

2023 YEAR-END TAX PLANNING FOR INDIVIDUALS

With rising interest rates, inflation and continuing market volatility, tax planning is as essential as ever for taxpayers looking to manage cash flow while paying the least amount of taxes possible over time. As we approach year end, now is the time for individuals, business owners and family offices to review their 2023 and 2024 tax situations and identify opportunities for reducing, deferring or accelerating their tax obligations.

The information contained within this article is based on federal laws and policies in effect as of the publication date. This article discusses tax planning for federal taxes. Applicable state and foreign taxes should also be considered. Taxpayers should consult with a trusted advisor when making tax and financial decisions regarding any of the items below.

Individual Tax Planning Highlights

Timing of Income and Deductions

Taxpayers should consider whether they can minimize their tax bills by shifting income or deductions between 2023 and 2024. Ideally, income should be received in the year with the lower marginal tax rate, and deductible expenses should be paid in the year with the higher marginal tax rate. If the marginal tax rate is the same in both years, deferring income from 2023 to 2024 will produce a one-year tax deferral, and accelerating deductions from 2024 to 2023 will lower the 2023 income tax liability.

Actions to consider that may result in a reduction or deferral of taxes include:

- Delaying closing capital gain transactions until after year end or structuring 2023 transactions as installment sales so that gain is deferred past 2023 (also see Long Term Capital Gains, below).
- Considering whether to trigger capital losses before the end of 2023 to offset 2023 capital gains.
- Delaying interest or dividend payments from closely held corporations to individual business-owner taxpayers.

- Deferring commission income by closing sales in early 2024 instead of late 2023.
- Accelerating deductions for expenses such as mortgage interest and charitable donations (including donations of appreciated property) into 2023 (subject to AGI limitations).
- Evaluating whether non-business bad debts are worthless by the end of 2023 and should be recognized as a short-term capital loss.
- Shifting investments to municipal bonds or investments that do not pay dividends to reduce taxable income in future years.

On the other hand, taxpayers that will be in a higher tax bracket in 2024 may want to consider potential ways to move taxable income from 2024 into 2023, such that the taxable income is taxed at a lower tax rate. Current year actions to consider that could reduce 2024 taxes include:

- Accelerating capital gains into 2023 or deferring capital losses until 2024.
- Electing out of the installment sale method for 2023 installment sales.
- Deferring deductions such as large charitable contributions to 2024.

Long-Term Care Insurance and Services

Premiums an individual pays on a qualified long-term care insurance policy are deductible as a medical expense. The maximum deduction amount is determined by an individual's age. The following table sets forth the deductible limits for 2023 and the estimated deductible limits for 2024 (the limitations are per person, not per return):

AGE	DEDUCTION LIMITATION 2023	DEDUCTION LIMITATION 2024
40 or under	\$480	\$470
Over 40 but not over 50	\$890	\$880
Over 50 but not over 60	\$1,790	\$1,760
Over 60 but not over 70	\$4,770	\$4,710
Over 70	\$5,960	\$5,880

Retirement Plan Contributions

Individuals may want to maximize their annual contributions to qualified retirement plans and Individual Retirement Accounts (IRAs).

- The maximum amount of elective contributions that an employee can make in 2023 to a 401(k) or 403(b) plan is \$22,500 (\$30,000 if age 50 or over and the plan allows "catch up" contributions). For 2024, these limits are \$23,000 and \$30,500, respectively.
- The SECURE Act permits a penalty-free withdrawal of up to \$5,000 from traditional IRAs and qualified retirement plans for qualifying expenses related to the birth or adoption of a child after December 31, 2019. The \$5,000 distribution limit is per individual, so a married couple could each receive \$5,000.
- Under the SECURE Act, individuals are now able to contribute to their traditional IRAs in or after the year in which they turn 70 and a half.
- Beginning in 2023, the SECURE Act 2.0 raised the age that a taxpayer must begin taking required minimum distributions (RMDs) to age 73. If the individual reaches age 72 in 2023, the required beginning date for the first RMD is April 1, 2025, for 2024. If the taxpayer reaches age 73 in 2023, the taxpayer was 72 in 2022 and subject to the age 72 RMD rule in effect for 2022. If the taxpayer reached age 72 in 2022, the first RMD was due April 1, 2023, and the second RMD is due December 31, 2023.
- Individuals age 70 and a half or older can donate up to \$100,000 to a qualified charity directly from a taxable IRA.
- The SECURE Act generally requires that designated beneficiaries of persons who died after December 31, 2019, take inherited plan benefits over a 10-year period. Eligible designated beneficiaries (i.e., surviving spouses, minor children of the plan participant, disabled and chronically ill beneficiaries and beneficiaries who are less than 10 years younger than the plan participant) are not limited to the 10-year payout rule. Special rules apply to certain trusts.
- Under proposed Treasury Regulations (issued February 2022) that address required minimum distributions from inherited retirement plans of persons who died after December 31, 2019, and after their required beginning date, designated and non-designated beneficiaries will be required to take annual distributions, whether subject to a ten-year period or otherwise.
- Small businesses can contribute the lesser of (i) 25% of employees' salaries or (ii) an annual maximum set by the IRS each year to a Simplified Employee Pension (SEP) plan by the extended due date of the employer's federal income tax return for the year that the contribution is made. The maximum SEP contribution for 2023 is \$66,000. The maximum SEP contribution for 2024 is \$69,000. The calculation of the 25% limit for self-employed individuals is based on net self-employment income, which is calculated after the reduction in income from the SEP contribution (as well as for other things, such as self-employment taxes).

Estate and Gift Taxes

For gifts made in 2023, the gift tax annual exclusion is \$17,000 and for 2024 is \$18,000. For 2023, the unified estate and gift tax exemption and generation-skipping transfer tax exemption is \$12,920,000 per person. For 2024, the unified estate and gift tax exemption and generation-skipping transfer tax exemption is \$13,610,000. All outright gifts to a spouse who is a U.S. citizen are free of federal gift tax. However, for 2023 and 2024, only the first \$175,000 and \$185,000, respectively, of gifts to a non-U.S. citizen spouse is excluded from the total amount of taxable gifts for the year.

Net Operating Losses and Excess Business Loss Limitation

Net operating losses (NOLs) generated in 2023 are limited to 80% of taxable income and are not permitted to be carried back. Any unused NOLs are carried forward subject to the 80% of taxable income limitation in carryforward years. A non-corporate taxpayer may deduct net business losses of up to \$289,000 (\$578,000 for joint filers) in 2023. The limitation is \$305,000 (\$610,000 for joint filers) for 2024. A disallowed excess business loss (EBL) is treated as an NOL carryforward in the subsequent year, subject to the NOL rules. With the passage of the Inflation Reduction Act, the EBL limitation has been extended through the end of 2028.
