

2023 Year-End Tax Reminders

*This document provides high-level summaries of complex tax rules. Please note that exceptions may apply and not all of such exceptions are described in this document. Consult with your tax advisor as to how the rules discussed below apply to your situation,

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Income Tax

In 2023, the standard deduction for single filers is \$13,850 (up from \$12,950 in 2022) and \$27,700 for married taxpayers who file jointly (up from \$25,900 in 2022). The personal exemption remains at 0 (as it was for 2022).

Single Filers

Ordinary Income		
If income is between	Tax rate	Tax due
\$0 - \$11,000	10%	10% of taxable income
\$11,001 - \$44,725	12%	\$1,100 + 12% of amount over \$11,000
\$44,726 - \$95,375	22%	\$5,147 + 22% of amount over \$44,725
\$95,376 - \$182,100	24%	\$16,290 + 24% of amount over \$95,375
\$182,101 - \$231,250	32%	\$37,104 + 32% of amount over \$182,100
\$231,251 - \$578,125	35%	\$52,832 + 35% of amount over \$231,250
\$578,126 +	37%	\$174,238.25 + 37% of amount over \$578,125
Capital Gains		
If income is between	Tax rate	
\$0 - \$44,625	0%	
\$44,626 - \$492,300	15%	
\$492,301 +	20%	

Married Filing Jointly

Ordinary Income		
If income is between	Tax rate	Tax due
\$0 - \$22,000	10%	10% of taxable income
\$22,001 - \$89,450	12%	\$2,200 + 12% of amount over \$22,000
\$89,451 - \$190,750	22%	\$10,294 + 22% of amount over \$89,450
\$190,751 - \$364,200	24%	\$32,580 + 24% of amount over \$190,750
\$364,201 - \$462,500	32%	\$74,208 + 32% of amount over \$364,200
\$462,501 - \$693,750	35%	\$105,664 + 35% of amount over \$462,500
\$693,751 +	37%	\$186,601.50 + 37% of amount over \$693,750
Capital Gains		
If income is between	Tax rate	
\$0 - \$89,250	0%	
\$89,251 - \$553,850	15%	
\$553,851 +	20%	

Miscellaneous Itemized Deductions

Miscellaneous itemized deductions remain suspended through 2025. Miscellaneous itemized deductions include investment management fees, tax preparation fees, unreimbursed employee expenses, job search expenses, and home office operating expenses.

State and Local Taxes

Deductions for state and local taxes remain limited to \$10,000 per return (\$5,000 for married taxpayers who file separately). State and local taxes include real property taxes, personal property taxes, and state and local income taxes.

Mortgage Interest Deduction

Interest paid on mortgage debt incurred after December 15, 2017, to acquire, build, or substantially improve a primary or secondary residence (new debt) generally is deductible for loans up to \$750,000 (\$375,000 for married taxpayers who file separately). For debt incurred on or prior to December 15, 2017, interest is deductible for loans up to \$1 million (\$500,000 for married taxpayers who file separately as under prior law). Interest on a home equity loan is not deductible unless used to acquire, construct, or substantially improve a primary

or secondary residence.

Alimony

Alimony (also referred to as “separate maintenance payments”) paid pursuant to a divorce or separation agreement executed on or before December 31, 2018 is deductible to the payor spouse and includible in the payee spouse’s taxable income. Alimony paid pursuant to a divorce or separation agreement executed (or in certain cases modified) after December 31, 2018 is not deductible to the payor spouse and is not includible in the payee spouse’s taxable income. Note that not all payments under a divorce or separation instrument are alimony.

Pease Limitation

The Pease limitation on itemized deductions remains suspended through 2025. In previous years, application of the Pease limitation reduced the amount of certain itemized deductions certain high-income earners could claim.

Cost Basis of Gifted Property

Generally, gifted property receives a “carry over” basis (subject to an upward adjustment if a gift tax is paid). An exception applies if the fair market value on the date of the gift is less than the donor’s basis. The basis of property received as a gift cannot be determined until there is a subsequent taxable disposition.

To determine whether there is any gain, the donee will compare the amount he/she realizes on disposition to the grantor’s basis in the property (i.e., gain is determined using the grantor’s “carried over” basis), and to determine whether there is a loss, the donee will compare the amount realized to the fair market value of the property at the time he/she received the gifted property (i.e., loss is determined using the fair market value of the asset at the time the gift was made).

Example 1: X makes a gift of appreciated stock to Y. The stock has a FMV of \$3,000 at the time of the gift and X’s basis is \$1,000. If Y immediately sells the stock for its FMV, she will recognize a gain of \$2,000.

Example 2: X makes a gift of depreciated stock to Y. The stock has a FMV of \$3,000 at the time of the gift and X’s basis is \$5,000. If Y immediately sells the stock for its FMV, she will have no gain or loss (i.e., Y will not be permitted to recognize a loss of \$2,000).

Example 3: X makes a gift of stock to Y. The stock has a FMV of \$3,000 at the time of the gift and X’s basis is \$4,000. If Y later sells the stock when the FMV is \$2,000, she will have a \$1,000 loss. If Y sells the stock when the FMV is \$5,000, she will have a \$1,000 gain.

If gifted depreciated property is later sold at a price between the fair market value at the time of the gift and the donor's cost basis, there will be no gain or loss recognized.

Exchange Traded Funds (ETFs)

ETFs that hold physical gold may be considered to hold "collectibles" for capital gains purposes. The maximum long-term capital gains rate for collectibles is 28% (plus a potential additional 3.8% Net Investment Income Tax).

Inverse ETFs focused on metals generally own futures, which are not considered collectibles.

ETFs that are invested in regulated futures generally must mark-to-market their positions at the end of each year, with gain/loss generally treated as 60% long-term capital gain/loss and 40% short-term capital gain/loss. This gain/loss is allocated annually to ETF shareholders, generally on a pro-rata basis. Inverse Exchange Traded Notes (ETNs) may have different treatment depending on the structure of the note. For some ETNs, all appreciation is treated as long-term capital gain (taxed at a maximum 20% rate plus the 3.8% Net Investment Income Tax). Taxpayers should consult the prospectus for a particular ETF or ETN to confirm the proper tax treatment.

Tax Lot Selling

When shares of stock are purchased over time in different lots, when the shares are later sold, they are generally deemed sold on a FIFO (first in, first out) basis. However, a seller generally may elect other treatment, but the election must comply with IRS regulations. For example, taxpayers who are subject to a 20% capital gains tax might wish to sell high basis lots in order to defer all or part of their gains. Alternatively, taxpayers who are subject to a 15% capital gains tax might consider accelerating gains to take advantage of the lower rate.

Harvesting Losses and the Wash Sale Rule

If a security is sold at a loss and a substantially identical security is acquired within the 61-day period beginning 30 days before the sale date and ending 30 days after the sale date, under "the wash sale rule," the loss will be disallowed and will be added to the basis of the new stock.

Alternative Minimum Tax (AMT)

In 2023, the Alternative Minimum Tax exemption is \$126,500 for married couples filing jointly and surviving spouses, \$81,300 for single filers, and \$63,250 for married couples filing separately.

For 2023, the AMT exemption begins to phase out at 25 percent of excess AMT income over

\$1,156,300 for married filing jointly and surviving spouses. The phaseout begins at \$578,150 for married couples filing separately and for single filers (not including surviving spouses). Exemptions and phase out levels have been adjusted for inflation in 2023 and will be for subsequent years.

Section 199A

Taxpayers may be eligible for a deduction of up to 20% on qualified business income from a domestic business operating as a sole proprietorship or as certain pass-through entities (generally partnerships, LLCs, and S-corporations). The rules are complex, and clients should discuss with their tax professionals whether and to what extent they may benefit from this rule.

Qualified Dividends

Qualified dividends are dividends received from certain corporations that are taxed at a maximum preferential rate of 20% (plus the potential 3.8% Net Investment Income Tax). To qualify, generally shareholders must hold the common stock for at least 61 days during the 121-day period beginning 60 days prior to the ex-dividend date and ending 60 days after the ex-dividend date. Certain preferred shares can also qualify, subject to an extended holding period: the stock must be held at least 91 days during the 181-day period beginning 90 days prior to

the ex-dividend date and ending 90 days after the ex-dividend date. Note that the taxpayer's holding period may be suspended for a period of time under certain circumstances.

Incentive Stock Options (ISOs)

There are no ordinary income tax consequences when an employee exercises an ISO; however, the spread between the FMV of the stock at the time of exercise and the strike price is an adjustment item for AMT purposes.

A taxpayer that exercises an ISO in 2023 may wish to make a taxable sale of ISO stock if the stock value depreciates significantly after exercise. Provided that the sale occurs in the same tax year as the ISO exercise, such a sale will recast the ISO as a nonqualified stock option, avoid the AMT impact of the original exercise and limit the compensation income recognized to the difference between the sale price of the stock and the exercise price of the option. These rules are complex, and taxpayers considering such a sale should discuss the tax consequences with their own tax advisor.

A Hedging Reminder

A short against the box entered into in 2023 as a short-term hedge under the exception for constructive sales in IRC Section 1259 must be closed out by the

30th day after the end of the taxpayer's 2023 tax year and the position must be held unhedged for 60 days following the close of the short transaction, with no risk of loss reduction during those 60 days.

IRAs

Traditional IRAs are generally funded with tax-deductible dollars and grow tax-deferred until distributions are made. Distributions are generally taxed as ordinary income. In contrast, Roth IRAs are funded with after-tax dollars and provide tax-free distributions if certain conditions are met (generally, the distribution must occur at least 5 years after the owner's first contribution to a Roth IRA and the owner must have reached age 59 ½, become disabled, or satisfied another qualifying condition).

In 2023, the maximum aggregate contribution to a taxpayer's Traditional and/or Roth IRA(s) is the lesser of (1) \$6,500 and (2) the taxpayer's total taxable compensation. Taxpayers who are 50 years and older at any time during the calendar year may make an additional \$1,000 "catch-up" contribution annually.

Contributions to a Traditional IRA are generally federal income tax deductible. The deduction may be limited if the taxpayer (or the taxpayer's spouse, if married) is covered by a retirement plan at work and the taxpayer's income exceeds certain levels.

In 2023, the amount a taxpayer may contribute to a Roth IRA is phased out for single taxpayers with a MAGI between \$138,000 and \$153,000 (\$218,000 and \$228,000 for married taxpayers filing jointly).

The last day for making 2023 contributions to Traditional and/or Roth IRAs is the tax return filing deadline without regard to extensions—April 15, 2024 for most individuals.

Required Minimum Distributions

Effective January 1, 2023, the SECURE Act 2.0 requires a Traditional IRA owner to take his/her first required minimum distribution ("RMD") by April 1st of the year following the year in which he/she turns age 73, an increase from the prior age of 72. The RMD age minimum will increase again to 75 in 2033. As a result, RMD ages are now:

- 70-1/2 for individuals born before July 1, 1949
- 72 for individuals born July 1, 1949 through December 31, 1950
- 73 for individuals born January 1, 1951 through December 31, 1959, and
- 75 for individuals born January 1, 1960 and later.

After the first RMD, subsequent RMDs must be taken annually by December 31st. Therefore, a Traditional IRA owner generally

must take two RMDs in the first year (the first RMD must be taken by April 1st of the year after he/she turns age 70-1/2, 72, 73 or 75, as applicable, and the second by December 31st). The RMD age minimum will increase again to 75 in 2033.

If an individual is the owner of multiple IRAs, the RMD is calculated separately for each IRA, but the actual RMDs may be satisfied from a single IRA or in the aggregate from two or more IRAs. For 2023 and subsequent years, if an IRA owner fails to take an RMD, an excise tax of 25% may be imposed on the amount by which the RMD exceeds the amount actually distributed. The excise tax may be reduced to 10% if the RMD is timely corrected within two years.

Roth IRAs are not subject to the RMD rules during the life of the Roth IRA owner. However, different distribution rules will apply to inherited Roth IRAs as more fully described below.

Effective January 1, 2020, subject to certain exceptions, beneficiaries of inherited IRAs (Traditional or Roth) are required to withdraw the entire account of the IRA owner who dies after December 31, 2019, no later than December 31st of the 10th year following the year of the owner's death. Certain "eligible designated beneficiaries," such as a surviving spouse, are exempt from this 10-year mandatory distribution rule and

can instead have the inherited IRA paid over such beneficiary's life or life expectancy. Beneficiaries should speak to their tax advisor to determine how the RMD rules apply to their inherited IRAs.

Qualified Charitable Distribution ("QCD")

An IRA owner who is age 70 ½ or older may exclude up to \$100,000 of his/her IRA distributions from taxable income each year for amounts paid directly from the IRA to a qualifying charitable organization, if certain requirements are met (note that a Donor Advised Fund is NOT a qualifying charitable organization for QCD purposes). Effective January 1, 2023, IRS distributions can also be used to fund Charitable Gift Annuities and Charitable Remainder Trusts, subject to a lifetime limit of \$50,000.

Amounts distributed as a QCD also can be counted toward satisfying the RMD, for the year in which it was made. It should be noted that if an individual makes a tax-deductible IRA contribution after age 70 ½, the amount the individual can exclude from their taxable income as a QCD will generally be reduced.

Roth Conversions

If a taxpayer converts his/her Traditional IRA to a Roth IRA, tax-deductible contributions and gains will be includable as

federal ordinary income in the year of conversion. Remember that taxpayers no longer have the ability to re-characterize Roth conversions made on or after January 1, 2018.

Taxpayers may continue to re-characterize a portion or all of their Roth IRA contributions as traditional IRA contributions made in a particular year, if, for instance, it later becomes clear that their income for the year would exceed the eligibility threshold for contributing to a Roth IRA.

401(k) Plan Contribution Limitations

In 2023, the maximum salary deferral to an employee's 401(k) plan is \$22,500 (or \$30,000 when taking into account catch-up contributions for employees who are age 50 and older at any time during the calendar year). Employers who match a portion of salary deferrals into a 401(k) plan may apply their matching formula to a maximum of \$330,000 of the employee's salary for the year. Total contributions made by an employee and his/her employer(s) may not exceed the lesser of (1) \$66,000 (\$73,500 if eligible for and making catch-up contributions) and (2) the employee's compensation.

Estate, Gift, and Generation-Skipping Transfer ("GST") taxes

In 2023, the federal gift tax annual exclusion amount is \$17,000 per donor (\$34,000 for a married couple who makes a gift of community property or elects to split gifts for the year) per donee. The annual gift tax exclusion amount for transfers made to a non-U.S. citizen spouse is \$175,000.

Contributions to a donee's 529 plan may be "front-loaded" with five years' worth of donor's gift tax annual exclusions—\$85,000

in 2023 (\$170,000 for a married couple who makes a gift of community property or elects to split gifts for the year). A Gift Tax Return must be filed for the year in which the contribution is made to elect to treat the gift as being made over a five-year period.

Amounts paid on behalf of an individual for qualifying educational or medical expenses are not subject to federal gift tax if the payments are made directly

from the donor to the institution/provider.

In 2023, the lifetime federal estate and gift tax exemption and the GST tax exemption are each \$12.92 million per person and will be indexed for inflation in subsequent years. In 2026, the exemptions are set to revert to \$5 million per person, indexed for inflation from 2010. The top federal estate and gift tax rate and GST tax rate are each 40%.

Charitable Deductions

The maximum value of a charitable deduction is limited to the donor's cost basis or fair market value of gifted property and is based on a percentage of the donor's adjusted gross income (AGI). See below:

Gift type	Maximum deduction allowed for gifts to public charity	AGI limitation: gifts to a public charity	Maximum deduction allowed for gifts to private foundations	AGI limitation: gifts to a private foundation
Cash donation	Fair market value ("FMV")	60%*	FMV	30%
Short term capital gain property	Lesser of basis and FMV	50%	Lesser of basis and FMV	30%
Long term capital gain property	FMV	30%	Lesser of basis and FMV*	20%

***A special exception provides that the deduction for gifts of appreciated publicly traded stock made to a private non-operating foundation is limited to the stock's fair market value (rather than cost basis), subject to a 20% AGI limitation.**

Deductions for gifted amounts in excess of the AGI limitations may be carried forward five years, with deductions for gifts made in the current year applied first. Therefore, it may be beneficial to postpone additional charitable gifts until all carried over amounts have been fully deducted.

Private Foundations

Generally, a private foundation must distribute at least 5% of the aggregate fair market value of its assets each year in the form of grants and certain

administrative expenses.

Distributions made in excess of 5% may be applied against the required distributions in any of the following 5 years. The failure to make the annual minimum distribution will result in a 30% excise tax on any undistributed income (i.e., 30% of the shortfall).

Private foundations are exempt from federal income tax, but they are subject to a 1.39% excise tax on net investment income. Capital losses may only be deducted the year in

which they are realized and may not be carried forward for use in future years or carried back to prior years (i.e., use them or lose them).

Kiddie Tax

In 2023, unearned income of a child in excess of \$2,500 will be taxed at the parents' tax rates. This "kiddie tax" generally only applies to children if at least one parent of the child is living at the end of the tax year, the child is not filing a joint return for the tax year, and either (a) the child is

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under the age of 18 at the end of the tax year, (b) the child is 18 years of age at the end of the tax year and does not have earned income that is more than half of the annual expenses for his or her support, or (c) is at least 19 years old but under the age of 24 at the end of the tax year and the child is a full-time

student whose earned income does not exceed half of the annual expenses for his or her support. A child who turns 24 by the end of the tax year is not subject to the kiddie tax.

The kiddie tax applies only to unearned income a child receives from income-producing property (or

investment property), such as cash, stocks, bonds, mutual funds, and real estate. Any income (salary or wages) that a child earns through full- or part-time employment is not subject to the kiddie tax rules – that earned income is taxed at the child's federal income tax rate.

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