands EPCRS, as of the date of enactment to:
 1. allow more types of errors to be corrected internally through self-correction;
 2. apply to inadvertent IRA errors; and
 3. exempt certain failures to make RMDs from the otherwise applicable excise tax.



“SECURE 2.0” RETIREMENT BILL

Selected Items in SECURE 2.0 as passed by **House**

- **One-time election for qualified charitable distribution to split-interest entity; increase in qualified charitable distribution limitation.** The bill expands IRA charitable distribution provision to allow for a one-time, \$50,000 distribution to charities through charitable gift annuities; charitable remainder unitrusts (CRUT); and charitable remainder annuity trusts (CRAT). **Effective for distributions made in taxable years beginning after the date of enactment.**
- The bill also indexes for inflation, the annual \$100,000 IRA charitable distribution limitation. **Effective for taxable years ending after the date of enactment.**



“SECURE 2.0” RETIREMENT BILL

Selected Items in SECURE 2.0 as passed by **House**

- **Individual retirement plan statute of limitations for excise tax on excess contributions and certain accumulations.** Under current law, statute of limitations for taxes for prohibited transactions; excess contributions; or required minimum distribution failures starts as of the date that a return is filed for the violation.
- The Bill instead provides the statute of limitations starts when the taxpayer files an individual tax return for the year of the violation. Provides relief from the statute of limitations for violations of which taxpayers were not aware, and thus did not file a return. **Effective after the date of enactment of this Act.**



“SECURE 2.0” RETIREMENT BILL

Selected Items in SECURE 2.0 as passed by **House**

- **Employer may rely on employee certifying that hardship distribution conditions are met.** The Bill provides that, under certain circumstances, employees will be permitted to self-certify that they have had an event that constitutes a hardship for purposes of taking a hardship withdrawal. **Effective for tax years after 2022.**
- **Amendments to increase benefit accruals under plan for previous plan year allowed until employer tax return due date.** Current law, however, provides that plan amendments to an existing plan must generally be adopted by the last day of the plan year in which the amendment is effective. The Bill amends these provisions to allow discretionary amendments that increase participants' benefits to be adopted by the due date of the employer's tax return. **Effective for plan years beginning after 2023.**



“SECURE 2.0” RETIREMENT BILL

Selected Items in SECURE 2.0 as passed by **House**

- **Elective deferrals generally limited to regular contribution limit.** Currently, catch-up contributions to a qualified plan can be made on a pre-tax or on a Roth basis (if permitted by plan sponsor). The Bill provides all catch-up contributions to qualified retirement plans are subject to Roth tax treatment. **Effective for taxable years after December 31, 2022.**
- **Optional treatment of employer matching contributions as Roth contributions.** Currently, plan sponsors are **not permitted** to provide employer matching contributions in their plans [401(k), 403(b), and 457(b)] on a Roth basis. Matching contributions must be on a pre-tax basis only. The Bill permits plans to provide participants with the option of receiving matching contributions on a Roth basis. **Effective after date of enactment.**



“SECURE 2.0” RETIREMENT BILL

Selected Items in EARN (SECURE 2.0) as Introduced in **Senate**

- Senate bill as introduced by the Senate Finance Committee (SFC) is entitled the “Enhancing American Retirement Now” (EARN).
- It is similar, yet with some differences, to the House-passed SECURE bill.
- Some of these differences and similarities of EARN with SECURE will be covered.



“SECURE 2.0” RETIREMENT BILL

Selected Items in EARN (SECURE 2.0) as Introduced in **Senate**

- **Matching Payments for Elective Deferral and IRA Contributions by Certain Individuals.**
- Provision would modify credit for IRAs and retirement contributions by changing it from a credit paid in cash, to a “government matching contribution” that must be deposited into the participant's IRA or retirement account.
- Credit would be **50% of contribution** to IRA or retirement account, with a **maximum of \$2,000**. Credit would be subject to a **phase-out between \$41,000 to \$71,000** of AGI.
- **Provision takes effect in 2027.**



“SECURE 2.0” RETIREMENT BILL

Selected Items in EARN (SECURE 2.0) as Introduced in **Senate**

- **Withdrawals for Certain Emergency Expenses.**
- Exception for certain distributions used for “emergency expenses”. Only one emergency distribution per year would be allowed.
- Limited to \$1,000 distribution. Could be repaid over three years.
- **Effective beginning in 2024.**



“SECURE 2.0” RETIREMENT BILL

Selected Items in EARN (SECURE 2.0) as Introduced in Senate

- Higher “Catch-up” limit beginning at age 60.
- Provision would permit individual to be able to contribute **an additional \$10,000** to their IRA or retirement account once they reach **age 60**.
- Applies between ages 60 and 63.
- **Effective beginning in 2024.**



“SECURE 2.0” RETIREMENT BILL

Selected Items in EARN (SECURE 2.0) as Introduced in Senate

- Increase in age for required beginning date of mandatory distributions.
- Required age for minimum distributions would increase from age 72 to **age 75**.
- **Change would be effective in 2031.**



“SECURE 2.0” RETIREMENT BILL

Selected Items in EARN (SECURE 2.0) as Introduced in **Senate**

- **Reduction on Excise Tax in Certain Accumulations of Retirement Plans.**
- A 50% excise tax applies on individuals that fail to take their required minimum distribution (RMD) from an IRA or qualified required plan.
- EARN would reduce this penalty to 25%.
- EARN would also reduce the penalty to 10% if a corrected distribution is taken by the end of the second tax year following the year the required distribution was not made.
- **Effective after date of enactment.**



“SECURE 2.0” RETIREMENT BILL

Selected Items in EARN (SECURE 2.0) as Introduced in **Senate**

- **Designated Roth Distribution Rules.**
- Unlike Roth IRAs, owners of Designated Roth 401k accounts in a company retirement plan must take pre-death distributions.
- Provision in EARN would remove pre-death distribution requirement.
- **Effective after 2023.**



“SECURE 2.0” RETIREMENT BILL

Selected Items in EARN (SECURE 2.0) as Introduced in **Senate**

- **Long-term Care Contracts Purchased with Retirement Account Distributions.**
- The EARN provision would permit up to **\$2,500** in retirement distributions per year to be used to pay for “high quality” long-term care insurance coverage.
- Distributions would also avoid the 10% excise tax for early distributions.
- “High quality” in this case refers to a policy that provides meaningful financial coverage for home-based assistance or nursing home care.
- **Effective three years after date of enactment.**



“SECURE 2.0” RETIREMENT BILL

Selected Items in EARN (SECURE 2.0) as Introduced in **Senate**

- **Enhancement of Section 403(b) Plans.**
- **“Group trusts”** are sometimes used by retirement plans and IRAs to diversity investments and reduce costs.
- Section 403(b) plan are set up as custodial accounts and limited to mutual fund investments. They cannot invest in group trusts, except in limited circumstances.
- EARN would permit Section 403(b) plans to participate in group trusts.
- **Effective after date of enactment.**



“SECURE 2.0” RETIREMENT BILL

Selected Items in EARN (SECURE 2.0) as Introduced in **Senate**

- **Disaster Relief Distributions – Special Rules.**
- EARN provision provides a permanent rules for use of retirement funds from a disaster.
- Permanent rule permits up to \$22,000 to be used by an impacted individual for expenses.
- Distributions would avoid 10% early distribution tax, and income spread over three years.
- Distribution could be repaid back to the IRA or retirement account within three years. Special rules for homes.
- **Effective for disasters occurring on or after January 26, 2021.**



SCHEDULED TCJA TAX CHANGES IN 2022/2023 AND 2026



SCHEDULED TCJA TAX CHANGES IN 2022/2023 AND 2026

Selected Tax Provisions by Year of Expiration. These provisions likely will be addressed by Congress in coming years with "extenders." Could serve as trade-offs for other tax changes. Several key measures.

2022

- **Interest Expense Deduction (Section 163(j))** – ATI calculation **does not include** modification for depreciation and amortization deductions.
- **Research Expenditures (Section 174)** – current expensing deduction repealed, and five-year amortization imposed. Includes computer software development.

2023

- **Bonus Depreciation (Section 168(k))** - Scaled back from 100% to **80% in 2023**; then 60% in 2024.



SCHEDULED TCJA TAX CHANGES IN 2022/2023 AND 2026

Selected Tax Provisions by Year of Expiration

2026

- Individual tax rates (from TCJA) – revert to 2017 rates. **Corporate tax rates (21%) not set to change.**
- Expanded standard deduction (from TCJA)
- Higher child tax credit; personal exemption deduction returns
- AMT exemption and higher starting point for AMT phase-out
- SALT deduction cap \$10,000 removed
- 20% QBI Deduction (§199A) eliminated
- Higher estate/gift exemption reverts to 2017 levels
- Others



SCHEDULED TCJA TAX CHANGES IN 2022/2023 AND 2026

Interest Expense Deduction (Section 163 (j))

- Interest limitation under §163(j) could have a much wider application in 2022 and going forward for two primary reasons:
 1. **Tax Change.** Beginning in 2022, the limitation on interest deductibility is determined based on 30% of "Adjust Taxable Income" (ATI). ATI is calculated based on the company's taxable income without the interest deduction. In 2021 and prior, also added back in arriving at ATI was a company's tax depreciation/amortization. This does not apply in 2022.
 2. **Change in Current Conditions.** As we all have seen, interest rates have increased this year (along with everything else). This will add to the amount of interest expense incurred, and this amount could, in fact, be limited in its deductibility.



SCHEDULED TCJA TAX CHANGES IN 2022/2023 AND 2026

Interest Expense Deduction (Section 163 (j))

- Interest limitation under §163(j) - wider application in 2022 and going forward.
 - **Example. Badger, Inc.** is a manufacturer of high-tech widgets. It operates as a C Corporation.
 - **For 2021** it has the following tax information:

Taxable Income before interest expense deduction	\$1,000,000
Tax Depreciation for 2021 year	1,500,000
Tax Amortization for 2021 year	500,000
Interest expense incurred in 2021	600,000
 - For 2022, the exact same amounts were generated, except the interest expense went up from \$600,000 to \$900,000 due to higher interest rates in 2022



SCHEDULED TCJA TAX CHANGES IN 2022/2023 AND 2026

Interest Expense Deduction (Section 163(j))

- Interest limitation under §163(j) - wider application in 2022 and going forward.
- Example (Continued). Here are 2021/2022 tax results factoring in revised §163(j) limitation:

	2021	2022
Taxable Income before interest expense	\$ 1,000,000	\$ 1,000,000
Less: Deductible Interest Expense	<u>< 600,000 > *</u>	<u>< 300,000 > **</u>
Taxable Income – Final	\$ 400,000	\$ 700,000
Tax	\$ 84,000	\$ 147,000
Disallowed Interest Expense	\$ -0-	\$ 600,000
“Adjusted Taxable Income” (“ATI”)	\$ 3,000,000	\$ 1,000,000
* (1,000,000 + 1,500,000 + 500,000) @ 30% = 900,000		
** (1,000,000) @ 30% = 300,000		



SCHEDULED TCJA TAX CHANGES IN 2022/2023 AND 2026

Interest Expense Deduction (Section 163(j))

- Interest limitation under §163(j) - wider application in 2022 and going forward.
 - Disposals.**
 - Disposals can have a significant impact on Section 163(j) limitation.
 - The final regulations issued in January, 2021 indicate that Taxable Income of the taxpayer is **reduced** to arrive at ATI for any disposals in which depreciation, amortization, or depletion have been claimed in the past.
 - The reduction is the lesser of:** (1) the actual gain on the disposal of the property; or (2) the actual depreciation (post-2017) claimed on the disposed of property.
 - Also, downward adjustments on disposals of property in non-taxable transactions such as Section 351 for corporations, or Section 721 for partnerships.



SCHEDULED TCJA TAX CHANGES IN 2022/2023 AND 2026

Interest Expense Deduction (Section 163(j))

- **ILM 202123007. Negative Section 481 Adjustment and Section 163(j) Calculation.**
- Chief Counsel Memo with interest deduction under Section 163(j) and adjustment required under Section 481(a).
 - **Issue:** For amount allowed as a deduction under Section 163(j), does ATI (under §163(j)(8)) calculation for year include adjustments required under Section 481(a) for a change in method of accounting for depreciation?
 - **Conclusion:** IRS concluded a taxpayer's net negative Section 481(a) adjustment resulting from a change in its method of accounting for tax depreciation should be included in the depreciation add-back in computing ATI for purposes of determining taxpayer's Section 163(j) interest limitation.
 - IRS also indicated in this ruling a net positive §481(a) adjustment for depreciation would be subtracted out of income in arriving at ATI whether recognized all in year of change or spread over four years (but not for years after 2021).
- **IRS ruling issued June 11, 2021.**



SCHEDULED TCJA TAX CHANGES IN 2022/2023 AND 2026

Research Expenditures (Section 174)

- Current expensing deduction of research expenditures (includes computer software development costs) is repealed.
- Five-year amortization imposed for research expenditures, with half-year amortization in first year – **Beginning 2022**
- Congress has supported research incentives in the past, and there is strong bi-partisan backing to continue allowing current expensing of research expenditures.
- There was a major push to include research expenditures in Omnibus bill, but this was dropped late in the process
- Relief was included in BBB, but was NOT in final Inflation Reduction Act
- Lobbying efforts will continue throughout 2022 to allow for current deduction of research expenditures



SCHEDULED TCJA TAX CHANGES IN 2022/2023 AND 2026

Bonus Depreciation (Section 168(k))

- Asset must be “placed in service” during the tax year
 - Ready and available for its assigned business function
 - You do NOT need to be actually using the property, but it must be ready and available for use (i.e. present, installed, permits approved, as applicable).
- Useful life of 20 years or less
 - Tangible Personal Property: Furniture, Fixtures, Equipment, Land Improvements, Computers, Computer Software, etc.
 - Does NOT include Land or Land Improvements
- Must be purchased from an unrelated party
 - CAN be New or USED property (beginning September 28, 2017)



SCHEDULED TCJA TAX CHANGES IN 2022/2023 AND 2026

Bonus Depreciation (Section 168(k))

Dates	First Year Bonus Depreciation %
9/28/2018 – 12/31/2022	100%
01/01/2023 – 12/31/2023	80%
01/01/2024 – 12/31/2024	60%
01/01/2025 – 01/01/2025	40%
01/01/2026 – 12/31/2026	20%
01/01/2027 – forward	0%





EMPLOYEE RETENTION CREDIT (ERC)



OVERVIEW OF EMPLOYEE RETENTION CREDIT

ERC Background

- ERC part of CARES Act. Enacted on March 27, 2020 at onset of COVID-19 pandemic.
- ERC a refundable payroll tax credit designed to keep people employed.
- Companies that claim ERC must reduce their wage deduction by the amount of the ERC (under §280C(a)).
- Wage expense disallowance occurs in tax year in which qualified wages that lead to ERC were paid or incurred. It is not in tax year when ERC claim is filed or refund received. IRS Notice 2021-49.



OVERVIEW OF EMPLOYEE RETENTION CREDIT

ERC Provides Incentive to Employers Impacted by COVID-19:

4-Step Process

- **#1 - ERC Affiliation Rules**
- **#2 - ERC Eligibility**
 - Significant Decline in Gross Receipts; or
 - Full or Partial Shutdown of business from a Government Order
- **#3 - Small Employer or Large Employer**
 - Small Employer based on number of employees depending on year:
 - For 2020: **≤ 100 Employees**
 - For 2021: **≤ 500 Employees**
- **#4 - Determine Eligible ERC Wages and Calculate ERC**
 - 2020: **\$10,000** per employee per year (**50% credit**)
 - 2021: **\$10,000** per employee per quarter (**70% credit**)



OVERVIEW OF EMPLOYEE RETENTION CREDIT

ERC Eligibility (Step #2)

- **2020 ERC: Significant decline (> 50%) in gross receipts:**
 - (1) **beginning** with the first **calendar quarter** after December 31, 2019; and
 - (2) **ending** with the **calendar quarter** where revenues are **> 80%** of the revenues for the prior calendar quarter.
- **2021 ERC: Significant decline (> 20%) in gross receipts:**
 - (1) Compare current year **2021** quarter to **2019** corresponding quarter; **OR**
 - (2) Compare immediately preceding quarter to **2019** corresponding quarter ("alternative quarter election").



OVERVIEW OF EMPLOYEE RETENTION CREDIT

ERC Chart for Comparison of Gross Receipts (> 50% for 2020; > 20% for 2021)

Employer Eligible

Comparison of Calendar Quarters

- 2020 Qtr 1 2020 Qtr 1 vs. 2019 Qtr 1
- 2020 Qtr 2 2020 Qtr 2 vs. 2019 Qtr 2
- 2020 Qtr 3 2020 Qtr 3 vs. 2019 Qtr 3
- 2020 Qtr 4 2020 Qtr 4 vs. 2019 Qtr 4

- 2021 Qtr 1 2021 Qtr 1 vs. 2019 Qtr 1; OR 2020 Qtr 4 vs. 2019 Qtr 4
- 2021 Qtr 2 2021 Qtr 2 vs. 2019 Qtr 2; OR 2021 Qtr 1 vs. 2019 Qtr 1
- 2021 Qtr 3 2021 Qtr 3 vs. 2019 Qtr 3; OR 2021 Qtr 2 vs. 2019 Qtr 2
- 2021 Qtr 4 2021 Qtr 4 vs. 2019 Qtr 4; OR 2021 Qtr 3 vs. 2019 Qtr 3



OVERVIEW OF EMPLOYEE RETENTION CREDIT

- ERC ELIGIBILITY – 2021: Significant Decline in Gross Receipts > 20%

ERC - Example 1:

Q1 2019 = \$100,000	Q1 2021 = \$81,000	19% ↓ Q1 2021: No, ERC
Q2 2019 = \$100,000	Q2 2021 = \$79,000	21% ↓ Q2 2021: Yes, ERC
Q3 2019 = \$100,000	Q3 2021 = \$81,000	19% ↓ Q3 2021: No, ERC

ERC - Example 2: With "Alternative Quarter Election"

Q4 2019 = \$100,000	Q4 2020 = \$79,000	21% ↓ Q1 2021: Yes, ERC
Q1 2019 = \$100,000	Q1 2021 = \$81,000	19% ↓ Q1 2021: N/A (met above)
Q2 2019 = \$100,000	Q2 2020 = \$79,000	21% ↓ Q2 & Q3 2021: Yes, ERC

- Summary: ALL Three Quarters would be eligible for 2021 ERC!



OVERVIEW OF EMPLOYEE RETENTION CREDIT

Partial or Full Suspension in Operations

- What does this mean? Congressional intent not well documented.
- Legal interpretations. State, county, city, and other municipalities across the US have issued orders. Various terms. Consider obtaining a legal opinion.
- Government order has a "more than nominal impact." For example, elective surgeries disallowed or limit capacity or number of customers in bars or restaurants.
- Can be indirect – supplier or key vendor is subject to an order, which causes adverse impact on your business.
- Facts and Circumstances Analysis. See also IRS Notice 2021-20.



OVERVIEW OF EMPLOYEE RETENTION CREDIT

Determine Eligible ERC Wages and Calculate ERC: (Step #4)

- Determined quarterly
- **For 2020**, \$10,000 of wages per employee per year. **50% factor**. Max Credit is \$5,000 per employee per year.
- **For 2021**, \$10,000 of wages per employee per quarter. **70% factor**. Max Credit is \$7,000 per employee per quarter, or \$28,000 for year.



OVERVIEW OF EMPLOYEE RETENTION CREDIT

Statute of Limitations for Payroll Tax Claims

General Rules:

- IRS has **three years** from when tax return filed to assess additional tax.
- Payroll tax returns due end of month following end of quarter.
- Payroll tax returns for a period ending within a year filed before April 15th of the following year are treated as filed on **April 15th** for statute of limitations (SOL) purposes.
- Filing amended tax returns does not extend the SOL. Same time for assessments/refunds.



OVERVIEW OF EMPLOYEE RETENTION CREDIT

Selected Statute of Limitations for Payroll Claims – Changes Made by American Rescue Plan (ARP) in March, 2021

- ARP extended the SOL from 3 years to 5 years for ERC claims filed in 3rd and 4th quarters of 2021. ERC in 4th quarter of 2021 later repealed by Infrastructure legislation (Nov '21).
- Thus, 5-year SOL for ERC claims only applies to claims filed in Q3 of 2021. All other ERC claims have a 3 year SOL.
- **The 5-year SOL only applies to assessments; not to refund claims.** The ERC refund claims remain at 3 years.



OVERVIEW OF EMPLOYEE RETENTION CREDIT

Statute of Limitations with Income Tax Returns

- Generally SOL runs for three years from when tax return is filed for refund claims.
- The SOL is two years after the tax is paid, if this time is later.
- Same time SOL for refund claims and for IRS to make assessments.
- ARP did not change in SOL for income tax returns. Remains at three years.



OVERVIEW OF EMPLOYEE RETENTION CREDIT

Possible Whipsaw with Statutes of Limitations

- The IRS has five years to make assessments on ERC claims filed in Q3 of 2021, while taxpayers have only three years to file ERC refund claims.
- **Example:** Taxpayer files its Form 941 for Q3 of 2021 by October 31, 2021. SOL commences on April 15, 2022.
 - SOL for IRS **to make assessment** runs until **April 15, 2027** (five years after April 15, 2022).
 - SOL for taxpayers **to file refund claims** until **April 15, 2025** (three years after April 15, 2022).
 - What if IRS begins an audit in 2026 and determines taxpayer understated its ERC for Q3 of 2021? No ability to obtain extra ERC. Only make assessments.



OVERVIEW OF EMPLOYEE RETENTION CREDIT

Possible Whipsaw with Statutes of Limitations

- Dynamic of SOLs for ERC claims and income tax returns.
- IRS has five years to make assessments on ERC claims filed in Q3 of 2021, while taxpayers have only three years to file amended income tax returns.
- **Example:** Taxpayer files its Form 941 for Q3 of 2021 with ERC by October 31, 2021. SOL commences on April 15, 2022. It also files its 2021 corporate tax return by April 15, 2022 with disallowed deduction for ERC wages.
 - SOL for IRS to assess runs until **April 15, 2027**.
 - SOL for taxpayers to file amended tax return expires **April 15, 2025**.
 - If IRS audits taxpayer in 2026 and disallows some/all of ERC from Q3 of 2021. No ability for taxpayer to obtain tax deduction for ERC wages on disallowed ERC claim.



OVERVIEW OF EMPLOYEE RETENTION CREDIT

Possible Planning Strategies

- Congress changes law to sync up the dates for ERC assessments and refund claims.
- Consider filing a protective refund claim on amended 2021 tax return for ERC wage deduction before SOL expires. Doing this, however, might cause IRS to audit the ERC claim as there are two more years for the IRS to do this.





THANK YOU!

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10:55 – 11:55 a.m.

Supply Chain: Price Increases & Inflation

Matt Miklosy, *Executive Vice President & CFO, Wis-Pak Inc.*

Tracy Pearson, *CFO, Perlick Corp.*

Carver Smith III, CPA, *Partner, Truity Partners (Moderator)*

Tony Staniak, *CFO, Quad/Graphics*

Bob Wrocklage, *Senior Vice President - Chief Financial Officer,
Badger Meter*

**Note: Panel Discussion (No materials)*