

INDIVIDUAL FEDERAL TAX UPDATE



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31 Years Practicing CPA

National Speaker

Tax & CPE Instructor

2x Author & YouTuber



JOSHUA JENSON, CPA aka JJ

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Joshua has 31 years of public accounting experience in the area of tax, specializing in LLC, partnership, S corporation, and related individual tax matters. He still practices in the trenches in the CPA firm he founded nearly 26 years ago.

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ADP is JJ the CPA's exclusive choice for payroll and HR services.

JJ has traveled to over 60 cities, presenting tax courses to thousands of fellow CPAs covering the latest tax laws and strategies. The U.S. Chamber of Commerce named him top 10 Small Business Expert to follow. He has appeared on local as well as national news programs for the last 20 years, becoming a regular tax season guest on several local and national radio programs.

Joshua Jenson is a licensed CPA in Oklahoma and Texas, and a member of the American Institute of CPAs and Oklahoma Society of CPAs. JJ serves on the Tax Committee for the Oklahoma Society of CPAs and has served as the past Chairperson of the OSCPA Educational Foundation and was named CPA of the year by his CPA peers. Joshua is a 1993 graduate of Abilene Christian University where he earned his accounting degree.

JJ the CPA has over 92,000 SUBSCRIBERS and over 7.5 million views on his YouTube channel "JJ THE CPA," and is heavily represented on social media, with daily postings, including daily videos released on everything dealing with money. Search #JJTHECPA to find him ON ANY SOCIAL MEDIA PLATFORM.

JJ has authored 2 books available on Amazon, "JJ THE CPA HERE!" AND "CRACKING THE CPA CODE." THE FIRST BOOK reveals the top 60 questions from his clients, and his solutions, over his 30 years in practice covering issues related to banking, business structure, insurance, and taxes. THE SECOND BOOK PROVIDES THE SECRET OF HOW TO GET REFERRALS FROM CPA's.

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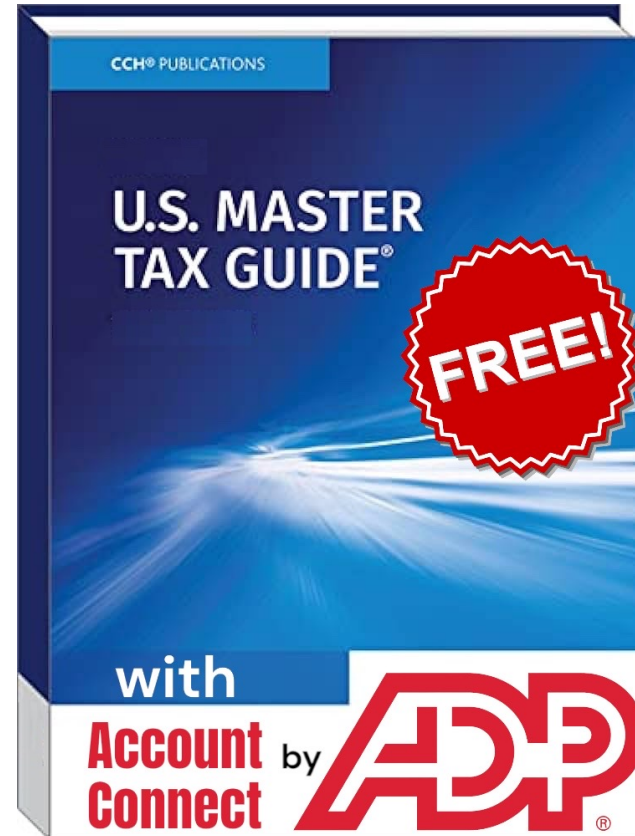
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OVERVIEW

Cover the major Federal individual tax issues, dues dates and recent IRS announcements and tax law updates. Overview of the new Written Information Security Plan (WISP), tax planning under a divided congress and the major provisions of the SECURE Act 2.0 related to individuals and sole proprietors, including tax matters related to Roth IRAs, RMDs, early withdrawal penalties, catch-up contributions, retirement provisions, 529 plans and student loan repayments. Also, covering green tax credits and deductions for individuals including, energy efficient home improvement credit, residential clean energy credit, solar tax credit deeper dive, alternative fuel vehicle refueling property credit, new and used clean vehicle tax credits. This will provide the traditional updates and reminders of the latest allowable tax amounts for individuals with tax tips related such matters as investor tax deductions, employee related tax deductions, backdoor Roth IRA and major items to keep in mind with Form 1040. Focus will be spent on sole proprietor tax matters such as tax deductions not to miss, audit basics, LLC's, compensation to sole proprietors, considerations to convert to S-corporation, business vehicle deductions, depreciation inflation updates, mileage rate deduction vs. actual vehicles expenses, employee status determination, Form 1099-K reminders and an update on the qualified business income deduction. A walk through of partnership Schedule K-1 matters including reconciling the reporting to Form 1040, tax and at-risk basis, guaranteed payments, self-employment taxes, 2 court cases on related matters and allowing losses. A continued walk through of S-corporation K-1 matters including shareholder basis, at-risk basis as reported on Form 7203, reconciling the Schedule K-1 to the Form 1040 and audit considerations. A revisit to the Qualified Opportunity Fund, material participation and self-employment taxes imposed on short-term rentals. This will provide the latest news from the IRS, about "the IRS" as well as an analysis of projected future IRS audit considerations analyzing what the IRS is focused on now, such as cryptocurrency, tax basis and NFTs.

LEARNING OBJECTIVES

- Learn what Federal individual laws have changed with these topics
- Learn to better understand recent Federal tax law changes of these topics and how they may apply to you or your client's circumstances
- Learn more about these topics to better serve your clients with expanded and up-to-date information
- Learn of any potential effective dates of Federal tax law changes of these topics
- Learn what is projected as future hot areas related to Federal taxes in these topics

MAJOR DUE DATES INTO 2024

TAX NUMBERS UPDATE FOR 2023

- Traditional updates & reminders of the latest allowable amounts for individuals
- Investor tax deductions
- Employee related tax deductions
- Major 1040 items to keep in mind

TAX PLANNING WITH THE END IN MIND

- TCJA major expiring provisions to be prepared for

SOLE PROPRIETOR TAX MATTERS (SCHEDULE C FILERS)

- Tax deductions not to miss
- Business vehicle deductions
- Depreciation inflation updates
- Mileage rate deduction vs. actual vehicles expenses
- Employee status determination
- Form 1099-K reminders

SHORT-TERM RENTALS MOVEMENT TO SELF-EMPLOYMENT TAXES

PARTNERSHIP TAX ISSUES FOR INDIVIDUALS

- Schedule K-1 matters
- Guaranteed payment considerations
- Non-passive vs. passive reminders
- Passive activity benefits
- Self-employment tax issues
- 2 court cases on IRS reclassifications
- Reconciliation of Schedule K-1 to Form 1040
- Allowing losses
- Basis and at-risk basics
- Cases to watch: Limited Partners being subject to self-employment taxes?

S-CORPORATION TAX ISSUES FOR INDIVIDUALS

- Schedule K-1 analysis and hot spots
- Shareholder at-risk basis
- Reconciliation of Schedule K-1 to Form 1040
- Form 7203 overview

QUALIFIED BUSINESS INCOME DEDUCTION UPDATE

THE SECURE ACT 2.0 RELATED TO INDIVIDUALS

- Sole proprietor 401(k) plans
- Roth IRAs
- Required Minimum Distributions (RMDs)
- RMD penalties
- Early withdrawal penalties
- Catch-up contributions
- Retirement plan provisions
- 529 Plans
- Student loan repayments

BACKDOOR ROTH CONVERSIONS UNDER THE PRO-RATA RULES

QUALIFIED OPPORTUNITY ZONE UPDATE

GREEN TAX CREDITS AND DEDUCTIONS FOR INDIVIDUALS

- Energy efficient home improvement credit
- Residential clean energy credit
- Solar tax credit deeper dive
- Alternative fuel vehicle refueling property credit
- Clean vehicle tax credits
- Used & new clean vehicle tax credits
- IRS provisions on new and used clean, EV and PHEV vehicle tax credits

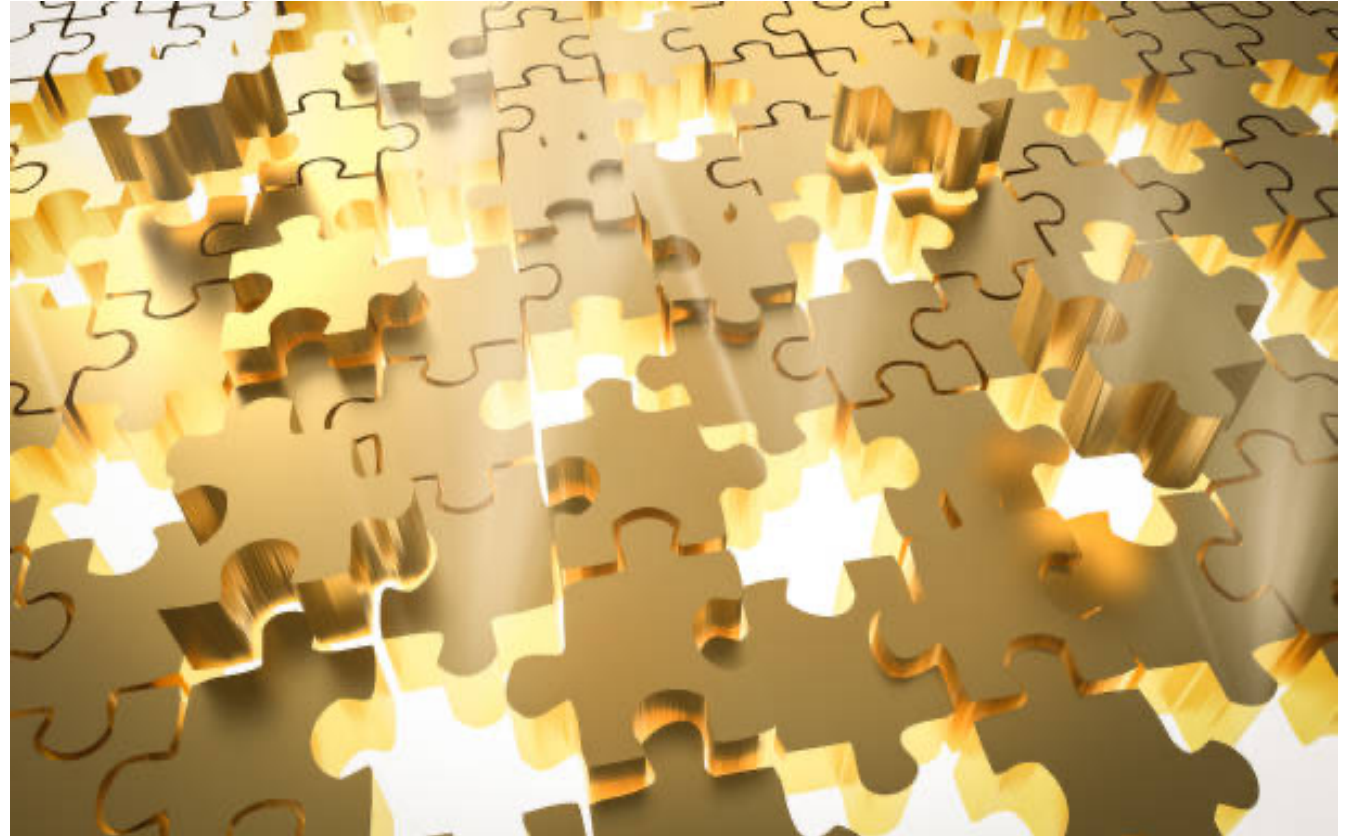
CRYPTO-CURRENCY MATTERS

IRS NEWS ABOUT “THE IRS”

- Online options
- Online accounts
- IRS announcements, about itself
- IRS budget considerations
- IRS’ strategic operation plan area of focus
- IRS announcements related to bitcoin, cryptocurrency and NFTs
- Schedule K-1 hot spots
- Preparations

<http://www.jjthecpa.com/2023cpe>

Links to Presented
Tax Forms,
IRS Instructions,
IRS Publications,
Tax Court Cases,
IRS Regs &
Rev Rulings, etc.



LET'S TAKE A POLL

www.jjthecpa.com/2023cpe

[POLL RESULTS](#)





WISP

**WRITTEN
INFORMATION
SECURITY PLAN**

WISP (WRITTEN INFORMATION SECURITY PLAN)

FEDERAL TRADE COMMISSION'S SAFEGUARDS RULE

TAKING EFFECT JUNE 9, 2023

- As technology continues to improve and customer data becomes increasingly valuable, businesses must prioritize the security and confidentiality of sensitive data to maintain trust with their clients and comply with regulatory requirements.
- One of those requirements is the Federal Trade Commission's (FTC) Safeguards Rule which was issued in December 2022. Under the Gramm-Leach-Bliley Act (GLBA), the Safeguards Rule requires financial institutions, including tax preparers, to create a Written Information Security Plan (WISP) to protect their customer and client information. This rule retroactively took effect in January 2022, but some of the requirements were postponed until June 9, 2023.

WISP (WRITTEN INFORMATION SECURITY PLAN)

WRITTEN PLAN TO BE IN PLACE BY 6/9/23

Publication 5708 Sample Plan

IRS Publication 4557, Safeguarding Taxpayer Data

Gramm-Leach-Bliley Act, P.L. 106-102



**Creating a Written Information Security Plan
for your Tax & Accounting Practice**

ARE CPA, EA & TAX FIRMS REALLY FINANCIAL INSTITUTIONS?

The definition of “financial institution” is broader than one may think. Per the Safeguards Rule “an entity is a ‘financial institution’ if its business is engaging in an activity that is financial in nature or incidental to such financial activities.”

- Designate a qualified individual to oversee their information security program,
- Develop a written risk assessment,
- Limit and monitor who can access sensitive customer information,
- Encrypt all sensitive information,
- Train security personnel,
- Develop an incident response plan,
- Periodically assess the security practices of service providers, and
- Implement multi-factor authentication or another method with equivalent protection for any individual accessing customer information.

A WORD ON “LLC’S”

LLC’S ARE A LEGAL DESIGNATION

“LLC” IS NOT A TAX CLASSIFICATION

A LLC CAN BE TAXED AS ANYTHING INCLUDING

- S-CORP
- C-CORP
- PARTNERSHIP
- SOLE-PROPRIETOR FILING SCHEDULE C OR F
- OWN REAL ESTATE AND FILE SCHEDULE E
- DISREGARDED ENTITY
- SINGLE MEMBER

A SINGLE MEMBER LLC IS SIMPLY A LLC OWNER BY ONE MEMBER, NOT A TAX CLASSIFICATION

A SINGLE MEMBER LLC CAN BE A C-CORP, S-CORP, SCHEDULE C, F OR E OR DISREGARDED



JENSON & COMPANY, CPAs, P.C.

THE 30 YEAR TAX PLAN

TAXABLE
TAX DEFERRED & TAXABLE
TAX DEFERRED & TAX FREE

	2023	2024	2025	2026	2027	2028	2029	2030	2031	10 ↓ 2032	20 Years ↓ 2042	30 Years ↓ 2052
YOUR AGE / SPOUSE AGE												
KIDS AGES												
YEARS FROM RETIREMENT												
CASH RESERVES												
ASSET ACCUMULATION												
DEBT REDUCTION												
ESTATE PLAN												
WAGES												
BUSINESS INCOME												
INVESTMENT INCOME												
REAL ESTATE INCOME												
STOCK GROWTH & SALE												
REAL ESTATE ACCUMULATION & SALE												
401(k) SEP SIMPLE IRAs & WITHDRAWAL												
BUSINESS GROWTH & SALE												
529 PLANS & EDUCATIONAL												
DISABILITY & LTC INSURANCE												
TERM LIFE INSURANCE												
ROTH IRAs												
PERMANENT LIFE INSURANCE												
ESTATE PLAN												



MAJOR DUE DATES

UPCOMING CLIENT DOCUMENTS DUE DATES

JANUARY 31, 2024

- CLIENTS TO PROVIDE 2023 FINANCIALS AND/OR
- 2023 BOOKEEPING BE COMPLETE, INCLUDING BANK RECONCILIATIONS
- PROVIDE BUSINESS LOAN BALANCES AS OF 12/31/23 TO ENSURE THE PROPER AMOUNT OF INTEREST EXPENSE IS REPORTED

FEBRUARY 29, 2024

- CLIENTS TO PROVIDE ALL INDIVIDUAL DOCUMENTS THEY HAVE



IN GENERAL: THERE ARE POSSIBLE EXCEPTIONS REQUIRING A DATE TO BE EARLIER OR LATER. CHECK YOUR SPECIFIC DUE DATES

UPCOMING MAJOR TAX FEDERAL DUE DATES

IN GENERAL: THERE ARE POSSIBLE EXCEPTIONS REQUIRING A DATE TO BE EARLIER OR LATER. THERE ARE ALL KINDS OF EXCEPTIONS, BUT THESE ARE THE GENERAL DUE DATES. CHECK YOUR SPECIFIC DUE DATES!

JANUARY 15, 2024

- 4th QUARTER 2023 ESTIMATED TAX PAYMENTS
- ANY RETIREMENT WITHHELD FROM “WAGES” NEEDS TO BE DEPOSITED INTO RETIREMENT PLAN

JANUARY 31, 2024

- FORM 1099-NEC TO RECIPIENTS & RELATED FORM 1096 TO IRS
- FORM W-2s & OTHER 1099s TO RECIPIENTS
- FORM W-3 (& RELATED TO W-2s) TO IRS (IF 250 OR MORE EMPLOYEES, MUST BE FILED ELECTRONICALLY)
- 2023 PAYROLL FORMS TO IRS (FORMS 941, 940 AND TYPICALLY ANY STATE FORMS)



UPCOMING MAJOR TAX FEDERAL DUE DATES

IN GENERAL: THERE ARE POSSIBLE EXCEPTIONS REQUIRING A DATE TO BE EARLIER OR LATER. THERE ARE ALL KINDS OF EXCEPTIONS, BUT THESE ARE THE GENERAL DUE DATES. CHECK YOUR SPECIFIC DUE DATES!

FEBRUARY 15, 2024

- FORMS 1099-B, 1099-S AS WELL AS STATEMENTS FURNISHED AS PART OF A CONSOLIDATED REPORTING STATEMENT IS DUE

FEBRUARY 29, 2024

- FORM 1096 (RELATED TO MOST OTHER 1099s, MOST NOTABLE FORM 1099-MISC) TO IRS FOR PAPER FILERS

UPCOMING MAJOR TAX FEDERAL DUE DATES

MARCH 15, 2024

- FORMS 1120s & 1065 DUE (EXTENSIONS)
- EMPLOYER RETIREMENT MATCH DUE (UNLESS BUSINESS TAX RETURN EXTENDED)

MARCH 31, 2024

- FORM 1096 (RELATED TO MOST OTHER 1099s, MOST NOTABLE FORM 1099-MISC) TO IRS FOR *ELECTRONIC* FILERS



UPCOMING MAJOR TAX FEDERAL DUE DATES

APRIL 15, 2024 (Most likely IRS will change to April 16th)

- FORM 1040 DUE (OR EXTENSIONS)
- FORM 1120 DUE (OR EXTENSIONS)
- 1ST QUARTER 2024 ESTIMATED TAX PAYMENTS
- 2023 IRA/ROTH IRA CONTRIBUTIONS
- 2023 SELF-EMPLOYED RETIREMENT CONTRIBUTIONS (UNLESS TAX RETURN EXTENDED)
- 2023 HSA CONTRIBUTIONS
- 2023 529 PLAN CONTRIBUTIONS (IN SOME STATES)

UPCOMING MAJOR TAX FEDERAL DUE DATES

JUNE 17, 2024

- 2ND QUARTER 2024 ESTIMATED TAX PAYMENTS

AUGUST 15, 2024 (K-2/K-3 1-MONTH NOTICE DATE)

- PARTNER OR SHAREHOLDER TO PROVIDE NOTICE TO S CORPORATION OR PARTNERSHIP IF REQUESTING SCHEDULE K-2 AND K-3

SEPTEMBER 16, 2024

- 3RD QUARTER 2024 ESTIMATED TAX PAYMENTS
- FORMS 1120s & 1065 DUE (IF EXTENDED)
- 2023 EMPLOYER RETIREMENT MATCH DUE (IF BUSINESS TAX RETURN EXTENDED)

OCTOBER 15, 2024

- FORMS 1040, 1120 & SELF-EMPLOYMENT RETIREMENT CONTRIBUTIONS (IF INDIVIDUAL RETURN EXTENDED)

JANUARY 15, **2025**

- 4TH QUARTER 2024 ESTIMATED TAX PAYMENTS





2023

THE
NUMBERS

SOCIAL SECURITY TAX BASE FOR 2022, 2023 & 2024

Individual taxable earnings are annually subject to Social Security tax :

- \$147,000 in 2022
 - \$160,200 in 2023
 - \$168,600 in 2024
- The wage base limit that applies to earnings subject to the old age, survivors, and disability insurance (OASDI) tax. The employee and the employer each will pay in tax at the OASDI tax rate of 6.2%.

The Medicare hospital insurance tax of 1.45% each for employees and employers has no wage limit; it is unchanged for 2023 and 2024.

Individuals with earned income of more than \$200,000 (\$250,000 for married couples filing jointly and \$125,000 for married taxpayers filing separately) pay an additional 0.9% of wages with respect to employment (also unchanged).

HEALTH SAVINGS ACCOUNT (HSA)

If your company pays into your health savings account (HSA), max it out before year end.

You have until the April 15th (or equivalent deadline) to max it out for the prior year, if you pay it at the personal level; meaning if you pay it from your personal account, and the company does NOT pay this directly, you have until April 15th. If your business pays for it, it must be reported on your Form W-2 and thus, get this done by year end.

Year 2023:

\$7,750 Family or \$3,850 Single.

If age 55+ \$8,750 Family or \$4,850 Single

Year 2024:

\$8,300 Family or \$4,150 Single.

If age 55+ \$9,300 Family or \$5,150 Single

HOW AN HSA CAN BE VIEWED AS A FLEXIBLE TAX-FAVORED INVESTMENT

Besides providing a tax-favorable option for taxpayers to pay out-of-pocket medical expenses, HSAs can be used as a flexible tax-favored investment vehicle. Withdrawals from HSAs are tax-free to the extent that they are used to pay qualified medical expenses, including expenses for over-the-counter drugs and menstrual care products.

There is no time limit on a taxpayer requesting reimbursement from an HSA for a medical expense he or she paid with funds outside the HSA. Because there is no reimbursement time limit, a taxpayer can defer reimbursement from the HSA for medical expenses paid until the time he or she chooses.

By deferring reimbursement of medical expenses, contributions to an HSA can grow tax-free, similar to contributions to an IRA or Roth IRA.

Withdrawals of the amounts a taxpayer contributes to the HSA plus investment earnings, up to the amount of accumulated reimbursable medical expenses, can be taken tax-free when the taxpayer chooses to request reimbursement.

MAXING OUT IRAs

Year 2023: (IRS Notice 2022-55)

Traditional IRA: \$6,500

Roth IRA: \$6,500

Catch up for both remains \$1,000 or \$7,500 if age 50+

Year 2024: (IRS Notice 2023-75)

Traditional IRA: \$7,000

Roth IRA: \$7,000

Catch up for both remains \$1,000 or \$8,000 if age 50+

SIMPLE-IRA: MAX OUT WITHHOLDINGS

Year 2023: (IRS Notice 2022-55)

Simple Plan: \$15,500

Catch up \$3,500 or \$19,000 if age 50+

Year 2024: (IRS Notice 2023-75)

Simple Plan: \$16,000

Catch up \$3,500 or \$19,500 if age 50+

401(K): MAX OUT WITHHOLDINGS

Year 2023: (IRS Notice 2022-55)

401K: \$22,500

Catch up \$7,500 or \$30,000 if age 50+

Year 2024: (IRS Notice 2023-75)

401K: \$23,000

Catch up \$7,500 or \$30,500 if age 50+

MAX SEP RETIREMENT

25% BASED ON W-2 WAGES

Year 2023: (IRS Notice 2022-55)

\$66,000 Max (Requires \$264,000 in W-2 wages)

No Catch up

Year 2024: (IRS Notice 2023-75)

\$69,000 Max (Requires \$276,000 in W-2 wages)

No Catch up

MAX SEP RETIREMENT

25% OF SELF-EMPLOYMENT EARNINGS

Year 2023: (IRS Notice 2022-55)

\$66,000 Max (Requires \$264,000 in self-employment earnings)

No Catch up

Year 2024: (IRS Notice 2023-75)

\$69,000 Max (Requires \$276,000 in self-employment earnings)

No Catch up

RETIREMENT OPTIONS

	2023	50+ 2022 Extra Allowed	Required Wages or SE Income	50+ Required Wages or SE Income	Average Annual Broker Fees	Due Date to Contribute	Employer Match
Traditional IRA/Roth	6,500	1,000	6,500	7,500	\$ 35	4/15/24	N/A
SIMPLE	15,500	3,500	15,500	19,000	\$ 50	12/31/23	3% (No Vesting)
401(k)	22,500	7,500	22,500	30,000	\$ 1,500	12/31/23	3-6% (With Vesting)
SEP	66,000	N/A	264,000	264,000	\$ 50	9/15/24 10/15/24	25% of Wages Self-Employed Income

RETIREMENT OPTIONS

	2024	50+ 2024 Extra Allowed	Average Annual Broker Fees	Due Date to Contribute	Employer Match
Traditional IRA/Roth	7,000	8,000	\$ 35	4/15/25	N/A
SIMPLE	16,000	19,500	\$ 50	12/31/24	3% (No Vesting)
401(k)	23,000	30,500	\$ 1,500	12/31/24 4/15/25	3-6% (With Vesting) Self-Employed Only
SEP	69,000	69,000	\$ 50	9/15/25 10/15/25	25% of Wages Self-Employed Income

IRS MILEAGE RATES: 2023

Standard business mileage rate

65.5 cents (per mile) 2023

Standard charitable mileage rate

14 cents (per mile) 2023

Standard medical mileage rate

22 cents (per mile) 2023

INFLATION ADJUSTMENTS FOR TAX YEAR 2023

Highlights of changes in Revenue Procedure 2022-44:

The tax year 2023 adjustments described below generally apply to tax returns filed in 2024.

The tax items for tax year 2023 of greatest interest to most taxpayers include the following dollar amounts:

The standard deduction

- **Married couples filing jointly** for tax year 2023 rises to **\$27,700** up \$1,800 from the prior year.
- **Single** taxpayers and married individuals filing separately, the standard deduction rises to **\$13,850** for 2023, up \$900.
- **Heads of households**, the standard deduction will be **\$20,800** for tax year 2023, up \$1,400 from the amount for tax year 2022.

2023 Marginal Rates:

- **Top tax rate remains 37%**
 - For individual single taxpayers with incomes greater than \$578,125
 - \$693,750 for married couples filing jointly.
- The other rates are:
 - 35% for incomes over \$231,250 (\$462,500 for married couples filing jointly);
 - 32% for incomes over \$182,100 (\$364,200 for married couples filing jointly);
 - 24% for incomes over \$95,375 (\$190,750 for married couples filing jointly);
 - 22% for incomes over \$44,725 (\$89,450 for married couples filing jointly);
 - 12% for incomes over \$11,000 (\$22,000 for married couples filing jointly).

Standard Deductions		
Filing Status	2022	2023
Single	\$12,950	\$13,850
Married Filing Jointly	\$25,900	\$27,700
Head of Household	\$19,400	\$20,800

The lowest rate is 10% for incomes of single individuals with incomes of \$11,000 or less (\$22,000 for married couples filing jointly).

COMPARISON OF TAX BRACKETS: 2022 vs. 2023

Marginal tax brackets

RATE	2022		2023	
	SINGLE FILER	MARRIED FILING JOINTLY	SINGLE FILER	MARRIED FILING JOINTLY
37%	>\$539,900	>\$647,850	>\$578,125	>\$693,750
35%	>\$215,950	>\$431,900	>\$231,500	>\$462,500
32%	>\$170,050	>\$340,100	>\$182,100	>\$364,200
24%	>\$89,075	>\$178,150	>\$95,375	>\$190,750
22%	>\$41,775	>\$83,550	>\$44,725	>\$89,450
12%	>\$10,275	>\$20,550	>\$11,000	>\$22,000
10%	≤\$10,275	≤\$20,550	≤\$11,000	≤\$22,000

Source: Internal Revenue Service

INFLATION ADJUSTMENTS FOR TAX YEAR 2024

Highlights of changes in Revenue Procedure 2023-34:

The tax year 2024 adjustments described below generally apply to tax returns filed in 2025.

The 2024 standard deduction

- **Married couples filing jointly (qualifying widower)** for tax year 2024 rises to **\$29,200**.
- **Married filing separately** **\$14,600**
- **Single** taxpayers and married individuals filing separately, the standard deduction rises to **\$14,600**.
- **Heads of households**, the standard deduction will be **\$21,900**.

Additional standard deduction

- **Single or head of household**
 - 65 or older OR blind + \$1,950
 - 65 or older AND blind + \$3,900
- **Married filing jointly or married filing separately**
 - 65 or older OR blind + \$1,550 per qualifying individual
 - 65 or older AND blind + \$3,100 per qualifying individual

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INFLATION ADJUSTMENTS TAX YEAR 2023 VS. 2024

Marginal tax brackets

RATE	2023		2024	
	SINGLE FILER	MARRIED FILING JOINTLY	SINGLE FILER	MARRIED FILING JOINTLY
37%	>\$578,125	>\$693,750	>\$609,350	>\$731,200
35%	>\$231,250	>\$462,500	>\$243,725	>\$487,450
32%	>\$182,100	>\$364,200	>\$191,950	>\$383,900
24%	>\$95,375	>\$190,750	>\$100,525	>\$201,050
22%	>\$44,725	>\$89,450	>\$47,150	>\$94,300
12%	>\$11,000	>\$22,000	>\$11,600	>\$23,200
10%	≤\$11,000	≤\$22,000	≤\$11,600	≤\$23,200

Source: Internal Revenue Service

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INFLATION ADJUSTMENTS FOR TAX YEAR 2023

- The **Alternative Minimum Tax exemption** amount for tax year 2023 is **\$81,300** and begins to phase out at \$578,150 (\$126,500 for married couples filing jointly for whom the exemption begins to **phase out at \$1,156,300**). The 2022 exemption amount was \$75,900 and began to phase out at \$539,900 (\$118,100 for married couples filing jointly for whom the exemption began to phase out at \$1,079,800).
- The tax year 2023 **maximum Earned Income Tax Credit** amount is **\$7,430** for qualifying taxpayers who have three or more qualifying children, up from \$6,935 for tax year 2022. The revenue procedure contains a table providing maximum EITC amount for other categories, income thresholds and phase-outs.
- For tax year 2023, the monthly limitation for the **qualified transportation fringe benefit** and the monthly limitation for qualified parking increases to **\$300**, up \$20 from the limit for 2022.
- For the taxable years beginning in 2023, the dollar limitation for **employee salary reductions for contributions** to health flexible spending arrangements increases to **\$3,050**. For cafeteria plans that permit the carryover of unused amounts, the maximum carryover amount is \$610, an increase of \$40 from taxable years beginning in 2022.

INFLATION ADJUSTMENTS FOR TAX YEAR 2023

- For tax year 2023, participants who have self-only coverage in a **Medical Savings Account**, the plan must have an annual deductible that is not less than \$2,650, up \$200 from tax year 2022; but not more than \$3,950, an increase of \$250 from tax year 2022. For self-only coverage, the maximum out-of-pocket expense amount is \$5,300, up \$350 from 2022. For tax year 2023, for family coverage, the annual deductible is not less than \$5,300, up from \$4,950 for 2022; however, the deductible cannot be more than \$7,900, up \$500 from the limit for tax year 2022. For family coverage, the out-of-pocket expense limit is \$9,650 for tax year 2023, an increase of \$600 from tax year 2022.
- For tax year 2023, the **foreign earned income exclusion** is **\$120,000** up from \$112,000 for tax year 2022.
- **Estates** of decedents who die during 2023 have a **basic exclusion** amount of **\$12,920,000**, up from a total of \$12,060,000 for estates of decedents who died in 2022.
- The **annual exclusion for gifts** increases to **\$17,000** for calendar year 2023, up from \$16,000 for calendar year 2022.
- The maximum credit allowed for adoptions for tax year 2023 is the amount of **qualified adoption expenses** up to **\$15,950**, up from \$14,890 for 2022

INFLATION ADJUSTMENTS FOR TAX YEAR 2023

Items unaffected by indexing:

By statute, certain items that were indexed for inflation in the past are currently not adjusted.

- The **personal exemption** for tax year 2023 remains at **0**, as it was for 2022, this elimination of the personal exemption was a provision in the Tax Cuts and Jobs Act.
- For 2023, as in 2022, 2021, 2020, 2019 and 2018, there is **no limitation** on **itemized deductions**, as that limitation was eliminated by the Tax Cuts and Jobs Act.
- The modified adjusted gross income amount used by joint filers to determine the reduction in the **Lifetime Learning Credit** provided in § 25A(d)(2) is not adjusted for inflation for taxable years beginning after December 31, 2020. The Lifetime Learning Credit is phased out for taxpayers with modified adjusted gross income in excess of \$80,000 (\$160,000 for joint returns).
- Election to Expense Certain Depreciable Assets. For taxable years beginning in 2023, under **§ 179(b)(1)**, the aggregate cost of any § 179 property that a taxpayer elects to treat as an expense cannot exceed **\$1,160,000** and under § 179(b)(5)(A), the cost of any **sport utility vehicle** that may be taken into account under § 179 cannot exceed **\$28,900**. Under § 179(b)(2), the \$1,160,000 limitation under § 179(b)(1) is reduced (but not below zero) by the amount by which the cost of § 179 property placed in service during the 2023 taxable year exceeds \$2,890,000

INFLATION ADJUSTMENTS FOR TAX YEAR 2023

- **Qualified Business Income**. For taxable years 2022 and 2023, the threshold amounts under § 199A(e)(2) and phase-in range amounts under § 199A(b)(3)(B) and § 199A(d)(3)(A) are

	2022 THRESHOLD	2022 PHASE-OUT RANGE	2023 THRESHOLD	2023 PHASE-OUT RANGE
Joint	\$340,100	\$440,000	\$364,200	\$464,200
Married Separate	\$170,050	\$220,050	\$182,100	\$232,100
Other filers	\$170,050	\$220,050	\$182,100	\$232,100

INFLATION ADJUSTMENTS FOR TAX YEAR 2023

- **Eligible Long-Term Care Premiums.** For taxable years 2022 and 2023, the limitations under § 213(d)(10), regarding eligible long-term care premiums includible in the term “medical care,” are as follows:

Age	Deduction Limitation 2022	Deduction Limitation 2023
40 or under	\$450	\$480
Over 40 but not over 50	\$850	\$890
Over 50 but not over 60	\$1,690	\$1,790
Over 60 but not over 70	\$4,510	\$4,770
Over 70	\$5,640	\$5,960

INFLATION ADJUSTMENTS FOR TAX YEAR 2023

- **Interest on Education Loans.** For taxable years 2022 and 2023, the **\$2,500 maximum deduction** for interest paid on qualified education loans under § 221. In 2023 it begins to phase out under § 221(b)(2)(B) for taxpayers with modified adjusted gross income in excess of \$75,000 (\$155,000 for joint returns), and is completely phased out for taxpayers with modified adjusted gross income of \$90,000 or more (\$185,000 or more for joint returns). In 2022 it begins to phase out under § 221(b)(2)(B) for taxpayers with modified adjusted gross income in excess of \$70,000 (\$140,000 for joint returns), and is completely phased out for taxpayers with modified adjusted gross income of \$85,000 or more (\$70,000 or more for joint returns)
- **Limitation on Use of Cash Method of Accounting.** For taxable years beginning in 2023, a corporation or partnership meets the gross receipts test of § 448(c) for any taxable year if the average annual gross receipts of such entity for the 3-taxable-year period ending with the taxable year which precedes such taxable year does not exceed **\$29,000,000**; up from \$27,000,000 for 2022.
- Threshold for **Excess Business Loss.** For taxable years beginning in 2023, in determining a taxpayer's excess business loss, the amount under § 461(l)(3)(A)(ii)(II) is **\$289,000** for single returns (**\$578,000** for joint returns); up from \$270,000 for single returns (\$540,000 for joint returns) for 2022.

SOCIAL SECURITY BENEFITS FOR TAX YEAR 2023

The SSA also announced a cost-of-living adjustment (COLA) of 8.7% for both Social Security and Supplemental Security Income (SSI) benefits beginning in January 2023. The increase, based on the consumer price index, marks a trend of rising COLAs in recent years and compares with an increase of 5.9% in 2022 and 1.3% in 2021.

In 2023, retirees receiving Social Security benefits will be able to earn \$56,520 in the year they reach full retirement age before their benefits are reduced by \$1 for every \$3 in earnings over the limit. That figure is an increase from \$51,960 in 2022.

Beneficiaries younger than full retirement age can earn up to \$21,240 in 2023 before their benefits are reduced by \$1 for every \$2 in excess earnings, up from \$19,560 in 2022.

The maximum Social Security benefit for a worker retiring at full retirement age will increase to \$3,627 per month in 2023 from \$3,345 per month in 2022.

SOCIAL SECURITY TAX BASE: SELF-EMPLOYED 2022 & 2023

Self-employed individuals pay **self-employment** tax equal to the combined OASDI and Medicare taxes for both employees and employers, i.e., 12.4% of net self-employment income up to the OASDI wage base plus 2.9% in Medicare taxes on any amount of net self-employment income, with an offsetting above-the-line income tax deduction of half of the self-employment tax.

Annually will be subject to Social Security tax

- \$147,000 in 2022
- \$160,200 in 2023
- \$168,600 in 2024

The **Medicare** hospital insurance tax of 1.45% each for employees and employers has **no limit**; it is unchanged for 2022, 2023 and 2024.

**SCHEDULE B
(Form 1040)**

Department of the Treasury
Internal Revenue Service

Interest and Ordinary Dividends

Go to www.irs.gov/ScheduleB for instructions and the latest information.
Attach to Form 1040 or 1040-SR.

OMB No. 1545-0074




2022

Attachment
Sequence No. **08**

**Part III
Foreign
Accounts
and Trusts**

Caution: If required, failure to file FinCEN Form 114 may result in substantial penalties. Additionally, you may be required to file Form 8938, Statement of Specified Foreign Financial Assets. See instructions.

You must complete this part if you (a) had over \$1,500 of taxable interest or ordinary dividends; (b) had a foreign account; or (c) received a distribution from, or were a grantor of, or a transferor to, a foreign trust.

	Yes	No
7a At any time during 2022, did you have a financial interest in or signature authority over a financial account (such as a bank account, securities account, or brokerage account) located in a foreign country? See instructions 	<input type="checkbox"/>	<input type="checkbox"/>
If "Yes," are you required to file FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR), to report that financial interest or signature authority? See FinCEN Form 114 and its instructions for filing requirements and exceptions to those requirements . . . 	<input type="checkbox"/>	<input type="checkbox"/>
b If you are required to file FinCEN Form 114, list the name(s) of the foreign country(-ies) where the financial account(s) are located: _____		
8 During 2022, did you receive a distribution from, or were you the grantor of, or transferor to, a foreign trust? If "Yes," you may have to file Form 3520. See instructions 	<input type="checkbox"/>	<input type="checkbox"/>

For Paperwork Reduction Act Notice, see your tax return instructions.

Cat. No. 17146N

Schedule B (Form 1040) 2022

FBAR PENALTIES: SUPREME COURT

The U.S. Supreme Court recently issued its opinion in *Bittner v. United States* (No. 21-1195), ruling in a 5-4 decision that **non-willful** foreign bank and financial accounts (FBAR) penalties should be imposed on a per-form basis as opposed to a per-account basis.

The Supreme Court's opinion reverses the Fifth Circuit's opinion in the case, **which held that a separate violation occurred for each foreign account not timely reported on an FBAR report.**

The Supreme Court limited the taxpayer's penalties in the case to a total of \$50,000, or \$10,000 per report, for each of the five years in question — a significant decrease from the Fifth Circuit's ruling, which imposed over \$2.72 million in penalties. The Fifth Circuit's decision initially created a split among circuit courts, as it conflicted with a Ninth Circuit decision holding that the penalty applied on a per-form basis. The outcome in *Bittner* resolves this circuit split and provides much-needed certainty for taxpayers on the issue

EDUCATORS AND TEACHERS

- For amounts educators and teachers are paying out of pocket for their classroom or to directly aid in educating their students in the classroom, they can tax deduct up to \$300 annually.
- This is per educator.
- So, if both spouses are educators and both spouses spend at least \$300 out of pocket, the annual tax deduction is \$600.

TAX LOSS HARVESTING ON CAPITAL ASSETS

To reduce your taxable income from capital gains, take advantage of tax loss harvesting. Pay attention to the types of gains and losses in your taxable investment accounts when selling at the end of the year. Short-term capital losses offset short-term capital gains, for example. You can deduct \$3,000 of losses against your personal income, and carry over additional losses to future years. Watch out: The wash-sale rule says you have to wait at least 31 days to buy back the same investment.

SECTION 1031 EXCHANGES

Beginning in 2018, the TCJA generally eliminated the tax deferral break for most Section 1031 exchanges of like-kind properties. However, it preserved this tax-saving techniques for swaps involving investment or business real estate. Therefore, you can still exchange qualified real estate properties in 2022 without paying current tax, except to the extent you receive “boot” (e.g., cash or a reduction in mortgage liability).

ACTION: Make sure you meet the following two-timing requirements to qualify for a tax-deferred Section 1031 exchange:

1. Identify or actually receive the replacement property within 45 days of transferring legal ownership of the relinquished property.
2. Have the title to the replacement property transferred to you within the earlier of 180 days or your 2022 tax return due date, plus extensions.

LONG-TERM CAPITAL GAINS RATES FOR 2022 VS. 2023

The tax brackets refer to the taxpayer's taxable income.

Capital gains also may be subject to the 3.8% Net Investment Income Tax

Capital Gains Tax Rates for 2022

Tax-filing Status	0% Tax Rate	15% Tax Rate	20% Tax Rate
Single	\$0 to \$41,675	\$41,676 to \$459,750	\$459,751 or more
Married, filing jointly	\$0 to \$83,350	\$83,351 to \$517,200	\$517,201 or more
Married, filing separately	\$0 to \$41,675	\$41,676 to \$258,600	\$258,601 or more
Head of household	\$0 to \$55,800	\$55,801 to \$488,500	\$488,501 or more

Capital Gains Tax Rates for 2023

Tax-filing Status	0% Tax Rate	15% Tax Rate	20% Tax Rate
Single	\$0 to \$44,625	\$44,626 to \$492,300	\$492,301 or more
Married, filing jointly	\$0 to \$89,250	\$89,251 to \$553,850	\$553,851 or more
Married, filing separately	\$0 to \$44,625	\$44,626 to \$276,900	\$276,901 or more
Head of household	\$0 to \$59,750	\$59,751 to \$523,050	\$523,051 or more

DEADBEAT TAX DEDUCTION: CAPITAL LOSS

Non-Business Bad Debt

If you loaned someone money and they never paid it back, you might be able to deduct it from your taxes. The deduction was intended for businesses, but the law allows anyone to deduct a bad debt, even if the loan was made to a friend or family member.

The loan must be considered 100% worthless, and it must be a debt, not a gift. **This is a tax loss realized in the year it is considered 100% uncollectible. It is considered a short-term capital loss**, reported on Form 8949. The IRS requires you attach a statement explaining the details.

This means that you must have come to an understanding, preferably in writing, that the money would be paid back. It also means that there has to be no chance that you'll ever get the money back. Often, this means the person who borrowed the money has declared bankruptcy or that you have called, sent letters and made demands for repayment.

NOTE: This is then considered taxable to the person you loaned money to, and you should inform them, and possibly send them a Form 1099-C.

EDUCATIONAL EXPENSES = TAX CREDIT

Max out educational expenses for 2023 for the maximum tax credit (based on educational expenses paid during the calendar year.)

AMERICAN OPPORUNITY CREDIT

If you or your dependent is in the first 4 years of college, you get a 100% tax credit for the first \$2,000 spent and 25% of the next \$2,000 spent, for a maximum tax credit of \$2,500 per student.

LIFETIME LEARNING CREDIT

If you or your dependent is in the first 4 years of college or taking college credits not in the pursuit of a degree, you get a 20% tax credit for the first \$10,000 in educational expenses; per student

You are not able to take both tax credits on the same educational expenses.

If your income* is over \$90,000 single or \$180,000 married filing jointly, this tax credit gets phased out, and you won't benefit. *MAGI (Modified Adjusted Gross Income)

COLLEGE TAX CREDITS

American Opportunity Tax Credit (AOTC):

The maximum \$2,500 American Opportunity Tax Credit (AOTC) is available for qualified expenses such as tuition, room and board, books, computers and supplies for up to four years of study for every student in the family. Per eligible student: Tax credit can be received for 100% of the first \$2,000, plus 25% of the next \$2,000 that has been paid during the taxable year. Refundability: 40% of the credit (up to \$1,000) is refundable. This means you can get a refund even if you owe no tax.

Lifetime Learning Credit (LLC):

You may claim a maximum credit of \$2,000 (20% of up to \$10,000 in qualifying education expenses), but this applies on a per-taxpayer basis. Previously, the LLC was phased out at lower levels than the AOTC, but the CAA increases the ranges to the same as those for the AOTC, beginning in 2021.

Lifetime Learning Credit vs. American Opportunity Credit:

- You do not need to be pursuing a degree to be eligible to claim the Lifetime Learning Credit.
- You can claim the American Opportunity Credit for the same student for no more than 4 tax years. There is no limit on the number of years for which you can claim a Lifetime Learning credit based on the same student's expenses.
- The Lifetime Learning credit is also non-refundable, whereas the American Opportunity Credit is partially refundable.
- LLC has a \$2,000 annual maximum vs. \$2,500 for the AOC.
- Full phase out of the credit is the same for each; \$90,000 single and \$180,000 married filing jointly

NET INVESTMENT INCOME TAX

Separate tax that applies to the lesser of your net investment income or the amount by which your modified adjusted gross income (MAGI) surpasses the filing status-based thresholds the IRS imposes. The NIIT is set at 3.8% for the 2023 tax year.

3.8% Net Investment Income Tax (2022 - 2023)	
Applies to individuals with net investment income & modified adjusted gross income over the following filing thresholds:	
Single	\$200,000
Head of Household	\$200,000
Married filing jointly or qualifying widow(er)	\$250,000
Married filing separately	\$125,000

Net Investment Income (NII) Inclusions and Exclusions	
Included as NII	<ul style="list-style-type: none">- Interest- Capital gains- Dividends- Income from passive investment activities- Non-qualified annuity distributions- Rental and royalty income
Excluded from NII	<ul style="list-style-type: none">- Wages- Unemployment payments- Self-employment income- Social Security benefits- Distributions from some qualified retirement plans- Alimony- Tax-exempt interest- Operating income from non-passive businesses- Excluded capital gains earned from the sale of your primary residence

INDIVIDUAL NET OPERATING LOSSES

LIMITATION ON NOLs (Net Operating Losses) WERE BACK IN EFFECT FOR 2021 & FORWARD

DISADVANTAGE TO NOLs

- Once an NOL is established it cannot be controlled
- It will offset all income, and down to the lowest tax rates

ADVANTAGES TO NOLs

- It will offset all income

NOLs IN 2021 CANNOT BE CARRIED BACK (SO ANY CARRIED FORWARD TO 2022 & 2023)

- Limited to 80% of taxable income (back in effect for 2021, forward)
- Such NOLs are carried forward indefinitely
- Cares act allowed NOLs in 2018, 2019 & 2020 to be carried back 5 years
- Farming losses arising in tax years beginning 2021 or later can be carried back 2 years
- NOLs carried forward from 2018, 2019 and/or 2020 (into 2021 or forward) are only allowed to extent of 80% of taxable income

EXCESS BUSINESS LOSSES

Excess business losses were back in effect for 2021 (and carryover to 2022 and 2023)

- Excess business losses are carried over, characterized as net operating losses in the next year
- Excess business losses would be only from active (non-passive) activities
 - Passive losses are only allowed to the extent of passive income (unless in the final year of a passive activity) and thus, excess business losses would not be from passive losses
 - Would only be losses allowed to the extent of tax and/or at-risk basis
- Overall excess business losses limited
 - Even if the client has tax basis or at-risk basis above the limitation
 - For 2022: \$540,000 MFJ (\$270,000 single)
 - For 2023: \$578,000 MFJ (\$289,000 single)
- Under current law, this ends 12/31/28
 - TCJA originally scheduled this for sunset 12/31/25
 - The American rescue plan extended this to 12/31/26
 - The “Inflation Reduction Act”
 - Extended this 2 more years
 - Does not sunset until 12/31/28

SAVER'S TAX CREDIT

The Retirement Savings Contributions Credit, also known as the Saver's Credit, helps **offset part of the first \$2,000 workers voluntarily contribute to Individual Retirement Arrangements, 401(k) plans and similar workplace retirement programs.** The credit also helps any eligible person with a disability who is the designated beneficiary of an Achieving a Better Life Experience (ABLE) account, contribute to that account. For more information about ABLE accounts, see Publication 907. The Saver's Credit is available in addition to any other tax savings that apply.

Eligible workers have until until April 16, 2024 to make qualifying retirement contributions and get the Saver's Credit on their 2023 tax return. People have - the due date for filing their 2023 return - to set up a new IRA or add money to an existing IRA for 2023. Both Roth and traditional IRAs qualify. On the other hand, those participating in workplace retirement plans must take action by the end of 2023 for contributions to count for this year. This means elective deferrals (contributions) must be made by December 31 to a:

- 401(k) plan.
- 403(b) plan for employees of public schools and certain tax-exempt organizations.
- Governmental 457 plan for state or local government employees.
- Thrift Savings Plan (TSP) for federal employees.

Contributions to certain other workplace retirement plans also qualify. See the instructions to Form 8880 for details. Employees unable to set aside money this year may want to schedule their 2023 contributions soon so their employer can begin withholding them in January.

SAVER'S TAX CREDIT

WHO QUALIFIES

Income limits, based on a taxpayer's adjusted gross income and marital or filing status, apply to the Saver's Credit. But due to inflation, the limits will increase markedly in 2023. As a result, the Saver's Credit can be claimed by:

- Married couples filing jointly with incomes up to \$73,000 in 2023.
- Heads of household with incomes up to \$54,750 in 2023.
- Married individuals filing separately and singles with incomes up to \$36,500 in 2023.

Like other tax credits, **the Saver's Credit can increase a taxpayer's refund or reduce the tax owed.** Though the maximum Saver's Credit is \$1,000 (\$2,000 for married couples), the IRS cautioned that it is often much less and, due in part to the impact of other deductions and credits, may, in fact, be zero for some taxpayers. A taxpayer's credit amount is based on their filing status, adjusted gross income, tax liability and amount contributed to qualifying retirement programs or ABLE accounts. **Form 8880** is used to claim the Saver's Credit, and its instructions have details on figuring the credit correctly.

The Saver's Credit supplements other tax benefits available to people who set money aside for retirement. For example, most workers may deduct their contributions to a traditional IRA. Though Roth IRA contributions are not deductible, qualifying withdrawals, usually after retirement, are tax-free. Normally, contributions to 401(k) and similar workplace plans are not taxed until withdrawn.

SAVER'S TAX CREDIT

Some restrictions apply

Other special rules that apply to the Saver's Credit include:

- Eligible taxpayers must be at least 18 years of age.
- Anyone claimed as a dependent on someone else's return cannot take the credit.
- A student cannot take the credit. A person enrolled as a full-time student during any part of 5 calendar months during the year is considered a student.

Any distributions from a retirement plan or ABLE account reduce the contribution amount used to figure the credit. Form 8880 and its instructions have details on making this computation.

TAX CREDITS ON KIDDOs

Child Tax Credit

For 2022 and 2023, this credit went back to the normal method, with the lower amount allowed for all ages eligible and again is \$2,000 for those qualified dependents UNDER the age of 17 on the last day of the calendar year, and \$500 for those qualified dependents age 17 and older.

Child and Dependent Care Credit

For 2022 and 2023:

NUMBER OF CHILDREN	MAXIMUM EXPENSES ABLE TO CLAIM	MAXIMUM CREDIT	INCOME THRESHOLD TO QUALIFY FOR MAXIMUM CREDIT	INCOME THRESHOLD TO QUALIFY FOR PARTIAL CREDIT
One	\$3,000	\$1,050	\$15,000	\$438,000
Two or more	\$6,000	\$2,100	\$15,000	\$438,000

Source: IRS

THE EMPLOYEE TAX DEDUCTIONS NOT TO MISS

CHARITABLE

BE SURE YOU HAVE A RECEIPT SAYS “NO GOODS OR SERVICES PROVIDED” FOR DEDUCTION TO BE ALLOWED

ITEMIZE OUT YOUR NON-CASH CHARITY ITEMS GIVEN. IT WILL BE A HIGHER DEDUCTION THAN YOUR GUESS.

FORM W2 BOXES

REVIEW BOX 14 AS THE AMOUNTS REPORTED ARE USUALLY TAX DEDUCTIONS: CHARITY CONTRIBUTIONS OR HEALTH INSURANCE FOR THE OVER 2% SHAREHOLDER OF S-CORP.

BOX 12 W FOR HSA TO ENSURE FULL DEDUCTION TAKEN

BOX 10 DEPENDENT CARE TO ENSURE FULL TAX CREDIT TAKEN

IRA/ROTH IRA/HSA

CONTRIBUTE THE MAX TO ALL OF THESE THAT YOU ARE ELIGIBLE FOR.

FOR THE HSA, IF YOU DID NOT PUT IN THE MAXIMUM AMOUNT THROUGH YOUR EMPLOYER VIA WAGE WITHHOLDINGS, YOU CAN STILL ADD TO THE HSA DIRECTLY TO GET THE FULL DEDUCTION.

YOU HAVE UNTIL 4/15/24 TO MAX OUT FOR 2023

529 PLAN

CONTRIBUTE FOR DEPENDENTS FOR AT LEAST THE TAX-FREE GROWTH

CAN BE USED FOR K-12 EXPENSES AS WELL

CAN BE USED TO MAKE STUDENT LOAN PAYMENTS

UP TO \$85,000 2023 CAN BE CONTRIBUTED W/O GIFT TAXES GIFT EXCLUSION

\$17,000 2023

MEDICAL

TO GET OVER THE 7.5% THRESHOLD BE SURE TO INCLUDE LONG-TERM CARE INSURANCE, OVER-THE-COUNTER MEDICATIONS, COVID RELATED ITEMS, DENTAL, VISION, CONTACTS, CHIROPRACTOR, COUNSELING, PSYCHOLOGISTS, NON-TRADITIONAL MEDICAL, NICOTINE TREATMENT, ACUPUNCTURE, TRAVEL FOR MEDICAL REASONS, MILEAGE

22 CENTS 2023

FORM 1040 & THEN SOME... (MAJOR ITEMS)

Schedule 1: Additional Income & Adjustments to Income

S-Corp, Partnership, Trust, Schedule E, Line 5

Unemployment Compensation, Line 7

Other Income, Line 8z

Educator Expenses, Line 11

HSA, Line 13

Self-Employed Retirement, Line 16

Self-Employed Health Insurance, Line 17

Schedule C

S Corp Owners (Form W-2)

Partnership (Guaranteed Payments)

Student Loan Interest Deduction, Line 21

Schedule 2: Additional Taxes

Self-Employment Tax, Line 4

Net Investment Income Tax, Line 12

FORM 1040 & THEN SOME... (MAJOR ITEMS)

Schedule 3: Additional Credits & Payments

NON-REFUNDABLE, PART 1

Education Credits, Line 3

Residential Energy Credits, Line 5

Qualified Electric Vehicle, Line 6i

REFUNDABLE

Excess Social Security, Line 11

Schedule A: Itemized Deductions

Schedule B: Interest & Dividend Income

Schedule C: Sole Proprietor, Gig Worker, Received Form 1099-Misc/NEC

Single-Member LLC that is NOT an S-Corp, C-Corp or filing another manner

Schedule D: Capital Gains/Losses

FORM 1040 & THEN SOME... (MAJOR ITEMS)

Schedule E, Page 1: Rental & Royalty Income & Expenses

Schedule E, Page 2: Schedule K-1 from S-Corp, Partnership or Trusts

Schedule F: Farming/Ranching Income & Losses

Schedule SE: Calculation of Self-Employment Taxes

Form 8995: Qualified Business Income Deduction (QBI), as Reported on Line 13 of Form 1040

FORM 1040: SIMPLE ITEMS NOT TO FORGET

- Properly answer question on Schedule B related to foreign accounts
- Schedule 1
 - \$300 Educator deduction (per person)
 - Reservists & performing artists unreimbursed expenses (Form 2106)
 - Alimony taxable/deductible on if decree before 1/1/19
 - Student loan interest
 - Self employed health insurance (Sch C, S-Corp Shareholders & Partners)
 - In box 14 of Form W-2 of Shareholder of S-Corp & In guaranteed payments of Partner
- Form 8960 (Net investment income tax calculation)
 - Investment interest
 - Include state, local, and foreign income taxes you paid for the tax year that are attributable to net investment income Investment expenses
 - Investment expenses (back of the annual investment, tax statement)

Part II Investment Expenses Allocable to Investment Income and Modifications			
9a	Investment interest expenses (see instructions)	9a	
b	State, local, and foreign income tax (see instructions)	9b	
c	Miscellaneous investment expenses (see instructions)	9c	
d	Add lines 9a, 9b, and 9c		9d
10	Additional modifications (see instructions)		10
11	Total deductions and modifications. Add lines 9d and 10		11

FORM 1040: SIMPLE ITEMS NOT TO FORGET

- Schedule A: Sales tax vs. Income tax
 - If real estate taxes near/above \$10,000, consider sales tax over income tax to avoid any state income tax refund to be taxable
- HSA: Can distribute reimbursement of mileage for medical purposes
- Distributions from HSA (Form 1099-SA)
 - Report on Form 8889: Line 14a & Line 15

Part II HSA Distributions. If you are filing jointly and both you and your spouse each have separate HSAs, complete a separate Part II for each spouse.

14a	Total distributions you received in 2022 from all HSAs (see instructions)	14a	
b	Distributions included on line 14a that you rolled over to another HSA. Also include any excess contributions (and the earnings on those excess contributions) included on line 14a that were withdrawn by the due date of your return. See instructions	14b	
c	Subtract line 14b from line 14a	14c	
15	Qualified medical expenses paid using HSA distributions (see instructions)	15	
16	Taxable HSA distributions. Subtract line 15 from line 14c. If zero or less, enter -0-. Also, include this amount in the total on Schedule 1 (Form 1040), Part I, line 8f	16	
17a	If any of the distributions included on line 16 meet any of the Exceptions to the Additional 20% Tax (see instructions), check here <input type="checkbox"/>		
b	Additional 20% tax (see instructions). Enter 20% (0.20) of the distributions included on line 16 that are subject to the additional 20% tax. Also, include this amount in the total on Schedule 2 (Form 1040), Part II, line 17c	17b	

FORM 1040: SIMPLE ITEMS NOT TO FORGET

- Foreign Tax Credit Form 1116
 - Foreign tax credit \$300 or less (single) or \$600 or less (MFJ)
 - Exempt from filing Form 1116
 - Won't need Schedule K-2/K-3
- Qualified Business Income (QBI) Line 13 of Form 1040 (Also see Form 8995)
 - Business Code
 - NOT Specified Trade of Business (SSTB)
 - Insurance sales, educational, real estate agents, real estate management, architect.
- Dependents out of high school: Avoid default
 - Claiming American Opportunity Credit (AOC)
- Business meals 50% in 2023



THE

END

TAX PLANNING

JENSON & COMPANY, CPAs, P.C.

THE 30 YEAR TAX PLAN

TAXABLE
TAX DEFERRED & TAXABLE
TAX DEFERRED & TAX FREE

	2023	2024	2025	2026	2027	2028	2029	2030	2031	10 ↓ 2032	20 Years ↓ 2042	30 Years ↓ 2052
YOUR AGE / SPOUSE AGE												
KIDS AGES												
YEARS FROM RETIREMENT												
CASH RESERVES												
ASSET ACCUMULATION												
DEBT REDUCTION												
ESTATE PLAN												
WAGES												
BUSINESS INCOME												
INVESTMENT INCOME												
REAL ESTATE INCOME												
STOCK GROWTH & SALE												
REAL ESTATE ACCUMULATION & SALE												
401(k) SEP SIMPLE IRAs & WITHDRAWAL												
BUSINESS GROWTH & SALE												
529 PLANS & EDUCATIONAL												
DISABILITY & LTC INSURANCE												
TERM LIFE INSURANCE												
ROTH IRAs												
PERMANENT LIFE INSURANCE												
ESTATE PLAN												

TCJA Major Expiring Provisions as of 12/31/25 (This Means Starting 2026)

Qualified Business Income Deduction (QBI)

- No more. Self-employed and flow-through businesses no longer can deduct 20% of taxable income

Child Tax Credit

- Reverts to \$1,000 per child under 17
- No other credit for those 17 and older

Personal Exemption

- Reverts to an exemption for taxpayer, spouse and qualifying dependents (\$4,050 pre-TCJA in 2017)
- Phase-outs apply: pre-TCJA in 2017, begins with AGI of \$261,500 single (\$313,800 for MFJ) with complete at \$384,000 single (\$436,300 MFJ)

Standard Deduction

- Reverts to lower standard deduction for all filing statuses
 - Pre-TJCA in 2017
 - \$6,350 Single & Married Filing Separately
 - \$12,700 Married Filing Jointly
 - \$9,350 Head of Household

TCJA Major Expiring Provisions as of 12/31/25 (This Means Starting 2026)

Standard Deduction for Taxpayer Claimed as Dependent by Another

- Reverts to lower amount
- Pre-TCJA in 2017: Cannot exceed the greater of (a) \$1,050 or (b) \$350 + the dependent's earned income, not to exceed \$6,350

Phase-Out of Itemized Deductions (Pease Limitations)

Pre-TCJA in 2017 - The total of all itemized deductions is reduced by the less of:

- 3% of AGI above the applicable threshold (below is pre-TCJA in 2017) or
- 80% of the amount of itemized deductions otherwise allowable for the tax year

Filing Status	Pease Threshold Begins:
Individual	\$261,500
Married Filing Jointly & Surviving Spouses	\$313,800
Head of Household	\$287,650
Married Filing Separately	\$156,900

TAX PLANNING WITH THE END IN MIND

TCJA Major Expiring Provisions as of 12/31/25 (This Means Starting 2026)

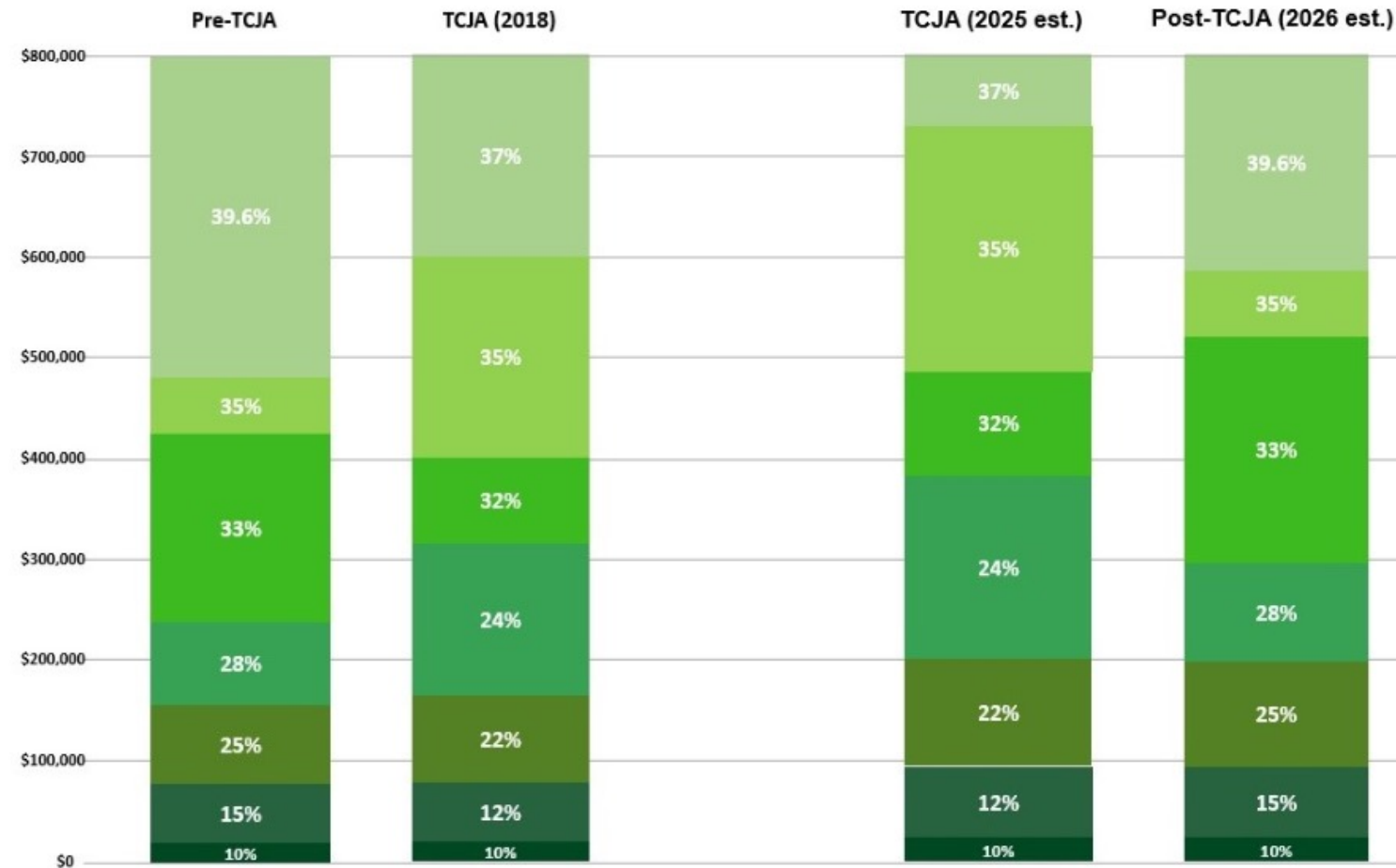
Tax rates

Reverts to higher tax rates 10% same

- 12% back to 15%
- 22% back to 25%
- 24% back to 28%
- 32% back to 33%
- 35% same
- 37% back to 39.6%

- Taxpayers get into the new and higher brackets quicker

Married Filing Jointly Tax Brackets Throughout the Years



TCJA Major Expiring Provisions as of 12/31/25 (This Means Starting 2026)

Long-term capital gains revert to being tied to income tax brackets

The TCJA also ‘detached’ the long-term capital gains (LTCG) tax bracket from the income tax bracket. With the upcoming sunset, the long-term capital gains tax brackets will once again be tied to the newly compressed income tax brackets like so:

- 0% LTCG tax rate for those in 10% and 15% ordinary income tax bracket
- 15% LTCG tax rate for those in 25%, 28%, 33%, and 35% ordinary income tax bracket
- 20% LTCG tax rate for those in 39.6% ordinary income tax bracket

Alternative Minimum Tax (AMT) Exemptions

Pre-TCJA in 2017 – AMT exemptions were significantly less

- Even after 12/31/25 the AMT exemption is permanently adjusted for inflation
- Graphic is pre-TCJA in 2017

Alternative Minimum Tax (AMT) Exemptions

Filing Status	Exemption Amount:
Individual	\$54,300
Married Filing Jointly & Surviving Spouses	\$84,500
Married Filing Separately	\$42,250
Trusts & Estates	\$24,100

TCJA Major Expiring Provisions as of 12/31/25 (This Means Starting 2026)

Estate & Life-Time Gift Tax Exemption

- The TCJA doubled the per person Federal estate and gift tax exemption is set to revert, when adjusted for inflation, to somewhere around \$6.5 million per person beginning in 2026.
- The IRS has also issued regulations stating that lifetime gifts more than the future lower exemption amount will not be subject to 'claw back'. In other words, this temporary increase is a one-time 'use-it-or-lose-it' bonus unless further Congressional action is taken to extend it.
- Planning Opportunity: Those with sizable estates (greater than \$40 million) should consider making substantial gifts before the change. Those with smaller estates (i.e., \$10m - \$20m) should explore estate planning techniques such as annual gifting or techniques that remove assets from your estate while still providing access like Spousal Lifetime Access Trusts (i.e., SLATs).

Employer provided meals

- The deduction will be zero, as the full cost of an employer providing meals to its employees will be completely disallowed.

TCJA Major Expiring Provisions as of 12/31/25 (This Means Starting 2026 - GOOD)

Miscellaneous Itemized Deductions Return (Allowed Again)

For those that itemize their deductions on the individual tax return, miscellaneous deductions are allowed for amounts that exceed 2% of AGI. Pre-TCJA, these are some that were included

- Tax preparation fees related to individual income tax returns, and any fees related to IRS audits
- Investment related: fees, management fees, related legal and tax advice, trustee fees, IRA fees, safe deposit box cost
- Hobby expenses, to the extent of hobby income
- Work-related: travel, transportation, union dues, professional dues, education, legal fees, subscriptions, supplies, work clothes, uniforms (not suitable for everyday use) and meal expenses (typically for employees)
- Depreciation on computers, equipment, tools, etc. required by employers to use on the job
- Home office expense for part of home used regularly and exclusively for work
- Expenses looking for a new job in your present occupation
- Work-related use of personal vehicle:
 - Standard mileage rate for qualified job-related miles (excluding commuting) or
 - Actual expenses of vehicle for percentage of job-related use

TCJA Major Expiring Provisions as of 12/31/25 (This Means Starting 2026 - GOOD)

No limitation of State and Local Taxes as an Itemized Deduction

- The \$10,000 SALT limitation ends

Home equity loans

- Interest again allowed as an itemized deduction

Home loans

- Interest allowed on personal mortgages up to \$1,000,000
 - Interest still limited to \$750,000 on personal mortgages that were obtained between December 15, 2017 and December 31, 2025
 - Would only apply to loans obtained after December 31, 2025
- Interest NOT limited to ONLY to the extent of the mortgage for the purchase, improvement or expansion of the home
 - Would only apply to loans obtained after December 31, 2025

Casualty and theft losses

- Revert to pre-TCJA rules, with the broader definition and less limitation

TCJA Major Expiring Provisions as of 12/31/26

Deferring capital gains invested into Qualified Opportunity Fund (QOF)

- All gains deferred by investment into a QOF are recognized in 2026, period.
- Amounts invested after 12/31/26 into a QOF no longer receive tax benefits
 - No 10% increase in basis if investment held 5 years.
 - No additional 5% increase in basis if investment held 7 years.
 - No permanent exclusion of gains on investment held over 10 years.

FILING SCHEDULE C



**SELF-EMPLOYED
SOLE PROPRIETOR
GIG WORKER
SINGLE MEMBER LLC
FORM 1099 WORKER**

THE SOLE-PROPRIETOR BUSINESS OWNERS: SCHEDULE C OR F: TAX DEDUCTIONS NOT TO MISS

AUTO RELATED

DEDUCT MILEAGE
FOR BUSINESS USE
OF VEHICLE
PERSONAL

(65.5 IN 2023)

HOME OFFICE
RULE!

FOR BUSINESS
OWNED VEHICLES,
ENSURE TO
DEDUCT ALL
RELATED
EXPENSES,
INCLUDING GAS,
INSURANCE, WASH,
REPAIRS, TIRES,
TAGS

ASSETS USED

ASSETS OR ITEMS
BOUGHT BEFORE
THE BUSINESS
STARTED, CAN BE
DEDUCTED AS A
BUSINESS EXPENSE
WHEN USED FOR
BUSINESS, SUCH AS
VEHICLES,
COMPUTERS,
PRINTERS,
DECORATIONS,
FURNITURE, CELL
PHONES.

FAMILY WAGES

PAY DEPENDENTS IN
LOWER TAX
BRACKET TO AT
LEAST USE UP THE
STANDARD
DEDUCTION
(\$13,850 IN 2023)

CONTRIBUTE \$6,500
TO DEPENDENTS
ROTH IRA

HUGE BENEFIT:
WAGES PAID TO
FAMILY UNDER 18
ARE NOT SUBJECT
TO SOCIAL
SECURITY &
MEDICARE TAXES
(FICA)

HOME OFFICE

NOTE: THE
SIMPLIFIED METHOD
IS \$5 PER SQUARE
FOOT USED FOR
BUSINESS HOME
OFFICE, FOR MAX
300 SQUARE FEET OR
MAX \$1,500
DEDUCTION.

RETIREMENT

SET UP A SEP AS A
SELF-EMPLOYED
AND CONTRIBUTE
UP TO 25% OF YOUR
SELF-EMPLOYED
EARNINGS AT THE
INDIVIDUAL LEVEL

YOU CAN ALSO
CONTRIBUTE TO AN
IRA OR ROTH IRA IN
ADDITION TO THE
SEP

COMPENSATION (PAYROLL) TO SELF-EMPLOYED FILING SCHEDULE C INCLUDES: SINGLE MEMBER LLC, SOLE PROPRIETOR, GIG WORKER, 1099 WORKER

- **EASY!** You just withdraw what money you need, when you need it.
- The IRS does not see the filer of Schedule C to be separate from their business, even if they are legally structured as an LLC (Single Member LLC). Therefore, you cannot be an employee.
- IRS states, “You cannot deduct your own salary or any personal withdrawals you make from your business. As a sole proprietor, you are not an employee of the business.”
- IRS PUBLICATION 334, SEE PAGE 33

COMPENSATION (PAYROLL) TO SELF-EMPLOYED CANNOT BE PAYROLL

IRS PUBLICATION 334, SEE PAGE 33



Department
of the
Treasury
**Internal
Revenue
Service**

Tax Guide for Small Business

(For Individuals Who Use
Schedule C)

Publication 334

Catalog Number 11063P

For use in preparing

2022 Returns

Employees' Pay

Chapter 8 **Business Expenses** Page 33

You cannot deduct your own salary or any personal withdrawals you make from your business. As a sole proprietor, you are not an employee of the business.

SELF-EMPLOYED FILING SCHEDULE C

PAY SELF-EMPLOYMENT TAX ON NET EARNINGS

LINE 31 OF SCHEDULE C

- **Individual taxable earnings** of up to **\$160,200** annually will be subject to Social Security tax in **2023** (\$168,600 2024).
- This amount, an increase from \$147,000 in 2022, is the wage base limit that applies to earnings subject to the old age, survivors, and disability insurance (OASDI) tax. The employee and the employer each will pay in tax at the OASDI tax rate of 6.2%.
- The **Medicare** hospital insurance tax of 1.45% each for employees and employers has **no wage limit**; it is unchanged for 2023.
- Individuals with **earned income of more than \$200,000** (\$250,000 for married couples filing jointly and \$125,000 for married taxpayers filing separately) pay an additional hospital insurance tax under Sec. 3103(b)(2) of **0.9% of wages** with respect to employment (also unchanged).

WHAT'S THE CATCH TO THE S-CORP VS. SOLE PROPRIETOR THE CATCH: MUST PAY YOURSELF WAGES

So, what do you do? Elect to be Taxed as an S Corporation.

Why be an S Corporation? Save 15.3% in tax! With the S corp you save 15.3% in self-employment taxes as compared to a sole proprietor filing schedule C, or an active partner in a partnership.

How to be an S Corp? File Form 2553 with IRS

How do you file taxes with IRS? Form 1120S.

Why not be LLC? An LLC is only a legal designation, not a tax classification. So, an LLC can be taxed as an S Corp.

SELF-EMPLOYED SHOULD CONSIDER CONVERTING TO S-CORPORATION TO CONTROL WHAT INCOME IS SUBJECT TO THESE TAXES

When filing Schedule C, whatever the net income is from the business (line 31 of Schedule C) is subject to self-employment taxes (15.3%) which is in addition to regular income taxes. You have NO control of the amount subject to this tax.

When filing as an S Corporation, the net income from the business (line 21 of Form 1120-s) is NOT subject to self-employment taxes. ? The S Corporation has no corporate level tax as whatever the net income is of the S Corporation is taxed by the owner, on the owner's tax return, only subject to regular income taxes (not subject to self-employment taxes).

Difference?

- Self-employment taxes assessed on net Schedule C income
- Self-employment taxes are NOT assessed on the net income of an S Corporation



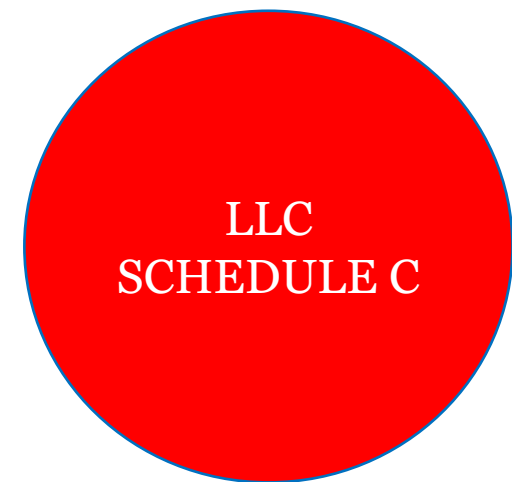
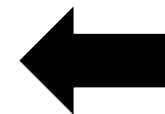
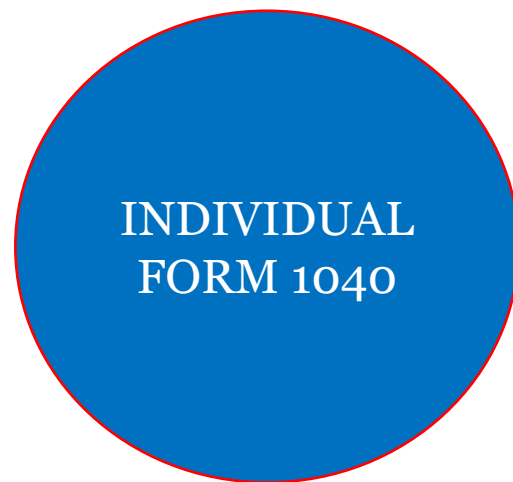
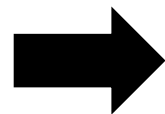
Schedule C

vs.

S-Corp

By the

Numbers



NO SELF-EMPLOYMENT TAX ON NET INCOME
BUT PAYROLL TAX ON WAGES

SELF-EMPLOYMENT TAX EXTRA 15.3%
BUT NO PAYROLL TAX ON OWNER PAY

2022: Single Filer, No Other Except Below, No Dependents

	LLC as <u>Schedule C</u>	LLC as <u>S-Corporation</u>
Business Income Statement		
Gross Income	180,000	180,000
Advertising, Sponsorships	(5,000)	(5,000)
Bank Charges	(60)	(60)
Credit Card Fees	(1,800)	(1,800)
Dues & Subscriptions	(850)	(850)
Insurance:	(6,500)	(6,500)
Interest Expense	(3,600)	(3,600)
Rent	(24,000)	(24,000)
Other Expenses	(38,190)	(38,190)
W-2 Payroll to Owner	<i>Not Allowed</i>	(50,000)
Payroll Employer Taxes	<i>None</i>	(3,825)
Net Income from Business	100,000	46,175
Individual Tax Return		
W-2 Wages	None	50,000
Net Income from Business	100,000	46,175
1/2 Self-Employment Tax	(7,065)	None
Standard Deduction (Single)	(12,950)	(12,950)
Qualified Business Income Deduction	(15,997) (a)	(9,235)
Taxable Income	63,988	73,990
Regular Income Tax	9,692	11,892
Self-Employment Tax	14,129	None
Payroll Taxes - Employee Withheld (7.65%)	None	3,825
Payroll Taxes - Employer Match (7.65%)	None	3,825
Total Tax	23,821	19,542
	Schedule C	S-Corp
Savings: Difference in Total Tax		4,279
(a) QBI is Reduced by 1/2 Self-Employment Tax & Cannot Exceed 20% of Taxable Income Adjusted for QBID		



IRS PER DIEM STANDARD RATES FOR BUSINESS TRAVEL

The special per diem rates by which taxpayers may substantiate ordinary and necessary business expenses of travel away from home will be slightly higher starting October 1, 2023 through September 30, 2024, the IRS provided Notice 2023-68. The annual update includes the per diem rate under the high-low substantiation method for travel within the continental United States (CONUS), which for

Annual high-low rates

- \$5 per day for travel incidentals (no change)
- \$214 per day for non-high-cost localities
 - \$64 is allocated to meals (no change)
- \$309 per day for high-cost localities
 - \$74 is allocated to meals (no change)

Annual high-low rates

- \$261 or more per day. See IRS Notice 2023-68 for the applicable localities, and effective dates.
 - NOTE: The list of high-cost localities have changed in the recent IRS Notice. Example: Los Angeles, CA and Portland, OR have been removed from the list of high-cost localities.

IRS GUIDANCE ON BUSINESS MEALS DEDUCTION

100% Deduction in 2022

Back to 50% starting in 2023

- In Notice 2021-63, the Internal Revenue Service and the Treasury Department provide details on a provision of the COVID-19 relief package that Congress passed last December, which temporarily allows a **100 percent deduction for food or beverages from restaurants** through the end of 2022. Normally, there's a 50 percent limit on the amount that businesses can deduct for food and beverages.
- The provision was included in the Taxpayer Certainty and Disaster Relief Act of 2020, which was part of the year-end Consolidated Appropriations Act of 2020. The goal was to help restaurants that had been hit hard by the pandemic while also giving businesses an expanded tax break for business meals.
- Under the rules enacted last December, starting Jan. 1, 2021, through Dec. 31, 2022, businesses can claim 100 percent of their food or beverage expenses paid to restaurants, as long as the business owner (or an employee of the business) is present when food or beverages are provided, and the expense isn't considered to be lavish or extravagant under the circumstances.

SELF-EMPLOYED FILING SCHEDULE C

PAY SELF-EMPLOYMENT TAX ON NET EARNINGS

LINE 31 OF SCHEDULE C

- **Individual taxable earnings** annually will be subject to Social Security tax up to:
 - \$147,000 in 2022
 - \$160,200 in 2023
 - \$168,600 in 2024
- This amount, an increase from \$147,000 in 2022, is the wage base limit that applies to earnings subject to the old age, survivors, and disability insurance (OASDI) tax. The employee and the employer each will pay in tax at the OASDI tax rate of 6.2%.
- The **Medicare** hospital insurance tax of 1.45% each for employees and employers has **no wage limit**; it is unchanged for 2023 and 2024.
- Individuals with **earned income of more than** **\$200,000** (**\$250,000** for married couples filing jointly and \$125,000 for married taxpayers filing separately) pay an additional hospital insurance tax under Sec. 3103(b)(2) of **0.9% of wages** with respect to employment (also unchanged).

IRS MILEAGE RATES: 2023

Standard business mileage rate

65.5 cents (per mile) 2023

Standard charitable mileage rate

14 cents (per mile) 2023

Standard medical mileage rate

22 cents (per mile) 2023

DEPRECIATION: BUSINESS VEHICLE PURCHASE

SUV OR TRUCK

OVER 6,000 LB GVWR

**GVWR – GROSS VEHICLE WEIGHT RATING*

IRC Sec. 168

- 80% depreciation available in 2023
 - Continues to go down 20% each year after, until 0%

IRC Sec. 179

- \$28,900 allowed in 2023
- \$30,500 allowed in 2024 (added since recording)

VEHICLE 6,000 LB

OR LESS GVWR

**GVWR – GROSS VEHICLE WEIGHT RATING*

Depreciation deduction cannot exceed the purchase amount

- In 2023 is \$20,200
 - Without bonus depreciation, \$12,200

For a vehicle purchased in 2023,

- 2nd year of depreciation in 2024 will be up to \$19,500
- 3rd year of depreciation in 2025 will be up to \$11,700
- 4th year and after of depreciation in 2026 will be up to \$6,960

SECTION 179 EXPENSING

Under the tax cuts and jobs act of 2017, the Section 179 expense deduction increases to a maximum deduction of

- \$1,160,000 of the first \$2,890,000 in 2023
- \$1,220,000 of the first \$3,050,000 in 2024 (added since recording)
 - \$28,900 maximum for SUV/trucks over over 6,000 lbs gvwr (IRS Rev Proc 2022-44)
 - \$30,500 maximum for SUV/trucks over over 6,000 lbs gvwr (IRS Rev Proc 2023-34) (added since recording)

Of qualifying equipment placed in service during the current tax year.

The deduction was indexed to inflation for tax years after 2018 and enhanced to continue to include (from the path act) improvements to nonresidential qualified real property such as roofs, fire protection, alarm systems and security systems, and heating, ventilation, and air-conditioning systems.

BONUS DEPRECIATION REMINDERS

TCJA provides for a gradual decrease in the bonus depreciation percentage, allowing.

This on both new and used qualifying property.

- 100% deduction for property placed in service before 2023
- 80% deduction for property placed in service in 2023
- A 60% deduction for property placed in service in 2024
- A 40% deduction for property placed in service in 2025
- And a 20% deduction for property placed in service in 2026
- And 0% in 2027, and after

VEHICLE EXPENSES: ACTUAL EXPENSES METHOD

If the actual auto expenses are used, this includes:

- Depreciation of the purchase price, regardless of the amount of down-payment, trade-in or financed
- Interest expense on the auto loan
- Related auto
 - Insurance
 - Repairs
 - Maintenance (oil changes)
 - Tires
 - Improvements
 - Gas

STANDARD MILEAGE RATES vs. ACTUAL AUTO EXPENSES

For vehicles used for business with a sole proprietor (filing Schedule C or F; maybe E)

- Year by year (per vehicle)
 - You must use the mileage method in the first year to later use either the mileage or actual expenses (per vehicle)
 - If you use actual expenses in the first year, you cannot use the mileage method in following years (per vehicle)
- Each vehicle can be treated differently
- Both methods are based on the number of miles used for business
 - Standard mileage rate = Number of business miles multiplied by the allowable rate
 - Actual expenses allowed as a business deduction = the percentage business use of the vehicle determined by the number of business miles divided by the total number of miles, in each year
- You can switch methods from year to year if you took the mileage method in the first year, however, with depreciation, depending on the year of use, determines the year of depreciation allowed. If you take the mileage method in the first year, and then actual expenses in the future, you CANNOT take advantage of bonus depreciation or Section 179 depreciation, as those are reserved for the first year an asset is placed in service for business purposes.

**SCHEDULE C
(Form 1040)**

Department of the Treasury
Internal Revenue Service

Profit or Loss From Business
(Sole Proprietorship)

OMB No. 1545-0074

Go to www.irs.gov/ScheduleC for instructions and the latest information.
Attach to Form 1040, 1040-SR, 1040-NR, or 1041; partnerships must generally file Form 1065.

Attachment
Sequence No. **09**

Part IV Information on Your Vehicle. Complete this part **only** if you are claiming car or truck expenses on line 9 and are not required to file Form 4562 for this business. See the instructions for line 13 to find out if you must file Form 4562.

43 When did you place your vehicle in service for business purposes? (month/day/year) / /

44 Of the total number of miles you drove your vehicle during 2022, enter the number of miles you used your vehicle for:

a Business **b** Commuting (see instructions) **c** Other

45 Was your vehicle available for personal use during off-duty hours? **Yes** **No**

46 Do you (or your spouse) have another vehicle available for personal use? **Yes** **No**

47a Do you have evidence to support your deduction? **Yes** **No**

b If "Yes," is the evidence written? **Yes** **No**

IRS ISSUES PROCEDURES FOR EMPLOYEE STATUS DETERMINATIONS

The IRS issued procedural guidance regarding determinations by the Service that a worker is properly classified as an employee of an employer rather than an independent contractor.

The distinction carries significant employment law and tax ramifications. The latter include that a person for whom services are performed must withhold from employees' wages and remit employment taxes (generally, Social Security or Railroad Retirement, Medicare, and unemployment taxes) and income taxes but has no such obligation with respect to individuals who are not considered employees, i.e., independent contractors. Employers must also pay a corresponding contribution on behalf of employees for Social Security and Medicare taxes.

Rev. Proc. 2022-13, covers when and how the IRS will issue a notice of its employment status determination under Sec. 7436 and how the person to whom it is issued may petition the Tax Court to review the determination. It modifies and supersedes Notice 2002-5, which provided that the issuance of a Sec. 7346 notice was a jurisdictional prerequisite for seeking Tax Court review under Sec. 7436. It further provided that the IRS would issue a Sec. 7436 notice only after the IRS determines that (1) one or more individual's performing services for the taxpayer are employees, and (2) the taxpayer is not entitled to Section 530 relief.

'SWAG BAGS' ARE BACK: INFLUENCERS AND NONCASH COMPENSATION (FORM 1099-NEC)

The Internal Revenue Service is conducting an outreach campaign to the entertainment industry regarding the taxability of gift bags and promotional items. This effort is focused on distribution of celebrity gift bags and goodie bags in conjunction with appearances by the stars at award shows and other gatherings. Here are some commonly asked questions:

Q: What are the federal income tax consequences to a person who accepts a gift bag in recognition of involvement in an awards show?

A: In general, the person has received taxable income equal to the fair market value of the bag and its contents and must report that amount on his or her federal income tax return.

Q: What about non-transferable gift certificates or vouchers for trips or personal services included in gift bags?

A: If the person accepts and redeems the non-transferable certificates or vouchers in the gift bag, the recipient must include the fair market value of the trip or personal service on their income tax return.

Q: If these are gifts, why do they have to be treated as income?

A: These gift bags are not gifts for federal income tax purposes because the organizations and merchants who participate in giving the gifts bags do not do so solely out of affection, respect, or similar impulses for the recipients of the gift bags.

'SWAG BAGS' ARE BACK: INFLUENCERS AND NONCASH COMPENSATION (FORM 1099-NEC)

Q: Can the recipient take a charitable contribution deduction if he or she contributes the gift bag to charity?

A: If the gift bag is donated to a qualified charitable organization, the recipient may be able to take a tax deduction for his or her charitable contribution, subject to applicable limitations and requirements. But this does not change the taxability of the value of the items. The fair market value must still be reported on the celebrity recipient's federal income tax return.

Q: Are there third-party reporting requirements for the distribution of gift bags?

A: Yes. Organizations or vendors involved with gift bag distribution should review Form 1099-MISC, Miscellaneous Income, instructions to determine proper reporting responsibilities.

Q: What are the federal income tax consequences to a person who makes selections at a free shopping room in recognition of involvement in an awards show?

A: In general, the person has received taxable income equal to the fair market value of the selections that he or she made at the free shopping room and must report that amount on his or her federal income tax return.

Q: Does the IRS have an enforcement effort underway in this area?

A: There is no specific enforcement initiative underway in this area at this time. This is currently an outreach and education effort. However, these issues can arise during individual examinations of tax returns.

FORM 1099-K

~~Form 1099-K is a report of payments you got during the year from:~~

- ~~•Credit, debit or stored value cards such as gift cards (payment cards)~~
- ~~•Payment apps or online marketplaces (third-party payment networks)~~

~~Third-party payment networks are required to file Form 1099-K with the IRS and provide a copy to you when the gross payment amount is more than \$600. Form 1099-K should not report gifts or reimbursement of personal expenses you received from friends and family. Use Form 1099-K with other tax records to help figure and report your taxable income when you file your taxes.~~

~~\$600 Reporting Threshold~~

~~Payment apps and online marketplaces are required to file a Form 1099-K if the gross payments to you for goods and services are over \$600. The \$600 reporting threshold started with tax year 2023. There are no changes to what counts as income or how tax is calculated. The reporting threshold for third-party settlement organizations, including payment apps and online marketplaces, was lowered to \$600 by the American Rescue Plan Act of 2021. Find more information on the change in reporting requirements.~~

**ADDED SINCE SEMINAR WAS RECORDED
(This Slide is Presented in Video)
However, Skip to Next Slide to
SEE UPDATE SINCE VIDEO RECORDED**

FORM 1099-K: NEW THRESHOLDS SINCE VIDEO RECORDED

IRS UPDATED TO INFO BELOW SINCE SEMINAR WAS RECORDED

Form 1099-K is a report of payments you got during the year from:

- Credit, debit or stored value cards such as gift cards (payment cards)
- Payment apps or online marketplaces (third-party payment networks)

Third-party payment networks are required to file Form 1099-K with the IRS and provide a copy to you when the gross payment amount is more than \$20,000 for tax year 2023, reported in January 2024. (\$5,000 for tax year 2024, reported in January 2025). Form 1099-K should not report gifts or reimbursement of personal expenses you received from friends and family. Use Form 1099-K with other tax records to help figure and report your taxable income when you file your taxes.

~~\$600 Reporting Threshold~~ IRS Announced on 11/21/23 \$20,000 for 2023 & \$5,000 2024 Thresholds

Payment apps and online marketplaces are required to file a Form 1099-K if the gross payments to you for goods and services are over \$20,000 for tax year 2023, reported in January 2024. (\$5,000 for tax year 2024, reported in January 2025). There are no changes to what counts as income or how tax is calculated. The reporting threshold for third party settlement organizations, including payment apps and online marketplaces, was lowered to \$600 by the American Rescue Plan Act of 2021 and had been delayed several times. Find more information on the change in reporting requirements.

Short-Term Rentals

Air BnB



Subject to Self-Employment Taxes?

SHORT-TERM RENTALS: COMMON QUESTIONS

With the rise in use of and investment into Air BnB's, these activities are becoming of more interest by the IRS as it relates to ensuring proper tax treatment.

Common questions that arise with Air BnB (**with extremely general answers**):

- Can someone deduct their losses? **Sometimes.**
- Is it a real estate activity? **Sometimes.**
- Is it always passive? **No.**
- Can it be a non-passive activity? **Yes.**
- What depreciation rules do you follow? Residential or commercial? **Generally, residential if the property/activity is classified a “residential real estate” activity, and possibly commercial based on its use and if classified as a “trade or business”**
- Can you take advantage of Section 179 depreciation? **Possible, if treated as a trade or business.**
- Can you take advantage of Qualified Improvement Property (QIP) bonus depreciation? **No, if treated as residential rental. Possibly, if treated as a trade or business in addition to other requirements.**

SHORT-TERM RENTALS: LEAST COMMON QUESTION, BUT MIGHT BE ONE OF THE MOST IMPORTANT

The NOT so common question NOT considered with Air BnB:

- Is Air BnB net income subject to self-employment taxes?

This what will be covered in this section

NOTE: How the Air BnB activity is treated for self-employment taxes, helps answer the common questions in the previous slide.

The IRS has shown its hand that it intends to watch short-term rentals carefully based in part on a memo issued by the IRS' Office of Chief Counsel; Memorandum 202151005.

In the memo, the IRS states their position that rents received with respect to a fully furnished vacation property via an online rental marketplace constituted self-employment income as the owner provided linens, kitchen utensils, and all other items to make the vacation property fully habitable; daily housekeeping services, including delivery of individual use toiletries and other sundries; access to dedicated Wi-Fi service for the rental property; access to the beach and other recreational equipment for use during the stay; etc.

CHIEF COUNSEL INTERNAL REVENUE SERVICE MEMORANDUM
NUMBER: 202151005

Rentals from real estate generally are not considered “net earnings from self-employment” and thus, are not subject to self-employment taxes.

But, if services are provided to the occupants of the rented property, the rental activity will not be a rental from real estate. This is where the analysis begins.

This section focuses on the Office of Chief Counsel Internal Revenue Service Memorandum, Number: 202151005.

The following is directly from this memo.

CHIEF COUNSEL INTERNAL REVENUE SERVICE MEMORANDUM NUMBER: 202151005

Office of Chief Counsel Internal Revenue Service Memorandum, Number: 202151005.

Application of I.R.C. §§ 469(c) and 1402(a)(1) to Short-Term Rentals from Real Estate

This Chief Counsel Advice (CCA) responds to your request for assistance. This advice may not be used or cited as precedent.

ISSUES

- 1) Whether the characterization of an activity as a “rental activity” under § 469(c)(2) determines whether the activity is “rentals from real estate” excluded from net earnings from self-employment (“NESE”) under § 1402(a)(1) for Self-Employment Contributions Act (“SECA”) tax purposes.
- 2) In situations not involving a real estate dealer, when are rentals of living quarters considered “rentals from real estate” excluded from NESE under § 1402(a)(1).

CHIEF COUNSEL INTERNAL REVENUE SERVICE MEMORANDUM NUMBER: 202151005

Office of Chief Counsel Internal Revenue Service Memorandum, Number: 202151005.

CONCLUSIONS

- 1) No, whether an activity is a “rental activity” under § 469(c)(2) is not determinative of whether the exclusion in § 1402(a)(1) applies.
- 2) In situations not involving a real estate dealer, net rental income from the rental of living quarters is considered “rentals from real estate” excluded from NESE when no services are rendered for the occupants. However, if services are rendered for the occupants and the services rendered (1) are not clearly required to maintain the space in a condition for occupancy, and (2) are of such a substantial nature that the compensation for these services can be said to constitute a material portion of the rent, then the net rental income received is not excluded under § 1402(a)(1) and is included in NESE.

THE FOLLOWING SLIDES NOT PART OF THE MEMO

CONCLUSIONS IN PLAIN ENGLISH

- 1) The tax code defining what income is subject to (and not subject to) self-employment taxes does NOT determine if an activity is a “rental activity.”
- 2) If someone is a “real estate dealer,” their income is typically subject to self-employment taxes. So, this memo covers the “NON-real estate dealer” which means this applies to the average Air BnB investor/owner.

If nothing is provided for the direct benefit of the occupant (the tenant or the one renting the place), it is rental income from a real estate activity.

If no services are rendered to the occupants, it is rental income from a real estate activity.

CONCLUSIONS IN PLAIN ENGLISH (Continuation of #2)

- 2) If services are rendered for the occupants and the services rendered are beyond what is required to maintain the property and are of substantial nature, the rental income is subject to self-employment taxes.

When reviewing the details of the memo leading to the conclusions, the IRS may consider minor services as substantial and beyond required maintenance.

The memo used two (2) examples or fact patterns to provide how the answers were concluded.

CHIEF COUNSEL INTERNAL REVENUE SERVICE MEMORANDUM

TWO EXAMPLES

In the **first example**, the individual taxpayer provided various services and accommodations with respect to a vacation property rented via an online rental marketplace. The taxpayer provided the following services:

- Linens, kitchen utensils, all items making the property fully habitable,
- daily maid services,
- delivery of individual-use toiletries and other sundries (not described),
- Wi-Fi service,
- beach access,
- recreational equipment, and
- prepaid ride-share vouchers between the property and the nearest business district.

In the **second example**, the individual landlord rented a fully furnished room and bathroom without access to most common household areas such as the kitchen or laundry room. Cleaning was only provided between each occupant's stay, and the example included no discussion of any other items furnished to the occupants.

CHIEF COUNSEL INTERNAL REVENUE SERVICE MEMORANDUM

TWO EXAMPLES

In both examples, the individual taxpayer was not a real estate dealer.

Both examples also stated that the rental activity occurred in the course of a trade or business. Because average customer use was less than eight days, both activities were not considered a rental activity for IRC section 469 purposes.

The examples also included a statement that taxpayers materially participated in the activity for purposes of the passive activity rules, but they did not describe how the required tests were met.

The CCA concluded that the determination of whether the activity constitutes a rental activity under the passive activity rules is not determinative for self-employment tax purposes.

CHIEF COUNSEL INTERNAL REVENUE SERVICE MEMORANDUM

TWO EXAMPLES

However, IRC section 1402(a)(1) excludes net rental income from NESE unless the amounts are received in the course of a trade or business as a real estate dealer.

In both fact patterns, the taxpayer provided short-term residential rentals and was not a real estate dealer. Treasury regulations provide that rentals from living quarters are not considered NESE and are considered rentals from real estate when no services are rendered for the occupants.

With respect to the services rendered to occupants, the two fact patterns present major differences. In the first situation, net rental income was not excluded from NESE due to the substantial services provided; in the second, the income was excluded from NESE as residential rental income. These were fairly predictable outcomes.

WHAT ABOUT YOUR OR YOUR CLIENT'S CIRCUMSTANCES?

What about situations not as vast as the first example, but not as scarce as the second example?

In describing services, the CCA states that “services are considered rendered to the occupant if they are primarily for their convenience and are other than those usually or customarily rendered in connection with rental of rooms or other space for occupancy only.” Therefore, one could conclude that services and items provided by a hotel would be a factor in determining if the activity is subject to self-employment taxes.

THE FIRST STEP TO ANSWER THE QUESTIONS RELATED TO SHORT-TERM RENTALS (AIR BNB)

Possibly the first question to resolve:

Is the activity subject to self-employment taxes?

This determines where it will be reported on the tax return.

Rental income or ordinary income (subject to self-employment tax).

- Schedule E or Schedule C
- Form 8825 or Page 1 of the Flow-Thru Entity's tax return
- Subject to self-employment taxes for Partnerships

That would be a lead factor determining if the activity is to be treated as

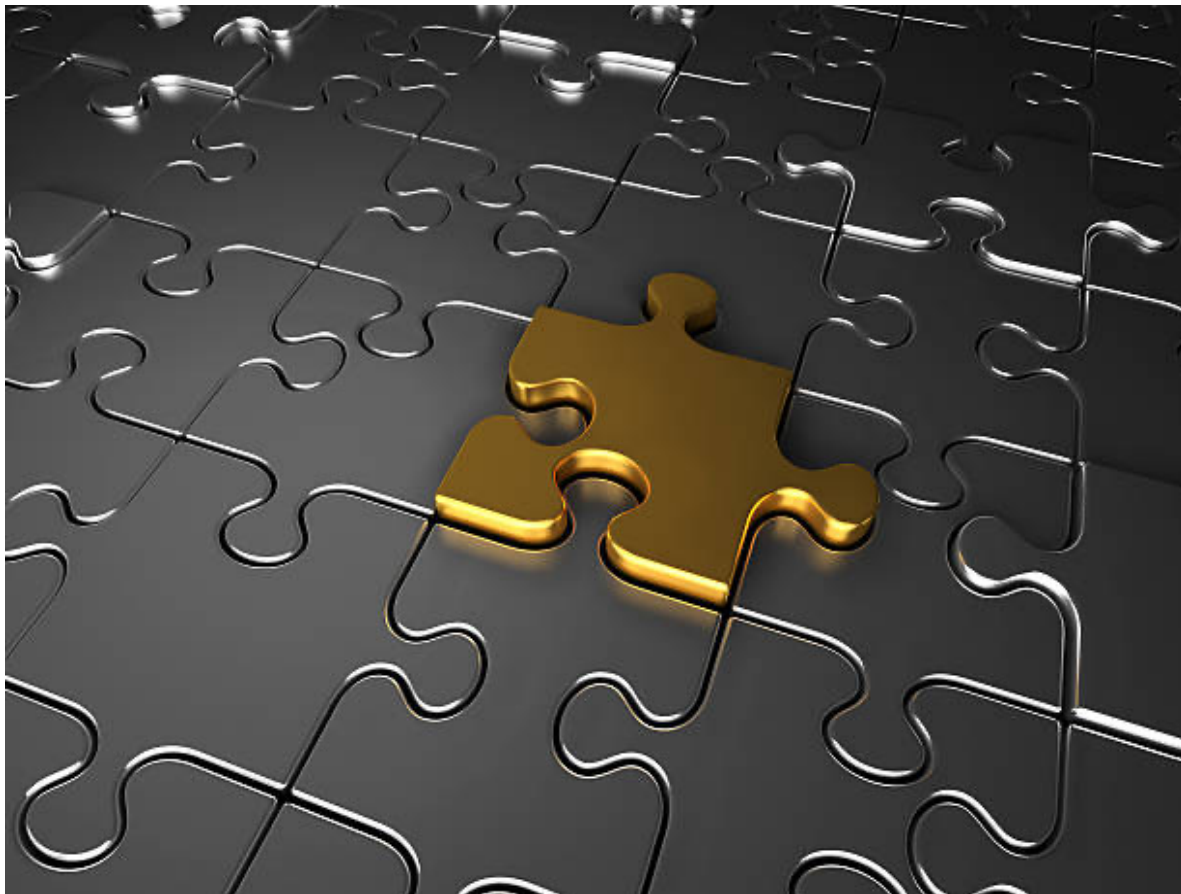
- A trade or business
- Commercial or residential depreciation rules

This further leads to determine if the activity is treated as

- Passive or non-passive
 - How losses are allowed

PARTNERSHIPS





PARTNERSHIP

Schedule K-1

PARTNERSHIP SCHEDULE K-1 HOT SPOTS

Do NOT Use EIN of Disregarded Entity

General or Limited Partner

If Disregarded Entity Enter that EIN

Disclose Share of Liabilities are from Lower-Tier Partnerships

Basis Must be on "Tax Basis"

Schedule K-1 (Form 1065)
Department of the Treasury
Internal Revenue Service

For calendar year: beginning / / ending / /

Partner's Share of Income, Deductions, Credits, etc.
See separate instructions.

Part I Information About the Partnership

A Partnership's employer identification number

B Partnership's name, address, city, state, and ZIP code

C IRS center where partnership filed return:

D Check if this is a publicly traded partnership (PTP)

Part II Information About the Partner

E Partner's SSN or TIN (Do not use TIN of a disregarded entity. See instructions.)

F Name, address, city, state, and ZIP code for partner entered in E. See instructions.

G General partner or LLC member-manager Limited partner or other LLC member

H1 Domestic partner Foreign partner

H2 If the partner is a disregarded entity (DE), enter the partner's: TIN _____ Name _____

I1 What type of entity is this partner?

I2 If this partner is a retirement plan (IRA/SEP/Keogh/etc.), check here

J Partner's share of profit, loss, and capital (see instructions):

	Beginning	Ending
Profit	_____ %	_____ %
Loss	_____ %	_____ %
Capital	_____ %	_____ %

Check if decrease is due to sale or exchange of partnership interest

K Partner's share of liabilities:

	Beginning	Ending
Nonrecourse	\$ _____	\$ _____
Qualified nonrecourse financing	\$ _____	\$ _____
Recourse	\$ _____	\$ _____

Check this box if item K includes liability amounts from lower-tier partnerships

L **Partner's Capital Account Analysis**

Beginning capital account	\$ _____
Capital contributed during the year	\$ _____
Current year net income (loss)	\$ _____
Other increase (decrease) (attach explanation)	\$ _____
Withdrawals and distributions	\$ _____
Ending capital account	\$ _____

M Did the partner contribute property with a built-in gain (loss)?
 Yes No If "Yes," attach statement. See instructions.

N **Partner's Share of Net Unrecognized Section 704(c) Gain or (Loss)**

Beginning	\$ _____
Ending	\$ _____

Part III Partner's Share of Current Year Income, Deductions, Credits, and Other Items

1 Ordinary business income (loss)	14 Self-employment earnings (loss)
2 Net rental real estate income (loss)	
3 Other net rental income (loss)	15 Credits
4a Guaranteed payments for services	
4b Guaranteed payments for capital	16 Schedule K-3 is attached if checked <input type="checkbox"/>
4c Total guaranteed payments	17 Alternative minimum tax (AMT) items
5 Interest income	
6a Ordinary dividends	
6b Qualified dividends	18 Tax-exempt income and nondeductible expenses
6c Dividend equivalents	
7 Royalties	
8 Net short-term capital gain (loss)	19 Distributions
9a Net long-term capital gain (loss)	
9b Collectibles (28%) gain (loss)	
9c Unrecaptured section 1250 gain	20 Other information
10 Net section 1231 gain (loss)	
11 Other income (loss)	
12 Section 179 deduction	21 Foreign taxes paid or accrued
13 Other deductions	
22 <input type="checkbox"/> More than one activity for at-risk purposes*	
23 <input type="checkbox"/> More than one activity for passive activity purposes*	

*See attached statement for additional information.

For IRS Use Only

Self-Employed Earnings

Schedule K-3 Foreign Reporting

More than one activity "at-risk"

More than one activity "passive"

PARTNERSHIP SCHEDULE K-1

BASIS ISSUES: ABILITY TO TAKE LOSSES & DISTRIBUTIONS

Share of Liabilities →

Liabilities from Lower Tiers →

Partners Capital →

Schedule K-1 (Form 1065) Department of the Treasury Internal Revenue Service

beginning

Partner's Share of Income, Deductions, Credits, etc. See separate instructions.

Part I Information About the Partnership

A Partnership's employer identification number

B Partnership's name, address, city, state, and ZIP code

C IRS center where partnership filed return:

D Check if this is a publicly traded partnership (PTP)

Part II Information About the Partner

E Partner's SSN or TIN (Do not use TIN of a disregarded entity. See instructions.)

F Name, address, city, state, and ZIP code for partner entered in E. See instructions.

G General partner or LLC member-manager Limited partner or other LLC member

H1 Domestic partner Foreign partner

H2 If the partner is a disregarded entity (DE), enter the partner's: TIN: _____ Name: _____

I1 What type of entity is this partner?

I2 If this partner is a retirement plan (IRA/SEP/Keogh/etc.), check here

J Partner's share of profit, loss, and capital (see instructions):

	Beginning	Ending
Profit	%	%
Loss	%	%
Capital	%	%

Check if decrease is due to sale or exchange of partnership interest

K Partner's share of liabilities:

	Beginning	Ending
Nonrecourse	\$	\$
Qualified nonrecourse financing	\$	\$
Recourse	\$	\$

Check this box if item K includes liability amounts from lower-tier partnerships

L Partner's Capital Account Analysis

Beginning capital account	\$
Capital contributed during the year	\$
Current year net income (loss)	\$
Other increase (decrease) (attach explanation)	\$
Withdrawals and distributions	\$(
Ending capital account	\$

M Did the partner contribute property with a built-in gain (loss)? Yes No If "Yes," attach statement. See instructions.

N Partner's Share of Net Unrecognized Section 704(c) Gain or (Loss)

Beginning	\$
Ending	\$

13 Other deductions

22 More than one activity for at-risk purposes*

23 More than one activity for passive activity purposes*

*See attached statement for additional information.

More than one activity for at-risk purposes

More than one activity for passive activity purposes

For Paperwork Reduction Act Notice, see the Instructions for Form 1065. www.irs.gov/Form1065 Cat. No. 11394R Schedule K-1 (Form 1065) 2022

GUARANTEED PAYMENTS: PARTNERSHIP

Guaranteed Payments reported in boxes 4a, 4b and 4c are payments that are actually guaranteed per the operating or partnership agreement.

- These are not meant to be payments for services to partners that are NOT guaranteed. Guaranteed payments can be based on percentages of revenue or other definable amounts, but only if actually guaranteed.

A partner that receives guaranteed payments for services, should be heavily considered for their earnings as reported in box 1 to also be considered self-employment earnings (losses) in box 14.

- This is anticipated to be an area of IRS review as the argument that a partner can selectively choose what income is subject to self-employment taxes (and what is not) will be hard to stand in audit, as the IRS could easily see that partner's income (guaranteed or not) all subject to self-employment tax (either in boxes 4 or box 14).

NON-PASSIVE OR NOT?

Non-Passive Partners

If a partner is either treated as “non-passive” or elects to treat themselves as “non-passive” at the individual level (Form 1040), the IRS can easily use that as an argument the income reported by the partner (per box 1 of the Schedule K-1) should also be subject to self-employment taxes (15.3% applied at the individual, Form 1040 level).

- This is anticipated to be an area of IRS review as the argument that a partner can selectively choose what income is subject to self-employment taxes (and what is not) will be hard to stand in audit, as the IRS could easily see that partner’s income treated as ”non-passive” (materially participating) should also be subject to self-employment taxes.

Passive Partners

If a partner is either treated as “passive” or elects to treat themselves as “passive” at the individual level (Form 1040), remember this is income is subject to the Net Investment Income Tax (3.8%) as previously mentioned.

PASSIVE ACTIVITY BENEFIT

- Passive activity loss rules prevent investors from using losses incurred from income-producing activities in which they are not materially involved.
- Being materially involved with earned or ordinary income-producing activities means the income is active income and may not be reduced by passive losses. Passive losses can be used only to offset passive income.
- The key issue with passive activity loss rules is material participation. According to IRS Topic No. 425, "material participation" is involvement in the operation of a trade or business activity on a "regular, continuous, and substantial basis." There are seven tests that can define material participation, but the most common one is working at least 500 hours in the business in the course of a year.
- If the taxpayer does not materially participate in the activity that is producing the passive losses, those losses can be matched only against passive income. If there is no passive income, no loss can be deducted.
- Passive losses in the final year are treated as non-passive. Basis rules still apply.
- **BENEFIT:** Passive losses cannot create Excess Business Losses and/or Net Operating Losses

Non-Passive Partner (General Partner)

- Subject to Self-Employment Taxes (Box 14)
- Partners that Provide Services
- Partners with Management Authority
- Characteristics Inconsistent with “Limited Partners”

Passive Partner (Limited Partner)

- Not Subject to Self-Employment Taxes
- Partners Involvement as an Investor
- Does NOT Provide Services
- Does NOT have Significant Management Authority

Renkemeyer, Campbell, and Weaver, LLP, 136 T.C. 137 (2011)

Attorney Group

- Partners Divided Partnership into 2 Classifications
 1. General Managing Partner, Partnership Units
Subject to Self-Employment Taxes
 2. Investing Partnership Units
NOT Subject to Self-Employment Taxes

Court Decision

- Partners had Management Authority
- Partners were Active in the Partnership
- All Net Earnings Subject to Self-Employment Taxes

Riether, 919 F. Supp. 2d 1140 (D.N.M. 2012)

LLC, Taxed as Partnership, Ownership 50/50 Husband/Wife

- Partners Paid Themselves W-2 Wages
- Did NOT Subject Income to S/E Tax (Box 1 of Schedule K-1)
 - Taxpayers Argued Since They Paid Wages, They Didn't Need to Subject the Income to S/E Tax
- Court Decision
 - Cited Rev. Rul. 69-184
 - Partners had Management Authority
 - Partners were Active and Provided Services
 - Partners Did NOT Resemble "Limited Partners"
 - All Net Earnings Subject to Self-Employment Taxes

**Schedule K-1
(Form 1065)**

Department of the Treasury
Internal Revenue Service

For calendar year tax year

beginning / / ending / /

**Partner's Share of Income, Deductions,
Credits, etc.**

See separate instructions.

Typically Makes Earning (Box 1)
Subject to S/E Tax (See K-1 Instructions)

G General partner or LLC member-manager Limited partner or other LLC member

H1 Domestic partner Foreign partner

H2 If the partner is a disregarded entity (DE), enter the partner's:

TIN _____ Name _____

Includes
Over 2%
Partners
Health
Insurance

Part III Partner's Share of Current Year Income, Deductions, Credits, and Other Items			
1	Ordinary business income (loss)	14	Self-employment earnings (loss)
2	Net rental real estate income (loss)		
3	Other net rental income (loss)	15	Credits
4a	Guaranteed payments for services		
4b	Guaranteed payments for capital	16	Schedule K-3 is attached if checked <input type="checkbox"/>
4c	Total guaranteed payments	17	Alternative minimum tax (AMT) items
5	Interest income		
6a	Ordinary dividends		
6b	Qualified dividends	18	Tax-exempt income and nondeductible expenses
6c	Dividend equivalents		
7	Royalties		
8	Net short-term capital gain (loss)		
9a	Net long-term capital gain (loss)		
9b	Collectibles (28%) gain (loss)		
		19	Distributions

Subject to S/E Tax

Subject to S/E Tax

NOT Subject to S/E Tax

NOT Taxable* to Partner &
NOT Subject to S/E Tax

*Assuming enough tax basis

**PARTNERSHIP SCHEDULE K-1
THE MECHANICS**

Name(s) shown on return. Do not enter name and social security number if shown on other side.

Your social security number

Caution: The IRS compares amounts reported on your tax return with amounts shown on Schedule(s) K-1.

Part II Income or Loss From Partnerships and S Corporations

Note: If you report a loss, receive a distribution, dispose of stock, or receive a loan repayment from an S corporation, you must check the box in column (e) on line 28 and attach the required basis computation. If you report a loss from an at-risk activity for which any amount is not at risk, you must check the box in column (f) on line 28 and attach Form 6198. See instructions.

27 Are you reporting any loss not allowed in a prior year due to the at-risk or basis limitations, a prior year unallowed loss from a passive activity (if that loss was not reported on Form 8582), or unreimbursed partnership expenses? If you answered "Yes," see instructions before completing this section

Table with 6 columns: (a) Name, (b) Enter P for partnership; S for S corporation, (c) Check if foreign partnership, (d) Employer identification number, (e) Check if basis computation is required, (f) Check if any amount is not at risk. Rows A, B, C, D.

Table with 5 columns: (g) Passive loss allowed, (h) Passive income from Schedule K-1, (i) Nonpassive loss allowed, (j) Section 179 expense deduction from Form 4562, (k) Nonpassive income from Schedule K-1. Rows A, B, C, D, 29a Totals, 29b Totals, 30, 31, 32.

REPORTING PARTNERSHIP SCHEDULE K-1 ON THE INDIVIDUAL TAX RETURN

Form 1040 Department of the Treasury - Internal Revenue Service U.S. Individual Income Tax Return

SCHEDULE SE (Form 1040)

Department of the Treasury Internal Revenue Service

Self-Employment Tax

Go to www.irs.gov/ScheduleSE for instructions and the latest information.

Attach to Form 1040, 1040-SR, or 1040-NR.

OMB No. 1545-0074

Attachment Sequence No. 17

Name of person with self-employment income (as shown on Form 1040, 1040-SR, or 1040-NR)

Social security number of person with self-employment income

Part I Self-Employment Tax

Note: If your only income subject to self-employment tax is church employee income, see instructions for how to report your income and the definition of church employee income.

A If you are a minister, member of a religious order, or Christian Science practitioner and you filed Form 4361, but you had \$400 or more of other net earnings from self-employment, check here and continue with Part I

Skip lines 1a and 1b if you use the farm optional method in Part II. See instructions.

1a Net farm profit or (loss) from Schedule F, line 34, and farm partnerships, Schedule K-1 (Form 1065), box 14, code A

HOW DO YOU GUARANTEE THE LOSSES TO BE ALLOWABLE FOR PARTNERS HAVE PARTNER BASIS ACTUALLY MATCH UP!

What should match?

Financials statements match the tax return:

Net book income match Schedule M-1, line 1

Total assets and total liabilities & equity match Schedule L

PARTNERS CAPITAL

Partners basis match the Partnership tax return

LOANS TO/FROM Partner Schedule L

AAA BALANCES, Schedule M-2

PARTNERSHIP BASICS OF TAX BASIS & AT-RISK BASIS

Tax basis: We all know the basics

Capital contributed

Less: capital distributions

Plus: income

Less: losses

Equals: tax basis

At-risk basis: We all know the basics

- Partners get basis for applicable share of liabilities
- At-risk basis for partner loans to the entity (net of repayments)



Partnerships Cases to Watch Related to Self-Employment Taxes

11/10/23

POSSIBLE BOMBSHELL'S TO ACTIVE LIMITED PARTNERS & ACTIVE MEMBERS OF AN LLC TAXED AS A PARTNERSHIP

Partnerships have perceived flexibility on it's ordinary net income (page 1 of Form 1065) being subject to self-employment taxes, or possibly not.

Ordinary net income is classified as self-employment income and is allocated to materially participating and general partners.

Self-employment is subject to self-employment taxes.

These court cases may change the ball game, massively expanding the definition of ordinary net income being considered self-employment income for limited partners and/of partners of an LLC taxed as a partnership.

SELF-EMPLOYMENT TAXES: PARTNERHSIP

The ordinary net income of the business (typically only box 1 of Schedule K-1) is considered self-employment income (reported in box 14 of Schedule K-1) and is subject to self employment taxes on the partners individual tax return (Form 1040).

Annually will be subject to Social Security tax

Self-employment taxes are

- Social security tax
12.4% up to \$160,200 of self-employment income in 2023 (\$168,600 2024)
- Medicare tax
2.9% of self-employment income; unlimited
- Additional Medicare tax
.9% of self-employment income that exceeds
 - \$250,000 for married filing jointly;
 - \$125,000 for married filing separately; and
 - \$200,000 for all other taxpayers.



Effectively 3.8%

IRC CODE SECTIONS APPLIED

Under Sections 1401(a) and (b), self-employment tax applies to “self-employment income.”

Section 1402(b) defines as the “net earnings from self-employment.”

Section 1402(a) defines “net earnings from self-employment” as “. . . the gross income derived by an individual from any trade or business carried on by such individual, less the deductions allowed by this subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of income or loss described in section 702(a)(8) from any trade/business carried on by a partnership of which he is a member. . .”

However, Section 1402(a)(13) excludes from this definition “. . . the distributive share of any item of income or loss of a limited partner, as such, other than guaranteed payments described in section 707(c) to that partner for services actually rendered to or on behalf of the partnership to the extent that those payments are established to be in the nature of remuneration for those services. . .”

THE LIMITED PARTNER DILEMMA

In 1997, IRS issued proposed regulations defining a “limited partner” for purposes of Section 1402(a)(13).

The proposed regulations, which applied to all tax partnerships (including LLCs), states that an individual could not be a limited partner if they

- (1) Had personal liability for debt of or claims against the partnership,
- (2) Had authority to contract on behalf of the partnership, or
- (3) Participated in the partnership’s trade or business for more than 500 hours during the year.

At the time, Congress issued a one-year moratorium preventing the IRS from issuing temporary or final regulations that define a limited partner. Since then, Congress has never defined a limited partner, and the IRS has never finalized the 1997 proposed regulations. Without legislation, the IRS has stood by a partner’s status as a limited partner only if it so qualifies under the 1997 proposed regulations.

IRS WINS IN TAX COURT: LIMITED PARTNER S/T S/E TAX

THIS WAS CASE WAS DECIDED SINCE VIDEO WAS RECORDED (NOT PRESENTED IN SEMINAR) SKIP TO NEXT SLIDE TO KEEP UP WITH VIDEO

Soroban Capital Partners LP v. Commissioner:

Soroban Capital Partners LP (Soroban) is a limited partnership composed of a general partner and limited partners.

For 2016 and 2017 (years in issue), Soroban was subject to the TEFRA unified audit and litigation procedures of sections 6221-6234 as then in effect. Soroban made guaranteed payments and distributed ordinary income to its limited partners. It excluded distributions of ordinary income to its limited partners from its computation of net earnings from self-employment.

It was determined that the distributions of ordinary income should have been included in the computation of net earnings from self-employment.

IRS WINS IN TAX COURT: LIMITED PARTNER S/T S/E TAX

THIS WAS CASE WAS DECIDED SINCE VIDEO WAS RECORDED (NOT PRESENTED IN SEMINAR) SKIP TO NEXT SLIDE TO KEEP UP WITH VIDEO

Soroban Capital Partners LP v. Commissioner The tax matters partner of Soroban, filed a Motion for Summary Judgment asking the Court to hold that a limited partner's distributive share of partnership income is excluded from net earnings from self-employment.

Held: I.R.C. § 1402(a)(13) contains a limited partner exception that excludes from net earnings from self-employment "the distributive share of any item of income or loss of a limited partner, as such."

Held, further, the limited partner exception of I.R.C. § 1402(a)(13) does not apply to a partner who is limited in name only.

Held, further, determining whether a partner is a limited partner in name only requires an inquiry into the functions and roles of the limited partner.

IRS WINS IN TAX COURT: LIMITED PARTNER S/T S/E TAX

THIS WAS CASE WAS DECIDED SINCE VIDEO WAS RECORDED (NOT PRESENTED IN SEMINAR) SKIP TO NEXT SLIDE TO KEEP UP WITH VIDEO

Soroban Capital Partners LP v. Commissioner

Held, further, because net earnings from self-employment is a partnership item, an inquiry into the functions and roles of a limited partner is a factual determination that underlies a partnership item that is properly determined in a TEFRA proceeding. Treas. Reg. § 301.6231(a)(3)-1(b).

The Commissioner adjusted Soroban's net earnings from self-employment by increasing it to include the shares of ordinary business income allocated to the limited partners, taking the position that they were limited partners in name only.

COURT CASES TO WATCH

Tax Court petitions challenging the IRS' assessments of self-employment tax on limited partners in fund management companies. The common circumstance in each case is the partner is involved in the business (to varying degrees) beyond just being an “investor.”

Sirius Solutions, LLLP v. Commissioner (Trial set for June 2024)

Point 72 Asset Management LP v. Commissioner (Filed August 11, 2023)

- \$344 million (\$344,000,000) of possible self-employment income adjustment
- A tax adjustment of approximately \$13 million (\$13,000,000) just in Medicare (2.9%) and additional Medicare (.9%) self-employment taxes (or 3.8%).

Denham Capital Management LP v. Commissioner

Soroban Capital Partners LP v. Commissioner (Since video was recorded, this case was decided. See previous 3 slides for Tax Court's decision.)

IRS' POSITION, IN GENERAL, WITH THESE CASES

The IRS is taking the position that the evolution of new pass-through entity types, including state law LLCs, LLPs, and LLLPs does not change the definition of a limited partner for Federal tax purposes.

The IRS is applying the “functional test,” which determines whether limited partners in a partnership or entity treated as a partnership for Federal income tax purposes should be subject to self-employment taxes by looking at the nature of their activities in the partnership, rather than only the nature of their partnership interest.

The IRS contends that only silent or passive investors qualify for the “limited partner exception.”

It appears the IRS does not have a developed a plan related to this. On February 1, 2023, the IRS noted that while there is no additional guidance expected soon on the limited partner exception, the IRS will continue to conduct these type of audits.

S-CORPORATIONS





S-CORP

Schedule K-1

S-CORPORATION SCHEDULE K-1 HOT SPOTS

Total Number of Shares



Allocation Percentage



Shareholder Shares



Loans from Shareholder



Schedule K-1 (Form 1120-S)
Department of the Treasury
Internal Revenue Service

beginning

Shareholder's Share of Income, Deductions, Credits, etc.

Part I Information		Part III Shareholder's Share of Current Year Income, Deductions, Credits, and Other Items	
A Corporation's employer identification number		1 Ordinary business income (loss)	13 Credits
B Corporation's name, address, city, state, and ZIP code		2 Net rental real estate income (loss)	
C IRS Center where corporation filed return		3 Other net rental income (loss)	
D Corporation's total number of shares Beginning of tax year End of tax year		4 Interest income	
E Shareholder's identifying number		5a Ordinary dividends	
F Shareholder's name, address, city, state, and ZIP code		5b Qualified dividends	14 Schedule K-3 is attached if checked <input type="checkbox"/>
G Current year allocation percentage %		6 Royalties	15 Alternative minimum tax (AMT) items
H Shareholder's number of shares Beginning of tax year End of tax year		7 Net short-term capital gain (loss)	
I Loans from shareholder Beginning of tax year \$ End of tax year \$		8a Net long-term capital gain (loss)	
For IRS Use Only		8b Collectibles (28%) gain (loss)	
		8c Unrecaptured section 1250 gain	
		9 Net section 1231 gain (loss)	16 Items affecting shareholder basis
		10 Other income (loss)	
			17 Other information
		11 Section 179 deduction	
		12 Other deductions	
		18 <input type="checkbox"/> More than one activity for at-risk purposes*	
		19 <input type="checkbox"/> More than one activity for passive activity purposes*	

* See attached statement fo



Schedule K-3
Foreign Reporting



More than one activity "at-risk"
More than one activity "passive"

S-CORPORATION SCHEDULE K-1 BASIS TO TAKE LOSSES

Loans to Shareholders



Schedule K-1 (Form 1120-S) Department of the Treasury Internal Revenue Service

For calendar year 2022, or tax year beginning / / 2022 ending / /

Shareholder's Share of Income, Deductions, Credits, etc. See separate instructions.

Part I Information About the Corporation

A Corporation's employer identification number

B Corporation's name, address, city, state, and ZIP code

C IRS Center where corporation filed return

D Corporation's total number of shares Beginning of tax year End of tax year

Part II Information About the Shareholder

E Shareholder's identifying number

F Shareholder's name, address, city, state, and ZIP code

Part III Shareholder's Share of Current Year Income, Deductions, Credits, and Other Items

1 Ordinary business income (loss)	13 Credits
2 Net rental real estate income (loss)	
3 Other net rental income (loss)	
4 Interest income	
5a Ordinary dividends	
5b Qualified dividends	14 Schedule K-3 is attached if checked <input type="checkbox"/>
6 Royalties	15 Alternative minimum tax (AMT) items
7 Net short-term capital gain (loss)	
8a Net long-term capital gain (loss)	
8b Collectibles (28%) gain (loss)	
8c Unrecaptured section 1250 gain	
9 Net section 1231 gain (loss)	16 Items affecting shareholder basis
10 Other income (loss)	

G Current year allocation percentage . . . %		17 Other information
H Shareholder's number of shares Beginning of tax year End of tax year	11 Section 179 deduction	
I Loans from shareholder Beginning of tax year \$ End of tax year \$	12 Other deductions	
For IRS Use Only		
		18 <input type="checkbox"/> More than one activity for at-risk purposes*
	19 <input type="checkbox"/> More than one activity for passive activity purposes*	

More than one activity for at-risk purposes

More than one activity for passive activity purposes



* See attached statement for additional information.

REPORTING S-CORP SCHEDULE K-1 ON THE INDIVIDUAL TAX RETURN

Form **1040**

Department of the Treasury—Internal Revenue Service
U.S. Individual Income Tax Return

Schedule E (Form 1040)

Attachment Sequence No. **13**

Page **2**

Name(s) shown on return. Do not enter name and social security number if shown on other side.

Your social security number

Caution: The IRS compares amounts reported on your tax return with amounts shown on Schedule(s) K-1.

Part II Income or Loss From Partnerships and S Corporations

Note: If you report a loss, receive a distribution, dispose of stock, or receive a loan repayment from an S corporation, you **must** check the box in column (e) on line 28 and attach the required basis computation. If you report a loss from an at-risk activity for which **any** amount is **not** at risk, you **must** check the box in column (f) on line 28 and attach **Form 6198**. See instructions.

27 Are you reporting any loss not allowed in a prior year due to the at-risk or basis limitations, a prior year unallowed loss from a passive activity (if that loss was not reported on Form 8582), or unreimbursed partnership expenses? If you answered "Yes," see instructions before completing this section **Yes** **No**

28	(a) Name	(b) Enter P for partnership; S for S corporation	(c) Check if foreign partnership	(d) Employer identification number	(e) Check if basis computation is required	(f) Check if any amount is not at risk
A			<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
B			<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
C			<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
D			<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

Passive Income and Loss		Nonpassive Income and Loss			
	(g) Passive loss allowed (attach Form 8582 if required)	(h) Passive income from Schedule K-1	(i) Nonpassive loss allowed (see Schedule K-1)	(j) Section 179 expense deduction from Form 4562	(k) Nonpassive income from Schedule K-1
A					
B					
C					
D					
29a	Totals				
b	Totals				
30	Add columns (h) and (k) of line 29a				30
31	Add columns (g), (i), and (j) of line 29b.				31 ()
32	Total partnership and S corporation income or (loss). Combine lines 30 and 31				32

S-CORP CONSIDERATIONS

Non-Passive S-Corp Shareholders

By default, shareholders are treated as non-passive, but facts and circumstances need to be reviewed each year to ensure that is true.

Passive S-Corp Shareholders

It is very possible for a shareholder to be considered a passive one, and if so, that net income is subject to Net Investment Income Tax (3.8%).

S-Corp “At-Risk” Basis

A shareholder only has “at-risk” basis for making loans to the S-Corp; and any repayments reduce that basis.

If losses were allowed in a prior year due to at-risk basis, and later those loans are repaid, it may result in a recapture of previously taken losses.

HOW DO YOU GUARANTEE THE LOSSES TO BE ALLOWABLE FOR S-CORP SHAREHOLDER?

HAVE SHAREHOLDER BASIS ACTUALLY MATCH UP!

What should match?

Financials statements match the tax return:

Net book income match Schedule M-1, line 1

Total assets and total liabilities & equity match Schedule L

RETAINED EARNINGS

Shareholders basis on Form 7203 to match the S corp tax return

LOANS TO/FROM SHAREHOLDER, Schedule L

AAA BALANCES, Schedule M-2

S-CORP BASICS OF TAX BASIS & AT-RISK BASIS

Tax basis: We all know the basics

Capital contributed

Less: capital distributions

Plus: income

Less: losses

Equals: tax basis

At-risk basis: We all know the basics

- S-corporation owners do not get basis for s-corp loans guaranteed
- At-risk basis only from shareholder loans to the s-corp (net of repayments)

FORM 7203 – FOR S-CORP SHAREHOLDERS

Purpose of Form: Use Form 7203 to figure potential limitations of your share of the S corporation's deductions, credits, and other items that can be deducted on your return.

Who Must File: Form 7203 is filed by S corporation shareholders who:

- Are claiming a deduction for their share of an aggregate loss from an S corporation (including an aggregate loss not allowed last year because of basis limitations),
- Received a non-dividend distribution from an S corporation,
- Disposed of stock in an S corporation (whether or not gain is recognized), or
- Received a loan repayment from an S corporation.

PLANNING POINT: It may be beneficial for shareholders to complete and retain Form 7203 even for years it is not required to be filed, as this will ensure their bases are consistently maintained year after year.

FORM 7203

Department of the Treasury Internal Revenue Service **Go to www.irs.gov/Form7203 for instructions and the latest information.** Attachment Sequence No. **203**

Name of shareholder _____ Identifying number _____

A Name of S corporation _____ **B** Employer identification number _____

C Stock block (see instructions): _____

D Check applicable box(es) to indicate how stock was acquired:
(1) Original shareholder **(2)** Purchased **(3)** Inherited **(4)** Gift **(5)** Other: _____

E Check if you have a Regulations section 1.1367-1(g) election in effect during the tax year for this S corporation

Part I Shareholder Stock Basis

1	Stock basis at the beginning of the corporation's tax year	1
2	Basis from any capital contributions made or additional stock acquired during the tax year	2
3a	Ordinary business income (enter losses in Part III)	3a
b	Net rental real estate income (enter losses in Part III)	3b
c	Other net rental income (enter losses in Part III)	3c
d	Interest income	3d
e	Ordinary dividends	3e
f	Royalties	3f
g	Net capital gains (enter losses in Part III)	3g
h	Net section 1231 gain (enter losses in Part III)	3h
i	Other income (enter losses in Part III)	3i
j	Excess depletion adjustment	3j
k	Tax-exempt income	3k
l	Recapture of business credits	3l
m	Other items that increase stock basis	3m
4	Add lines 3a through 3m	4
5	Stock basis before distributions. Add lines 1, 2, and 4	5
6	Distributions (excluding dividend distributions) Note: If line 6 is larger than line 5, subtract line 5 from line 6 and report the result as a capital gain on Form 8949 and Schedule D. See instructions.	6
7	Stock basis after distributions. Subtract line 6 from line 5. If the result is zero or less, enter -0-, skip lines 8 through 14, and enter -0- on line 15	7
8a	Nondeductible expenses	8a
b	Depletion for oil and gas	8b
c	Business credits (sections 50(c)(1) and (5))	8c
9	Add lines 8a through 8c	9
10	Stock basis before loss and deduction items. Subtract line 9 from line 7. If the result is zero or less, enter -0-, skip lines 11 through 14, and enter -0- on line 15	10
11	Allowable loss and deduction items. Enter the amount from line 47, column (c)	11
12	Debt basis restoration (see net increase in instructions for line 23)	12
13	Other items that decrease stock basis	13
14	Add lines 11, 12, and 13	14
15	Stock basis at the end of the corporation's tax year. Subtract line 14 from line 10. If the result is zero or less, enter -0-	15

Part II Shareholder Debt Basis

Section A—Amount of Debt (If more than three debts, see instructions.)

Description	(a) Debt 1	(b) Debt 2	(c) Debt 3	(d) Total
	<input type="checkbox"/> Formal note <input type="checkbox"/> Open account	<input type="checkbox"/> Formal note <input type="checkbox"/> Open account	<input type="checkbox"/> Formal note <input type="checkbox"/> Open account	
16 Loan balance at the beginning of the corporation's tax year				
17 Additional loans (see instructions)				
18 Loan balance before repayment. Add lines 16 and 17				
19 Principal portion of debt repayment (this line doesn't include interest)				
20 Loan balance at the end of the corporation's tax year. Subtract line 19 from line 18				

Part II Shareholder Debt Basis (continued)

Section B—Adjustments to Debt Basis

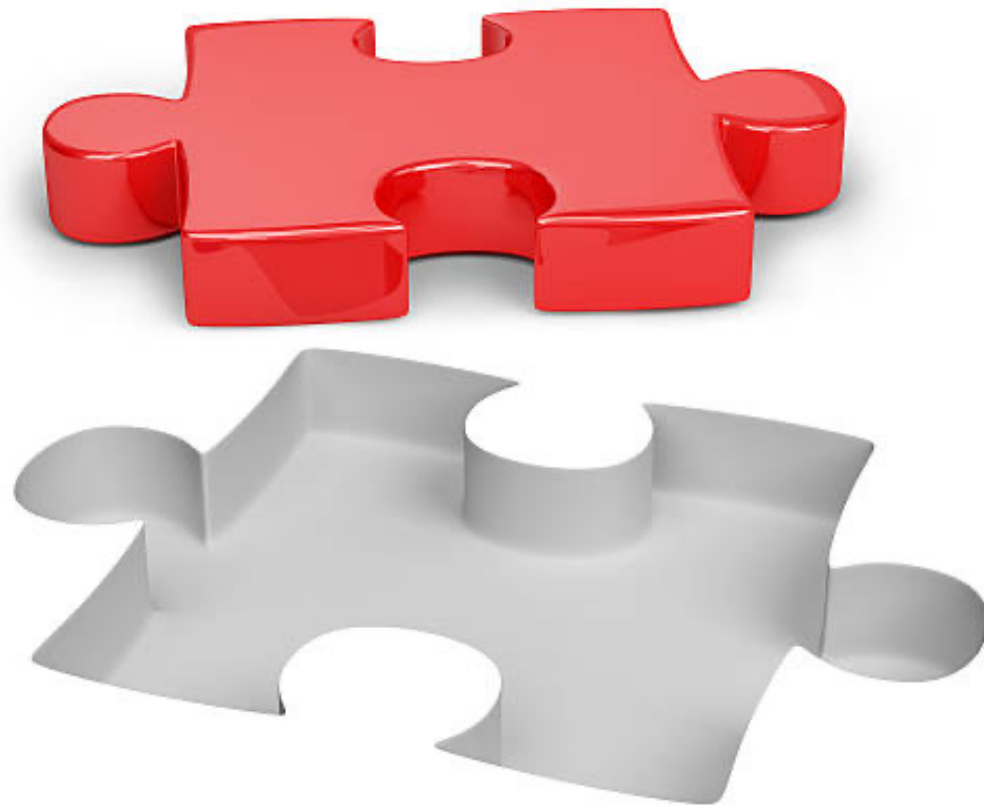
Description	(a) Debt 1	(b) Debt 2	(c) Debt 3	(d) Total
21 Debt basis at the beginning of the corporation's tax year				
22 Enter the amount, if any, from line 17				
23 Debt basis restoration (see instructions)				
24 Debt basis before repayment. Add lines 21, 22, and 23				
25 Divide line 24 by line 18				
26 Nontaxable debt repayment. Multiply line 25 by line 19				
27 Debt basis before nondeductible expenses and losses. Subtract line 26 from line 24				
28 Nondeductible expenses and oil and gas depletion deductions in excess of stock basis				
29 Debt basis before losses and deductions. Subtract line 28 from line 27. If the result is zero or less, enter -0-				
30 Allowable losses in excess of stock basis. Enter the amount from line 47, column (d)				
31 Debt basis at the end of the corporation's tax year. Subtract line 30 from line 29. If the result is zero or less, enter -0-				

Section C—Gain on Loan Repayment

32 Repayment. Enter the amount from line 19				
33 Nontaxable repayments. Enter the amount from line 26				
34 Reportable gain. Subtract line 33 from line 32				

Part III Shareholder Allowable Loss and Deduction Items

Description	(a) Current year losses and deductions	(b) Carryover amounts (column (e)) from the previous year	(c) Allowable loss from stock basis	(d) Allowable loss from debt basis	(e) Carryover amounts
35 Ordinary business loss					
36 Net rental real estate loss					
37 Other net rental loss					
38 Net capital loss					
39 Net section 1231 loss					
40 Other loss					
41 Section 179 deductions					
42 Charitable contributions					
43 Investment interest expense					
44 Section 59(e)(2) expenditures					
45 Other deductions					
46 Foreign taxes paid or accrued					
47 Total loss. Add lines 35 through 46 for each column. Enter the total loss in column (c) on line 11 and enter the total loss in column (d) on line 30					



Qualified Business Income Deduction

Filing Status Single Married filing jointly Married filing separately (MFS) Head of household (HOH) Qualifying surviving spouse (QSS)
 Check only one box. If you checked the MFS box, enter the name of your spouse. If you checked the HOH or QSS box, enter the child's name if the qualifying person is a child but not your dependent:

Your first name and middle initial	Last name	Your social security number
If joint return, spouse's first name and middle initial	Last name	Spouse's social security number
Home address (number and street). If you have a P.O. box, see instructions.		Apt. no.
City, town, or post office. If you have a foreign address, also complete spaces below.		State
Foreign country name		Foreign postal code

Digital Assets At any time during 2022, did you: (a) receive (as a reward, award, or payment for property or services); or (b) sell, exchange, gift, or otherwise dispose of a digital asset (or a financial interest in a digital asset)? (See instructions.) Yes No

Standard Deduction **Someone can claim:** You as a dependent Your spouse as a dependent Spouse itemizes on a separate return or you were a dual-status alien

Age/Blindness **You:** Were born before January 2, 1958 Are blind **Spouse:** Was born before January 2, 1958 Is blind

Dependents (see instructions):

(1) First name	Last name	(2) Social security number	(3) Relationship to you	(4) Check the box if qualifies for (see instructions):
				Child tax credit
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

Income

1a Total amount from Form(s) W-2, box 1 (see instructions)	1a
b Household employee wages not reported on Form(s) W-2	1b
c Tip income not reported on line 1a (see instructions)	1c
d Medicaid waiver payments not reported on Form(s) W-2 (see instructions)	1d
e Taxable dependent care benefits from Form 2441, line 26	1e
f Employer-provided adoption benefits from Form 8839, line 29	1f
g Wages from Form 8919, line 6	1g
h Other earned income (see instructions)	1h
i Nontaxable combat pay election (see instructions)	1i
z Add lines 1a through 1h	1z
2a Tax-exempt interest	2a
3a Qualified dividends	3a
4a IRA distributions	4a
5a Pensions and annuities	5a
6a Social security benefits	6a
b Taxable interest	2b
b Ordinary dividends	3b
b Taxable amount	4b
b Taxable amount	5b
b Taxable amount	6b
c If you elect to use the lump-sum election method, check here (see instructions)	
7 Capital gain or (loss). Attach Schedule D if required. If not required, check here	7
8 Other income from Schedule 1, line 10	8
9 Add lines 1z, 2b, 3b, 4b, 5b, 6b, 7, and 8. This is your total income	9
10 Adjustments to income from Schedule 1, line 26	10
11 Subtract line 10 from line 9. This is your adjusted gross income	11
12 Standard deduction or itemized deductions (from Schedule A)	12
13 Qualified business income deduction from Form 8995 or Form 8995-A	13
14 Add lines 12 and 13	14
15 Subtract line 14 from line 11. If zero or less, enter -0-. This is your taxable income	15

Attach Sch. B if required.

Standard Deduction for—
 • Single or Married filing separately, \$12,950
 • Married filing jointly or Qualifying surviving spouse, \$25,900
 • Head of household, \$20,300

QUALIFIED BUSINESS INCOME DEDUCTION: FORM 1040, LINE 13

What is this?

- A tax deduction out of thin air which is 20% of your net business income as an additional tax deduction on your individual tax return.

Includes “QBI” from:

- Schedule C & F
- Schedule K-1’s for S-Corporations & Partnerships



LINE 13

QBI BRACKETS 2022 VS. 2023

For 2022

\$170,050 - \$220,050 for single filers

\$340,100 - \$464,200 for joint filers

In 2023

\$182,100 – \$232,100 for single filers

\$364,200 – \$464,200 for joint filers

Specified service trade or business owners won't qualify for this tax break they hit a total 2022 taxable income of \$220,050 if you're single, and \$440,100 if you're married filing jointly.

For 2023, the limits are \$232,100 and \$464,200, respectively.

Of course, if the business is not an SSTB, the QBI deduction is dependent on qualified wages and UBIA.

QBI BRACKETS TAX TRAPS

For S corporations and Partnerships, QBI must be reported by activity.

Each of activity can easily have different tax basis and at-risk basis, especially when an entity owns another entity; for example, when a Partnership or S corporation receives a Schedule K-1 from another Partnership.

The basis of the individual, especially with at-risk basis, could vary depending on the share of liabilities, loans to the entity as well as contributions of capital.

The biggest factor to consider for any of the basis issues is whether the individual actually has the basis.

QUALIFIED BUSINESS INCOME, QBI WAGES & QBI UBIA WITH RELATED CONSIDERATIONS

These need to be allocated by “business activity”

- Not by each tax return
- Report by activity the related wages
- Report by activity the UBIA (unadjusted basis immediately after acquisition)

Also consider if this leads to separate activities for

- Passive & non-passive activities
- Tax basis of the activity
- At-risk basis of the activity

IRS now requires partnerships and S-corps to disclose (check the box)

- Aggregated activities for section 465 at-risk purposes
- Grouped activities for section 469 passive activity purposes

QUALIFIED BUSINESS INCOME DEDUCTION WITH ERTC ADJUSTMENT TO WAGE DEDUCTION

If a business receives the employee retention tax credit

It reduces down wages deducted to arrive at taxable income

The amount reduced is the amount of the ertc (credit)

This does increase “qualified business income”

THE INVESTOR

TAX DEDUCTIONS NOT TO MISS

INTEREST PAID

DEDUCT “INVESTMENT INTEREST” ON SCHEDULE A (ITEMIZED DEDUCTIONS) FOR LOANS YOU TOOK TO THEN INVEST

DEDUCT ANY INTEREST PAID PERSONALLY AS WELL ON FORM 8960 LINE 9A WHICH REDUCES THE INCOME SUBJECT TO THE NET INVESTMENT INCOME TAX OF 3.8%

QBI DEDUCTION

ENSURE LINE 13 OF FORM 1040 HAS AMOUNT ON IT

THIS SHOULD BE 20% OF THE NET BUSINESS INCOME

IF NOT, LOOK FOR FORM 8995 (8995-A) AND DETERMINE WHY IT WAS NOT ALLOWED AND/OR INQUIRE OF YOUR TAX ADVISER

INVESTMENT FEES

ALSO DEDUCT ANY INVESTMENT FEES PAID ON FORM 8960 LINE 9C WHICH REDUCES THE INCOME SUBJECT TO THE NET INVESTMENT INCOME TAX OF 3.8%

ALWAYS LOOK AT THE FINAL PAGES OF YOUR BROKERAGE “ANNUAL TAX STATEMENT” FOR THESE EXPENSES

TAX/AT-RISK BASIS

ENSURE YOU ARE GETTING AND ALLOWING LOSSES FLOWING THRU FROM AN S-CORP, PARTNERSHIP AND/OR TRUST WITH PROPER BASIS

YOUR SCHEDULE K-1 (BOXES 1, 2 & 3) SHOULD SHOW ON SCHEDULE E PAGE 2. IF YOU DON'T SEE THE LOSSES, THE FIRST ISSUE IS “BASIS.” DON'T JUST ASSUME THE LOSS WAS ALLOWED

NEW FORM 7203 FOR S-CORP OWNERS

TAX CREDITS

DON'T MISS TAX CREDITS RELATED TO FOREIGN INVESTMENTS AS WELL AS TAX CREDITS REPORTED ON SCHEDULE K-1.

MANY TIMES THESE CREDITS ARE ENTERED, BUT NOT REALIZED BECAUSE ADDITIONAL INFORMATION IS NEEDED TO ALLOW THE TAX CREDIT AT THE FORM 1040 LEVEL.



THE SECURE ACT 2.0

ISSUES FOR INDIVIDUALS

SECURE ACT 2.0: SOLE-PROPRIETORS (FILING SCHEDULE C)

401(k) plans for sole proprietors: extended deadline for retroactive elective contributions.

The Act extends the retroactive elective contribution deadline for sole proprietors for the first year of a new plan **from the end of the first year of the plan, to the sole proprietor's tax return due date** (determined without regard to any extensions) for the year the plan is adopted.

Starting in 2023, under the SECURE 2.0, a sole proprietor (with no employees) is allowed to retroactively set up a 401(k) plan with a January 1, 2023 effective start date and contribute elective contributions up to the 2023 maximum annual limit. This can be done anytime before the due date of a sole proprietor's tax return (determined without regard to any extensions).
NOTE: Schedule C is filed with Form 1040, therefore the due date is the same as Form 1040.

This will continue after 2023, in the same manner.

Prior to SECURE 2.0, the retroactive plan had to be adopted by the end of the year for which the contributions were made.

Roth IRAs

- The tax-free compared to traditional individual retirement plans.
- Starting in 2023, employers can adjust their plans to allow employees to choose that employer-matching and non-elective contributions be made as after-tax Roth contributions, not as pre-tax contributions (and taxable to the employee).
- Contributions to Roth are made with dollars already taxed and are invested.
- There is no deduction for contributions, but withdrawals of the compounded gains are tax-free once the person is at least age 59½ and has had the plan for at least five (5) years.

Roth IRAs

- Required minimum distributions from a designated Roth account in a qualified plan are not needed prior to the participant's death, for distributions related to years after 2023.
- Owners of Roth IRAs don't have to make RMDs.
- Those with Roth 401(k)s do have to take a distribution in 2023, but that this is the last year.
- Starting in 2024, those with Roth 401(k)s can let that money grow tax free for as long as they're alive.

SECURE ACT 2.0: REQUIREMENT MINIMUM DISTRIBUTIONS (RMDs)

Required Minimum Distributions (RMDs are taxed at ordinary rates.)
IRS Notice 2023-54 provides a one year delay of the provisions from the SECURE Act 2.0, meaning it will not be applicable until 2024 at the earliest.

In 2023, savers with traditional retirement accounts, including individual retirement accounts, simplified employee pension (SEP) accounts, simple IRAs (for small businesses), 401(k)s and similar plans for teachers and for public-sector and nonprofit workers, must start taking required minimum distributions at age 73. (In 2033, the age rises to 75.)

SECURE ACT 2.0: REQUIREMENT MINIMUM DISTRIBUTIONS (RMDs) ONE YEAR DELAY FOR THOSE TURNING 73 IN 2023

IRS Notice 2023-54: The one-year delay is only for those turning 73 2023, as this one-year delay is not applicable to those turning 73 in 2024, or after.

BREAKDOWN:

- If someone turns 72 in 2023, they can delay their initial distribution until 2024 or 2025 as the law changes the RMD age to 73 in 2023.
- If someone turns 73 in 2023, they must take their first distribution by April 1, 2025 (previously April 1, 2024).
- However, for those turning 73 in 2023 they will still be required to take their 2025 RMD by December 31, 2025.
- For those turning 73 in 2023, it is only a delay of the first year RMD.
- Planning point: For those turning 73 in 2023, they have the option of taking their 2024 RMD in year 2024 so that the person doesn't take double distributions in 2025 thus creating a double the tax bill, in 2025.
- For those turning 73 in 2024 and after, the one-year delay has no affect, and normal RMD dates apply.

SECURE ACT 2.0: RMD Penalties

Required Minimum Distributions Penalties (Penalty for NOT Taking One)

Starting in 2023, the penalty for failing to make an RMD falls from 50% to 25%.

The penalty is reduced to 10% if the IRA owner withdraws the RMD amount previously not taken and submits a corrected tax return in a timely manner.

SECURE ACT 2.0: EARLY WITHDRAWAL PENALTIES

Early Withdrawal Penalties (Money Pulled Before Age 59 1/2)

The penalty is 10% of the amount withdrawn (at ordinary tax rates). There are currently a number of exceptions, and the SECURE Act 2.0 adds some new ones:

- Those in **Federally declared disaster areas** can withdraw up to **\$22,000** from an IRA or workplace retirement plan with no penalty. **The tax owed can be paid over three years.**
- Penalty-free withdrawals if the person becomes **terminally ill.**
- **Starting in 2024**
 - \$1,000 can be withdrawn to cover a **financial emergency**
 - \$10,000 if they are a **victim of domestic abuse**
 - \$2,500 if they have an **emergency savings account** that's tied to their retirement plan
- **Starting in 2025**, one can withdraw penalty-free up to \$2,500 to cover **long-term care expenses.**

Terminally ill Individuals

SECURE 2.0 permits terminally ill individuals to receive penalty-free distributions from retirement accounts, including IRAs. The individual must be certified by a physician as having an illness or physical condition that can reasonably be expected to result in death in 84 months or less. Amounts distributed on the basis of terminal illness may be repaid by the individual to an employer-sponsored retirement plan or IRA within three years after the date of distribution.

This provision is effective for distributions made after December 29, 2022.

Federally Declared Disasters

SECURE 2.0 provides a permanent, generalized exemption for federally declared disasters. The rules are similar to the rules that have applied to specific exemptions provided in the past:

- The individual's principal place of abode must be located in a federally declared major disaster area and the individual must have sustained economic loss by reason of the disaster, and
- The distribution must be made after the first day of the federally declared "incident period" with respect to the disaster and within 180 days after the first day of the incident period or the date of the disaster declaration (whichever is later).

SECURE ACT 2.0: FEDERALLY DECLARED DISASTERS

The maximum amount that may be distributed under this exception with respect to any disaster is \$22,000.

Any distribution made under this exception may be repaid to an employer-sponsored retirement plan or IRA within three years after the date of the distribution.

This provision is retroactively effective with respect to disasters for which the specified incident period begins on or after January 26, 2021.

SECURE ACT 2.0: REPAYMENT RIGHT WITH RESPECT TO ABANDONED FIRST-TIME HOME PURCHASES IN QUALIFIED DISASTER AREAS

Distributions from IRAs for qualified first-time home purchase expenses are generally exempt from the 10% early distribution excise tax. SECURE 2.0 expands that exception by permitting those distributions to be repaid to an employer-sponsored retirement plan or IRA if the distribution was to be used to purchase or construct a principal residence in a federally declared disaster area, but it was not so used.

The distribution must have been received during the period beginning 180 days before the first day of the federally declared incident period with respect to the disaster and ending 30 days after the last day of that incident period. The distribution must be repaid during the period beginning on the first day of the federally declared incident period with respect to the disaster and ending 180 days after the later of the first day of the incident period or the date of the disaster declaration.

This provision is effective with respect to disasters for which the specified incident period begins on or after January 26, 2021.

SECURE ACT 2.0: RETURN OF EXCESS CONTRIBUTIONS AND EARNINGS

SECURE 2.0 exempts corrective distributions of excess contributions and earnings to an IRA from the 10% early distribution excise tax if the distribution is made before the due date of the IRA owner's federal income tax return for the year of the excess contribution (including extensions).

This provision is generally effective on December 29, 2022 without regard to when the excess contribution or distribution occurred.

SECURE ACT 2.0: EMERGENCY PERSONAL EXPENSES

Under SECURE 2.0, a distribution from a retirement plan, including an IRA, for the purpose of paying emergency personal expenses, up to \$1,000, is exempt from the 10% excise tax. The individual may repay the distribution to an employer retirement plan or an IRA within three years following the date of the distribution.

The exemption is only available with respect to one distribution per year, and if an emergency personal expense distribution is made in a year, no other distribution during the immediately following three-calendar-year period may be treated as an emergency personal expense distribution unless the prior distribution is repaid or the individual's annual retirement plan contributions to all plans and IRAs equal or exceed the amount of the prior emergency personal expense distribution.

Emergency personal expenses are expenses due to unforeseeable or immediate financial needs relating to personal or family emergencies. This provision is effective for distributions made after December 31, 2023.

SECURE ACT 2.0: DOMESTIC ABUSE VICTIMS

SECURE 2.0 allows victims of domestic abuse to take penalty free withdrawals from retirement plans, including IRAs, in an amount equal to the lesser of \$10,000 or 50% of the individual's account balance during the one-year period beginning on any date on which the individual is a victim of domestic abuse (which is defined to include not only abuse of the individual IRA owner but also abuse of the individual's child or a member of the individual's household).

The distribution is not eligible for rollover and may be repaid to an employer-sponsored retirement plan or an IRA during the three-year period beginning on the date of the distribution.

The \$10,000 limit is indexed to the cost of living for calendar years after 2024.

This provision is effective for distributions made after December 31, 2023.

SECURE ACT 2.0: CLARIFICATIONS ON REPAYMENT PERIOD FOR QUALIFIED BIRTH OR ADOPTION DISTRIBUTIONS (QBAD)

The SECURE Act included a provision that allows individuals to receive distributions from their retirement plan in the case of birth or adoption without paying the 10% additional tax under Code section 72(t) known as a qualified birth or adoption distribution, or “QBAD”.

Before SECURE Act 2.0, the distributions could be recontributed to a retirement plan at any time and are treated as rollovers. The issue with current law is the allowance of recontributions to be at any time.

Reminder: Code section 6511 prevents a refund from being provided to a taxpayer after the period of limitations for the return has closed, which is generally a 3-year period. Thus, there would not be a mechanism under the Code allowing someone who took a birth/adoption distribution to recontribute the distribution more than 3 years later and amend their return to receive a refund for the taxes that were paid in the year of the withdrawal.

SECURE ACT 2.0: CLARIFICATIONS ON REPAYMENT PERIOD FOR QUALIFIED BIRTH OR ADOPTION DISTRIBUTIONS (QBAD)

The SECURE Act 2.0 amends the QBAD provision in SECURE Act 1.0 to restrict the recontribution period to 3 years.

This is effective to distributions made after the date of the enactment of the Act (December 29, 2022) and retroactively to the 3-year period beginning on the day after the date on which such distribution was received.

SECURE ACT 2.0: MANDATORY ROTH CATCH-UP CONTRIBUTIONS

Catch-up Contributions Requiring Roth Treatment

- The SECURE ACT 2.0 made 2023 the last year that savers making more than \$145,000 a year can make contributions to a plan on a pre-tax basis.
- However, the IRS issued IRS Notice 2023-62 (August 25, 2023) providing a two-year delay in this provision, thus making 2025 the last year to make catch-up contributions to a plan on a pre-tax basis.
- Now, starting in 2026, all those catch-up contributions must be with after-tax dollars.

SECURE ACT 2.0: MANDATORY ROTH CATCH-UP CONTRIBUTIONS

Catch-up Contributions Requiring Roth Treatment

As background, a catch-up contribution is an additional contribution permitted to be made to a retirement plan by employees age 50 or older over the normal contribution limit (i.e., \$22,500 for 2023). Employees over age 50 may contribute an additional ("catch-up") amount of up to \$7,500 for 2023.

The SECURE Act 2.0 required that employees whose prior-year wages from their current employer that exceeded \$145,000 (indexed) make any catch-up contributions as Roth (post-tax) beginning January 1, 2024.

Again, Notice 2023-62 provides a two-year "administrative transition period," during which the requirement that catch-up contributions for employees earning over \$145,000 be treated as Roth will not apply until January 1, 2026.

SECURE ACT 2.0: MANDATORY ROTH CATCH-UP CONTRIBUTIONS

IRS Notice 2023-62 also provides initial guidance on other SECURE Act 2.0 provisions

- Workers who are not paid FICA wages (as defined under IRC Section 3121(a)), such as partners and self-employed persons, are not subject to the Roth requirement, because the \$145,000 threshold relates to FICA wages. State and local government employees who are not paid wages subject to FICA are also excluded from the Roth catch-up requirement.
- The notice also provided that no separate election will be necessary for employees subject to the Roth catch-up contributions to authorize such catch-up contributions.
- Notice 2023-62 also confirmed that for employees who work for two or more unrelated employers in a multi-employer plan, the wages of each employer are considered separately to determine whether the \$145,000 measure is met. The example provided in the notice follows:

SECURE ACT 2.0: MANDATORY ROTH CATCH-UP CONTRIBUTIONS

Notice 2023-62 state “If an eligible participant's wages for a calendar year were:

- (1) \$100,000 from one participating employer; and
- (2) \$125,000 from another participating employer,

then the participant's catch-up contributions under the plan for the next year would not be subject to section 414(v)(7)(A) (even if the participant's **aggregate** wages from the participating employers for the prior calendar year exceed \$145,000, as adjusted

The guidance clarified that even if an employee's wages from one employer in a multi-employer plan exceed \$145,000, catch-up contributions made while working for another participating employer would not be required to be Roth, unless the participant's prior-year wages from that other employer also exceed that amount.

SECURE ACT 2.0: CATCH-UP CONTRIBUTIONS

- Starting in 2023, those age 50 and older can contribute an extra \$7,500 per year annually into their 401(k) accounts.
 - The amount increases to \$10,000 per year starting in 2025 for participants aged 60 to 63.
 - At age 64 and older, the catch-up contributions go back to the normal amount.
- Starting in 2025, those age 60 through 63 can make catch-up contributions up to \$10,000 annually to a workplace plan such as a 401(k). This amount that will be indexed annually to inflation.
- Starting in 2023, IRAs have a \$1,000 catch-up contribution limit for people age 50 and over.
 - Starting in 2024, that limit will be indexed to inflation.

RETIREMENT PLANS

- Employer contribution limits for SIMPLE IRAs will rise in 2024 to 10% of the employee's compensation for employers with 25 or fewer workers; capped at \$5,000 (2024, indexed for inflation). Employers with 26 to 100 workers will also have higher SIMPLE contribution limits if the employer meets certain criteria. Employers can also make up to \$5,000 more in contributions to the plans.
- The SECURE Act 2.0 allows, but does not require, companies to automatically transfer a former employee's plan to their new employer.
- Starting 2025, employers must open up their retirement plans to part-time workers who perform at least 500 hours of service during two consecutive 12-month periods.

SECURE ACT 2.0: 529 PLANS

529 Plans (Educational Savings Plans)

- This yields no Federal tax deduction.
- Grows tax-free.
- Withdrawn tax-free to the extent it is used to pay for qualified educational expenses.
- Starting in 2024, owners of 529 savings plans redirect up to \$35,000 of any unused dollars to a Roth IRA.
 - The allows for 529 plan savings intended for a child's college (or K-12th grade) costs to be converted into retirement dollars
 - KEY: The 529 plan owner will need to have had the account for at least 15 years and is subject to the annual Roth contribution limits.

SECURE ACT 2.0: STUDENT LOAN REPAYMENTS

Starting in 2024, employers can offer matching contributions to a SIMPLE-IRA plan (as well as 401(k), 403(b), and 457(b) plans), based on the amount of a qualified student loan repayment made by a participant to a lender during the applicable period.

The loan repayment amount is treated as if the participant deferred the amount under the plan, even though no deferral amount is actually withheld from the participant's eligible compensation or contributed to the plan by the participant.

An employee's self-certification is acceptable as a minimum requirement, but employers should consider obtaining actual documentation of such payments actually made by the employee.

This is optional by the business.

SECURE ACT 2.0: EXPANSION OF TAX-FREE IRA CHARITABLE DISTRIBUTION RULE

SECURE 2.0 permits a one-time tax-free charitable distribution of up to \$50,000 to charitable remainder annuity trusts, charitable remainder unitrusts, and charitable gift annuities.

This new provision is effective for tax years beginning after December 29, 2022.

The \$50,000 and \$100,000 limits are indexed to inflation for tax years beginning after 2023. (The \$100,000 limitation was not previously indexed.)

SECURE ACT 2.0: SAVER'S CREDIT REPLACED BY CONTRIBUTION TO IRA/PLAN (2027)

SECURE 2.0 replaces the former “saver’s tax credit” with a federal contribution to the taxpayer’s IRA or retirement plan. The saver’s tax credit allows a low-income taxpayer to take an annual tax credit of up to \$1,000 of annual retirement plan (including IRA) contributions. The credit was phased out based upon adjusted gross income up to \$36,500 (\$73,000 for married filing jointly) for 2023.

Under SECURE 2.0, the tax credit is replaced with a contribution by the federal government to the taxpayer’s Traditional IRA or other non-Roth retirement plan in an amount equal to 50% of the taxpayer’s annual retirement plan contributions, up to a maximum of \$2,000 per individual. These limits are indexed to the cost of living for years after 2027.

The contribution is reduced by the amount of regular retirement plan distributions received by the individual (or the individual’s spouse if married and filing jointly) during the three-year period ending in the year of the contribution. The contribution is not subject to limitations on the amount of annual contributions, including, if made to an IRA, the IRA annual contribution limit (\$6,500 for 2023, plus catch-up contributions). The matching contribution is not generally available to any taxpayer under age 18 or who is a tax dependent of another person, a full-time student, or a nonresident alien.

This change is effective for years beginning after December 31, 2026.

SECURE ACT 2.0: EXEMPTION FOR CERTAIN AUTOMATIC PORTABILITY TRANSACTIONS

Under current law, an employer is permitted to distribute a participant's account balance without participant consent if the balance is under \$5,000 (increased to \$7,000 with the SECURE Act 2.0) and the balance is immediately distributable (e.g., after a termination of employment).

Current law also requires an employer to roll over this distribution into a default IRA if the account balance is at least \$1,000 and the participant does not affirmatively elect otherwise.

The SECURE Act 2.0 permits a retirement plan service provider to provide employer plans with automatic portability services. Such services involve the automatic transfer of a participant's default IRA (established in connection with a distribution from a former employer's plan) into the participant's new employer's retirement plan, unless the participant affirmatively elects otherwise.

This is effective for transactions occurring on or after December 29, 2023 from defined contribution plans, including SIMPLE 401(k) plans. **This does not apply to SIMPLE-IRAs.**

SECURE ACT 2.0: RETIREMENT SAVINGS LOST AND FOUND

The SECURE Act 2.0 directs the Department of Labor (DOL) to establish and implement a wide scale online database for Americans to search for lost retirement plans. This database would be administered jointly by the DOL and IRS, and if successfully implemented, could offer a valuable one-stop location for participants to track down retirement benefits from former employers.

Beginning in 2025, sponsors of plans subject to ERISA will be required to submit identifying information of participants with outstanding account balances. This disclosure will likely take the form of an additional schedule to the annual Form 5500 filing.

This retirement savings lost and found database may also provide a solution to a common issue impacting plan administration: lost participants.

After a plan participant terminates employment, contact information may fall out of date, leaving the plan sponsor unable to locate the participant in order to provide required disclosures or distribution forms. A centralized database of participant account data could provide a means for plan sponsors to locate missing participants.



Backdoor Roth Pro-Rata Rules for Roth Conversions

THE BACKDOOR ROTH IRA?

With a Roth IRA, you get no up-front tax deduction, as you do with a traditional IRA, 401(k) retirement plan, or other tax-deferred account. However:

- You pay no tax on either principal or earnings when you withdraw your money (although you must be at least age 59½ and have had the Roth for five years).
- There's no time requirement on when you *have* to withdraw money, if ever—an appealing option for those wanting to leave the money to heirs.

Roth IRAs are traditionally only available to those whose annual income is below certain levels.

For the 2022 tax year, those limits are:

- \$214,000 for married couples filing jointly
- \$144,000 for single filers

For the 2023 tax year, the limits are:

- \$228,000 for married couples filing jointly
- \$153,000 for single filers

THE BACKDOOR ROTH IRA: 2 STEP PROCESS

Converting savings held in a traditional IRA into a Roth IRA is a two-step process:

1. Open a non-deductible traditional IRA and make after-tax contributions. For 2022, you're allowed to contribute up to \$6,000 (\$7,000 if you're age 50 or older). Make sure you file IRS Form 8606 every year you do this.
2. Transfer the assets from the traditional IRA to a Roth IRA. You can make this transfer and conversion at any point in the future. Some advisors suggest waiting a few months after opening the Roth IRA.

Pay the tax due

The conversion triggers income tax on the appreciation of the after-tax contributions—but once in the Roth IRA, earnings compound tax-free. Distributions from the Roth IRA are tax-free as well, as long as you are 59½ and have held the Roth for at least five years (note that each conversion amount is subject to its own five-year holding period as it relates to tax-free withdrawals).

If you have no other IRAs, figuring out your tax due will be simple. However, it can be more complicated if you have other IRAs. **The IRS' pro-rata rule requires you to include *all* of your traditional IRA assets—that means your IRAs funded with pretax (deductible) contributions as well as those funded with after-tax (nondeductible) contributions—when figuring the conversion's taxes.** Then, you pay a proportional amount of taxes on the original account's pretax contributions and earnings.

THE BACKDOOR ROTH IRA: IRS APPROVED?

The backdoor Roth may not last forever!

Although this strategy has existed since 2010, the IRS has not officially commented or provided formal guidance on whether it violates the step-transaction rule. See IRS Publication 560. (When applied, this rule treats what are several different steps as if they were a single transaction for tax purposes.) Experts have mixed opinions on the likelihood of this happening, but the lack of a definitive ruling means there is some risk involved.

If the IRS decides that the loophole is a violation, you could owe a 6% excise tax for overfunding your Roth. And if restrictions do come into play at some point, they could require backdoor Roth converters to pay a penalty, or they might include a grandfather clause.

Roth conversions can make sense, generally, for many higher-income investors with large amounts saved in traditional IRA or 401(k) accounts, if you use this backdoor Roth strategy solely to sidestep the earnings limits on Roth IRA contributions, you should be aware of the risks and seek the counsel of a tax professional.

BACKDOOR ROTH IRA: FOLLOW UP

Roth conversions can bypass Roth IRA income limits but not the Pro-Rate rule, and there is no limit to how much you can convert to a Roth IRA. Hence, the conversion called a Backdoor Roth.

This is a “conversion” and does NOT follow the rules related to IRA “rollovers” where you can allocate out pre-tax and after-tax contributions and elect to only roll pre-tax or after-tax contributions. With a Roth conversion, you are transferring a cup of soup out from a bowl of soup.

The Backdoor Roth conversion involves withdrawing Traditional IRA funds and transferring them to a Roth IRA, and the Pro-Rata rules always apply.

WHAT IS THE PRO-RATA RULE WITH THE BACKDOOR ROTH IRA

What is the Pro-Rata rule?

- The Pro-Rata rule applies if your Traditional IRA contains **both pre-tax and after-tax contributions**.
- The Pro-Rata Rule is used to determine the ratio that should be applied in determining how much of the conversion is pre-tax vs after tax.
- **You are not able to choose only the after-tax portion when doing a conversion.**
- If you have not contributed post-tax dollars into a traditional IRA, the total amount converted is taxed at your normal income tax rate and the Pro-Rata rule does not apply.
- The Pro-Rata rule is used to prevent people from dodging the Roth income limit to manipulate funds to decrease their tax bill.

THE PRO-RATA RULE CALCULATION WITH THE BACKDOOR ROTH IRA

What is the Pro-Rata calculation?

You add together the balances of all Traditional IRA accounts, regardless if there are multiple Traditional IRAs.

- You cannot create a Traditional IRA and designate it as after-tax contributions only.
- Inherited IRAs, 401(k), 403(b) plan's balances are not counted, however SEP IRA values and SIMPLE IRA values are included in the definition of all IRAs. Even though these types of accounts are company sponsored, they must be included in the pro-rata calculation.

IRAs are by definition individual, so even for taxpayers filing a joint return, an individual IRA is not combined with the spouse's IRA for purposes of the pro-rata rule.

Also, since the Pro Rata Rule isn't calculated until December 31st of the current year, you won't know the taxable percentage until after the year has concluded.

THE CALCULATION OF THE TAXABLE INCOME ON THE ROTH IRA CONVERSION

The calculation:

The IRS requires that you include all your Traditional IRA (non-Roth IRAs) as the basis. The equation to use to figure the taxable amount is as follows:

- $(\text{non-deductible amount}) / (\text{total of all non-Roth IRA balances}) = \text{non-taxable percentage}$
- $(\text{amount to be converted to Roth IRA}) \times (\text{non-taxable percentage}) = \text{amount of after-tax funds converted to Roth IRA}$


EXAMPLE OF MAKING A BACKDOOR IRA CONTRIBUTION

- **\$93,000** of pre-tax money already in a traditional IRA
- To make a \$7,000 backdoor contribution to a Roth IRA requires a *conversion*
- Make a non-deductible traditional IRA contribution of **\$7,000**
- The traditional IRA account balance is now **\$100,000**

Most think you can convert only the \$7,000 after-tax portion to the Roth IRA and be done. **NOPE!** The Pro Rata Rule comes into play.

- 93% (\$93,000 pre-tax portion divided by the \$100,000 total) of the \$7,000 conversion is taxable = \$6,510
- 7% of the \$7,000 Roth conversion would be tax-free = \$490
- \$6,510 (93% of \$7,000) of after-tax funds **REMAIN** in the traditional IRA and have to be taken into consideration if there is another conversion

ROLLOVER CHART

		Roll To							
		Roth IRA	Traditional IRA	SIMPLE IRA	SEP-IRA	Governmental 457(b)	Qualified Plan ¹ (pre-tax)	403(b) (pre-tax)	Designated Roth Account (401(k), 403(b) or 457(b))
Roll From	Roth IRA	Yes ²	No	No	No	No	No	No	No
	Traditional IRA	Yes ³	Yes ²	Yes ^{2,7} , after two years	Yes ²	Yes ⁴	Yes	Yes	No
	SIMPLE IRA	Yes ³ , after two years	Yes ² , after two years	Yes ²	Yes ² , after two years	Yes ⁴ , after two years	Yes, after two years	Yes, after two years	No
	SEP-IRA	Yes ³	Yes ²	Yes ^{2,7} , after two years	Yes ²	Yes ⁴	Yes	Yes	No
	Governmental 457(b)	Yes ³	Yes	Yes ⁷ , after two years	Yes	Yes	Yes	Yes	Yes ^{3,5}
	Qualified Plan¹ (pre-tax)	Yes ³	Yes	Yes ⁷ , after two years ⁷	Yes	Yes ⁴	Yes	Yes	Yes ^{3,5}
	403(b) (pre-tax)	Yes ³	Yes	Yes ⁷ , after two years	Yes	Yes ⁴	Yes	Yes	Yes ^{3,5}
	Designated Roth Account (401(k), 403(b) or 457(b))	Yes	No	No	No	No	No	No	Yes ⁶

Source:
IRS.gov

¹Qualified plans include, for example, profit-sharing, 401(k), money purchase, and defined benefit plans.

² [Only one rollover](#) in any 12-month period.

³Must include in income.

⁴Must have separate accounts.

⁵Must be an in-plan rollover.

⁶Any nontaxable amounts distributed must be rolled over by direct trustee-to-trustee transfer.

⁷Applies to rollover contributions after December 18, 2015. For more information regarding retirement plans and [rollovers](#), visit [Tax Information for Retirement Plans](#).



**Qualified
Opportunity
Zone
*Update***

QUALIFIED OPPORTUNITY ZONE: TAX STRATEGY

If you are facing a significant tax liability as a result of capital gains, investing in a Qualified Opportunity Fund (QOF) may be worth exploring, provided you invest within a prescribed amount of time (180 days), a real estate investment fits your financial portfolio and your financial picture can handle a long-term investment (10 years).

The QOF tax strategy ends December 31, 2026.

What is an Opportunity Zone?

An Opportunity Zone is a community nominated by the state and certified by the Treasury Department as qualifying for this program. The Treasury Department has certified zones in all 50 states; Washington, D.C.; and U.S. territories. A list can be found at the U.S. Department of Housing and Urban Development.

QUALIFIED OPPORTUNITY FUND: NARROW QUALIFIERS

The tax strategy only works under these circumstances:

- You have a capital gain (*including net Section 1231 gains). If don't, you are out.
- You wish to defer the capital gain* to eventually pay the capital gains tax in 2026.
 - You cannot recognize the gain earlier than 2026, and it must be recognized in 2026.
 - You will still pay tax on the capital gain you are deferring, period.
- You must invest into a Qualified Opportunity Fund within 180 days for equity interest.
 - For an **individual investor** the 180 days starts on the day the capital gain is realized.
 - For a **flow-through entity**, such as a partnership, an S-corporation, or a trust/estate, it has the option to start the 180 day investment period on any of the following dates:
 - the last day of the entity taxable year;
 - the same date that the entity's 180 day period begins; or
 - the due date for the entity's tax return, without extensions, for the taxable year in which the entity realized the eligible gain.

QUALIFIED OPPORTUNITY FUND: NARROW QUALIFIERS

The tax strategy only works under these circumstances:

- Only the amount, up to, the deferred capital gain experiences the tax benefits in the Qualified Opportunity Fund.
 - Any amount invested into a QOF above (or without) the capital gain is excluded from any tax benefits of increased basis and the investment amount not being taxable after held longer than 10 years.
- **The tax benefit applied to the qualified amount invested for an equity interest**
 - The amount of time you hold the Qualified Opportunity Fund investment determines the tax benefit you receive, as the “basis” (the amount of your investment) increases the longer you hold your interest in the QOF.
 - If you **hold your investment** in the QOF Fund for at least **5 years**, your **basis will increase by 10%** of the deferred gain.
 - If you **hold your investment** in the QOF for at least **7 years**, your **basis will increase an additional 5%** of the deferred gain.

QUALIFIED OPPORTUNITY FUND: NARROW QUALIFIERS

The tax strategy only works under these circumstances:

- **The tax benefit applied to the qualified amount invested for an equity interest
CONTINUED**

Adjustment to Basis After 10 Years

- If you hold your investment in the QOF for at least 10 years, you may be able to permanently exclude gain resulting from a qualifying investment when it is sold or exchanged.
- The exclusion occurs if you elect to increase the basis of your QOF investment to its fair market value on the date of the sale or exchange.

QUALIFIED OPPORTUNITY FUND: NARROW QUALIFIERS

EXAMPLE:

- In 2023, investment is sold that creates a \$100,000 capital gain or *Sec. 1231 gain.
- The taxpayer invests \$125,000 into a QOF within 180 days of the recognized gain.
 - In 2023, no capital gain is recognized for tax purposes.
 - **In 2026, tax will be due on the \$100,000 capital gain* at the capital gains rate in 2026.**
 - Of the \$125,000 investment into the QOF, only \$100,000 will receive the benefits of increases in basis and a permanently excluded gain on the \$100,000 investment after held 10 years.

The investment is **held 5 years:**

- The \$100,000 qualified original basis is increased to \$110,000 (total basis \$135,000)

The investment is **held 7 years:**

- The \$100,000 qualified original basis is increased to \$115,000 (total basis \$140,000)

The investment is **held 10+ years:**

- The gain attributable to the \$100,000 qualified original basis 100% tax free.
- The gain attributable to the \$25,000 will be taxable

QUALIFIED OPPORTUNITY FUND (QOF): TAX STRATEGY

Details to keep in mind:

- You can defer tax on eligible gains you invest in a Qualified Opportunity Fund until or by December 31, 2026, whichever is earlier.
- Eligible gains include both capital gains and qualified 1231 gains, but only if the gains are:
 - Recognized for federal income tax purposes before January 1, 2027
 - Not from a transaction with a related person
- In general, qualified 1231 gains are gains reported on Form 4797, Sales of Business Property.
- You can transfer property other than cash as an investment in a Qualified Opportunity Fund. The amount of gain you defer is limited to the basis of the contributed property, even if you transfer a property with a greater value.

QUALIFIED OPPORTUNITY FUND (QOF)

Qualified Opportunity Zone Property

Qualified Opportunity Zone property is used to refer to property that is acquired after December 31, 2017, used in a trade or business conducted in a Qualified Opportunity Zone or ownership interest in an entity (stock and partnership interests) operating with such tangible property.

Ownership can be through

- Qualified Opportunity Zone stock,
- Qualified Opportunity Zone partnership interest, or
- Qualified Opportunity Zone business property

Conceptually, the Qualified Opportunity Fund must bring property new to the entity to be used in the Opportunity Zone.

QUALIFIED OPPORTUNITY FUND (QOF)

Qualified Opportunity Zone Property

A fund that simply acquires property already being used in the zone will not qualify without substantial improvement. Substantial improvement requires improvements to exceed the Qualified Opportunity Fund's initial investment into the existing property over a 30-month period.

Note: The investment only applies to the amount paid for the building. For instance, if a Qualified Opportunity Fund acquires existing real property in an Opportunity Zone for \$1 million, the fund has 30 months to invest an amount greater than the \$1 million purchase price for improvements to the property in order to qualify for this program.

Certain businesses, such as golf courses, country clubs, massage parlors, hot tub facilities, suntan facilities, race tracks or other facilities used for gambling, and liquor stores, are **prohibited** for Qualified Opportunity Fund investments.

Before you check Box D, E, or F below, see whether you received any Form(s) 1099-B or substitute statement(s) from your broker. A substitute statement will have the same information as Form 1099-B. Either will show whether your basis (usually your cost) was reported to the IRS by your broker and may even tell you which box to check.

Part II Long-Term. Transactions involving capital assets you held more than 1 year are generally long-term (see instructions). For short-term transactions, see page 1.

Note You may aggregate all long-term transactions reported on Form(s) 1099-B showing basis was reported to the IRS and for which no adjustments or codes are required. Enter the totals directly on Schedule D, line 8a; you aren't required to report these transactions on Form 8949 (see instructions).

You must check Box D, E, or F below. Check only one box. If more than one box applies for your long-term transactions, complete a separate Form 8949, page 2, for each applicable box. If you have more long-term transactions than will fit on this page for one or more of the boxes, complete as many forms with the same box checked as you need.

- (D) Long-term transactions reported on Form(s) 1099-B showing basis was reported to the IRS (see **Note** above)
- (E) Long-term transactions reported on Form(s) 1099-B showing basis **was not** reported to the IRS
- (F) Long-term transactions not reported to you on Form 1099-B

FORM 8949

1	(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed of (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis. See the Note below and see Column (e) in the separate instructions.	Adjustment, if any, to gain or loss. If you enter an amount in column (g), enter a code in column (f). See the separate instructions.		(h) Gain or (loss). Subtract column (e) from column (d) and combine the result with column (g).
						(f) Code(s) from instructions	(g) Amount of adjustment	
	WALMART	01-01-2017	03-10-2022	1,146,772	64,326			1,082,446
	99-9999999 - JAG OZ FUND LLC	03-12-2022				Z	(750,000)	(750,000)



GREEN

TAX



Energy Efficient Home Improvement Credit

ENERGY EFFICIENT HOME IMPROVEMENT CREDIT

If you make qualified energy-efficient improvements to your home after January 1, 2023, you may qualify for a tax credit up to \$3,200. You can claim the credit for improvements made through 2032.

For improvements installed in 2022 or earlier: Use previous versions of Form 5695.

Beginning January 1, 2023, the credit equals 30% of certain qualified expenses, including:

- Qualified energy efficiency improvements installed during the year
- Residential energy property expenses
- Home energy audits

There are limits on the allowable annual credit and on the amount of credit for certain types of qualified expenses.

The credit is allowed for qualifying property placed in service on or after January 1, 2023, and before January 1, 2033. The maximum credit you can claim each year is:

- \$1,200 for energy property costs and certain energy efficient home improvements, with limits on doors (\$250 per door and \$500 total), windows (\$600) and home energy audits (\$150)
- \$2,000 per year for qualified heat pumps, biomass stoves or biomass boilers

The credit has no lifetime dollar limit. You can claim the maximum annual credit every year that you make eligible improvements until 2033. **The credit is nonrefundable**, so you can't get back more on the credit than you owe in taxes. **You can't apply any excess credit to future tax years (no carryover).** This is a use it or lose it credit.

ENERGY EFFICIENT HOME IMPROVEMENT CREDIT

WHO QUALIFIES

You may claim the energy efficient home improvement credit for **improvements to your main home**. Your main home is generally where you live most of the time.

For the energy efficiency home improvement credit, the home must be:

- Located in the United States
- **An existing home that you improve or add onto, not a new home**

In most cases, the home must be your primary residence (where you live the majority of the year). You can't claim the credit if you're a landlord or other property owner who doesn't live in the home.

BUSINESS USE OF HOME

If you use a property solely for business purposes, you can't claim the credit.

If you use your home partly for business, the credit for eligible clean energy expenses is as follows:

- Business use up to 20%: full credit
- Business use more than 20%: credit based on share of expenses allocable to nonbusiness use

ENERGY EFFICIENT HOME IMPROVEMENT CREDIT

Qualified Expenses and Credit Amounts

To qualify, home improvements must meet energy efficiency standards. They must be new systems and materials, not used. Some improvements have specific credit limits as follows.

Building Envelope Components

To qualify, building envelope components must have an expected lifespan of at least 5 years. Qualified components include new:

- **Exterior doors** that meet applicable Energy Star requirements. Credit is limited to \$250 per door and \$500 total.
- **Exterior windows and skylights** that meet Energy Star Most Efficient certification requirements. Credit is limited to \$600 total.
- **Insulation and air sealing materials or systems** that meet International Energy Conservation Code (IECC) standards in effect at the start of the year 2 years before installation. For example, materials or systems installed in 2025 must meet the IECC standard in effect on Jan. 1, 2023. These items don't have a specific credit limit, other than the maximum credit limit of \$1,200.

Labor costs for installing building envelope components do NOT qualify for the credit.

ENERGY EFFICIENT HOME IMPROVEMENT CREDIT

HOME ENERGY AUDITS

A home energy audit for your main home may qualify for a tax credit of up to \$150.

In order to qualify, the home energy audit must include a written report and inspection that identifies the most significant and cost-effective energy efficiency improvements with respect to the home, including an estimate of the energy and cost savings with respect to such improvement, and be conducted and prepared by a home energy auditor.

Starting in 2024, the following additional requirements must be met: The inspection must be conducted by a qualified home energy auditor, defined as an individual who is certified by one of the qualified certification Programs listed on the Department of Energy certification programs for the Energy Efficient Home Improvement Credit (Section 25C) at the time of the audit, or under the supervision of a qualified home energy auditor; The written report must be prepared and signed by a qualified home energy auditor, be consistent with industry best practices, and include: The qualified home energy auditor's name and relevant employer identification number (EIN) or other type of appropriate taxpayer identifying number, if the auditor does not have an EIN; An attestation that the qualified home energy auditor is certified by a qualified certification program; and The name of such qualified certification program. The IRS recommends home energy auditors apply for and receive an EIN if they do not already have one. For more information, see Notice 2023-59

ENERGY EFFICIENT HOME IMPROVEMENT CREDIT

RESIDENTIAL ENERGY PROPERTY

Residential energy property that meets the Consortium for Energy Efficiency (CEE) highest efficiency tier, not including any advanced tier, in effect at the beginning of the year when the property is installed qualifies for a credit up to \$600 per item. Costs may include labor for installation.

Qualified property includes new:

- Central air conditioners
- Natural gas, propane, or oil water heaters
- Natural gas, propane, or oil furnaces and hot water boilers
- Oil furnaces or hot water boilers can also qualify through other efficiency criteria.

Costs of electrical components needed to support residential energy property, including panelboards, sub-panelboards, branch circuits, and feeders, also qualify for the credit if they meet the National Electric Code and have a capacity of 200 amps or more.

There is a limit of \$600 per item.

ENERGY EFFICIENT HOME IMPROVEMENT CREDIT

Heat Pumps and Biomass Stoves and Boilers

Heat pumps and biomass stoves and boilers with a thermal efficiency rating of at least 75% qualify for a credit up to \$2,000 per year. Costs may include labor for installation.

Qualified improvements include new:

- Electric or natural gas heat pumps
- Electric or natural gas heat pump water heaters
- Biomass stoves and boilers

Subsidies, Rebates and Incentives

When calculating your credit, you may need to subtract subsidies, rebates, or other financial incentives from your qualified property expenses because they're considered a purchase price adjustment.

Public utility subsidies for buying or installing clean energy property are subtracted from qualified expenses. This is true whether the subsidy comes directly to you or to a contractor on your behalf. However, utility payments for clean energy you sell back to the grid, such as net metering credits, don't affect your qualified expenses.

ENERGY EFFICIENT HOME IMPROVEMENT CREDIT

Rebates are subtracted from qualified expenses if all of these apply:

- The rebate is based on the cost of the property
- It comes from someone connected to the sale such as the manufacturer, distributor, seller or installer
- It isn't given as payment for services you provide

State energy efficiency incentives are generally not subtracted from qualified costs unless they qualify as a rebate or purchase-price adjustment under federal income tax law. Many states label energy efficiency incentives as rebates even though they don't qualify under that definition. Those incentives could be included in your gross income for federal income tax purposes. See Notice 2013-70, IRB 2013-47.

How to Claim the Energy Efficient Home Improvement Credit

File Form 5695, Residential Energy Credits Part II, with your tax return to claim the credit. You must claim the credit for the tax year when the property is installed, not merely purchased.



Residential Clean Energy Credit

Solar, wind,
geothermal, fuel cells or
battery storage
technology

RESIDENTIAL CLEAN ENERGY CREDIT

SOLAR, WIND, GEOTHERMAL, FUEL CELLS OR BATTERY STORAGE TECHNOLOGY

If you invest in renewable energy for your home such as solar, wind, geothermal, fuel cells or battery storage technology, you may qualify for an annual residential clean energy tax credit.

HOW IT WORKS

The Residential Clean Energy Credit equals 30% of the costs of new, qualified clean energy property for your home installed anytime from 2022 through 2033. You may be able to take the credit if you made energy saving improvements to your home located in the United States.

The credit is **nonrefundable**, so the credit amount you receive can't exceed the amount you owe in tax. **You can carry forward any excess unused credit**, though, and apply it to reduce the tax you owe in future years. Do not include interest paid including loan origination fees.

The credit has no annual or lifetime dollar limit except for credit limits for fuel cell property. You can claim the annual credit every year that you install eligible property until the credit begins to phase out in 2033.

CREDIT LIMITS FOR FUEL CELL PROPERTY

Fuel cell property is limited to \$500 for each half kilowatt of capacity. If more than one person lives in the home, the combined credit for all residents can't exceed \$1,667 for each half kilowatt of fuel cell capacity.

RESIDENTIAL CLEAN ENERGY CREDIT

SOLAR, WIND, GEOTHERMAL, FUEL CELLS OR BATTERY STORAGE TECHNOLOGY

WHO QUALIFIES

You may claim the residential clean energy credit for improvements to your **main home, whether you own or rent it.** Your main home is generally where you live most of the time. The credit applies to **new or existing homes** located in the United States.

You can't claim the credit if you're a landlord or other property owner who doesn't live in the home. You may be able to claim a credit for certain improvements made to a second home located in the United States that you live in part-time and don't rent to others. You can't claim a credit for fuel cell property for a second home or for a home that is not located in the United States.

BUSINESS USE OF HOME

If you use a property solely for business purposes, you can't claim the credit.

If you use your home partly for business, the maximum available credit for eligible clean energy expenses is as follows:

- Business use up to 20%: full credit
- Business use more than 20%: credit based on share of expenses allocable to nonbusiness use

RESIDENTIAL CLEAN ENERGY CREDIT

SOLAR, WIND, GEOTHERMAL, FUEL CELLS OR BATTERY STORAGE TECHNOLOGY

QUALIFIED EXPENSES

Qualified expenses include the costs of new clean energy property including:

- Solar electric panels
- Solar water heaters
- Wind turbines
- Geothermal heat pumps
- Fuel cells
- Battery storage technology (beginning in 2023)

Used (previously owned) clean energy property is not eligible.

Qualified expenses may include labor costs for onsite preparation, assembly or original installation of the property and for piping or wiring to connect it to the home.

Traditional building components that primarily serve a roofing or structural function generally don't qualify. For example, roof trusses and traditional shingles that support solar panels don't qualify, but solar roofing tiles and solar shingles do because they generate clean energy.

RESIDENTIAL CLEAN ENERGY CREDIT

SOLAR, WIND, GEOTHERMAL, FUEL CELLS OR BATTERY STORAGE TECHNOLOGY

SUBSIDIES, REBATES AND INCENTIVES

When calculating your credit, you may need to **subtract subsidies, rebates or other financial incentives** from your qualified property expenses because they're considered a purchase-price adjustment.

Public utility subsidies for buying or installing clean energy property are subtracted from qualified expenses. This is true whether the subsidy comes directly to you or to a contractor on your behalf. However, utility payments for clean energy you sell back to the grid, such as net metering credits, don't affect your qualified expenses.

Rebates are subtracted from qualified expenses if all of these apply:

- The rebate is based on the cost of the property.
- It comes from someone connected to the sale such as the manufacturer, distributor, seller or installer.
- It isn't given as payment for services you provide.

State energy efficiency incentives are generally not subtracted from qualified costs unless they qualify as a rebate or purchase-price adjustment under federal income tax law. Many states label energy efficiency incentives as rebates even though they don't qualify under that definition. Those incentives could be included in your gross income for federal income tax purposes.

RESIDENTIAL CLEAN ENERGY CREDIT

SOLAR, WIND, GEOTHERMAL, FUEL CELLS OR BATTERY STORAGE TECHNOLOGY

QUALIFIED CLEAN ENERGY PROPERTY

Clean energy property must **meet the following standards** to qualify for the residential clean energy credit. Solar water heaters must be certified by the Solar Rating Certification Corporation or a comparable entity endorsed by your state.

Geothermal heat pumps must meet Energy Star requirements in effect at the time of purchase.

Battery storage technology must have a capacity of at least 3 kilowatt hours.

HOW TO CLAIM THE CREDIT

File Form 5695, Residential Energy Credits with your tax return to claim the credit. You must claim the credit for the tax year when the property is installed, not merely purchased.



Home Energy Tax Credits

IRS.gov/homeenergy



If you make energy improvements to your home, tax credits are available for a portion of qualifying expenses. The credit amounts and types of qualifying expenses were expanded by the Inflation Reduction Act of 2022.

Who Can Claim the Credits

You can claim the Energy Efficient Home Improvement Credit and the Residential Clean Energy Credit for the year when you purchase and install qualifying improvements.

Homeowners who improve their **primary residence** will find the most opportunities to claim a credit for qualifying expenses. Renters may also be able to claim credits, as well as owners of second homes used as residences.

The credits are never available for improvements made to homes that you don't use as a residence.

Energy Efficient Home Improvement Credit

Qualifying Credit Amounts and Expenses

These expenses may qualify if they meet [requirements detailed on energy.gov](https://www.energy.gov):

- Exterior doors, windows, skylights and insulation materials
- Central air conditioners, water heaters, furnaces, boilers and heat pumps
- Biomass stoves and boilers
- Home energy audits

The amount of the credit you can take is a percentage of the total improvement expenses in the year of installation:

- 2022: 30%, up to a lifetime maximum of \$500
- 2023 through 2032: 30%, up to a maximum of \$1,200 (water heaters, heat pumps, biomass stoves, and boilers have a separate annual credit limit of \$2,000), no lifetime limit

Get details on the [Energy Efficient Home Improvement Credit](https://www.irs.gov).

*For 2022, biomass stoves and boilers are treated as a Residential Clean Energy Credit with no lifetime maximum.



How to Claim the Credit

File **Form 5695, Residential Energy Credits Part II**, with your tax return. You must claim the credit for the tax year when the improvement is installed (not purchased).

Residential Clean Energy Credit

Qualifying Credit Amounts and Expenses

These expenses may qualify if they meet [requirements detailed on energy.gov](https://www.energy.gov):

- Solar, wind and geothermal power generation
- Solar water heaters
- Fuel cells
- Battery storage (beginning in 2023)

The amount of the credit you can take is a percentage of the total improvement expenses in the year of installation:

- 2022 to 2032: 30%, no annual maximum or lifetime limit
- 2033: 26%, no annual maximum or lifetime limit
- 2034: 22%, no annual maximum or lifetime limit

Get details on the [Residential Clean Energy Credit](https://www.irs.gov).



How to Claim the Credit

File **Form 5695, Residential Energy Credits Part I**, with your tax return to claim the credit. You must claim the credit for the tax year when the improvement is installed (not purchased).

RESIDENTIAL CLEAN ENERGY CREDIT

SOLAR TECHNOLOGY: DEEPER DIVE

Summary of what was previously presented, with a few notes on **solar matters**.

- Non-refundable tax credit for the individual, reported on Form 5695, realized on Form 1040 as a reduction of Federal income taxes; **with any unused credit available for carryover with no income level phase-outs.**
- **Credit is equal to 30% of the eligible expenses**, with no limit to the eligible expenses. After 2032 it is 26%, then 22% in 2034 and nothing after 2034.
- Available on primary and secondary residences on the purchase (not a lease) of a solar system, in which battery units installed must store at least 3 kilowatts.
- Reduces electricity costs.
- Said to increase the value of the home; assuming a purchaser places value on this improvement.

RESIDENTIAL CLEAN ENERGY CREDIT

SOLAR TECHNOLOGY: DEEPER DIVE

Summary of what was previously presented, with a few notes on solar matters.

ELIGIBLE EXPENSES INCLUDE

- Solar photovoltaic (PV) panels.
 - PV cells used to power an attic fan (but not the fan itself).
 - Contractor labor for onsite preparation, assembly, or original installation.
 - Permitting fees, inspection costs, and developer fees.
 - All equipment needed to get the solar system running, including wiring, inverters, and mounting equipment.
 - Storage batteries. (You can claim the tax credit for these even if you buy and install them a year or more after you install the solar system.)
 - Sales taxes on eligible expenses.
- This credit does not offset other Federal energy tax credits such as exterior doors and windows, heat pumps, air-sealing insulation, etc.
 - Any state tax credits do not reduce the Federal credit.
 - CANNOT be claimed on residential rental properties, unless you also live there for part of the year, and then credit is divided out by the time it is used as a residence by the owner.

Alternative Fuel Vehicle Refueling Property Credit



ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT: **WHO QUALIFIES**

If you install qualified vehicle refueling and recharging property in your home or business, you may qualify for the alternative fuel refueling property tax credit. The credit was extended and modified by the Inflation Reduction Act. The credit allowed is based on the placed-in-service date for the qualifying property.

WHO QUALIFIES

The credit is available to businesses and individuals that place qualified refueling property into service during the tax year.

ALTERNATIVE FUEL VEHICLE REFUELING

PROPERTY CREDIT: QUALIFIED REFUELING PROPERTY

QUALIFIED REFUELING PROPERTY

To qualify for the credit, refueling property must be used to store or dispense clean-burning fuel.

In addition, the following requirements must be met to qualify for the credit:

- The refueling property is placed in service during the tax year.
- The original use of the property began with the taxpayer.
- The property is used primarily inside the United States.
- If the property is not business or investment use property, it must be installed on property used as a main home.

Beginning January 1, 2023, the Inflation Reduction Act expands qualified property to include:

- Charging stations for 2- and 3-wheeled vehicles (for use on public roads)
- Bidirectional charging equipment (vehicle-to-grid or V2G)

Starting in 2023, qualifying property will be limited to property placed in service within low-income communities or non-urban census tracts.

ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT: **AMOUNT OF CREDIT**

AMOUNT OF CREDIT

Starting January 1, 2023, the credit for qualified refueling property subject to depreciation equals 6% with a maximum credit of \$100,000 for each single item of property.

Businesses meeting prevailing wage and apprenticeship requirements may be eligible for a 30% credit with the same \$100,000 limit.

For qualifying property not subject to depreciation, the credit equals 30% of the cost with a maximum amount of \$1,000 per item.

For property placed in service before January 1, 2023 (including personal property), the credit is 30% of the cost of qualified refueling property with a maximum total credit allowed of \$30,000 for depreciable property and \$1,000 for all other property.

ALTERNATIVE FUEL VEHICLE REFUELING

PROPERTY CREDIT: HOW TO CLAIM THE CREDIT

HOW TO CLAIM THE CREDIT

Use **Form 8911** to figure and report your credit for alternative fuel vehicle refueling property placed in service during the 2022 tax year. See also Instructions for Form 8911 and Instructions for Form 8911 for Certain Filers with 2023 Short Years.

Partnerships and S corporations must file Form 8911 to claim the credit. All other taxpayers are not required to complete or file the form if their only source for this credit is a partnership or S corporation. Instead, they can report this credit directly on line 1s of Part III of **Form 3800, General Business Credit.** We're developing additional forms, instructions and guidance for the 2023 tax year.

ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT: **SPECIAL RULES**

SPECIAL RULES

The portion of the credit for business or investment use of refueling property is treated as a general business credit carried from the Form 8911 to the Form 3800 and subject to the rules applicable to the general business credit.

The portion of the credit for personal use of refueling property cannot exceed the excess of the regular tax liability reduced by certain allowable credits over the tentative minimum tax (if any) for the taxable year as determined on Form 6251. The personal use part of the credit is carried from Form 8911 to the Form 1040, Schedule 3.

The basis of any refueling property for which a credit is taken must be reduced by the amount of the credit.

The credit is subject to recapture if the property the credit applied for ceases to qualify within 3 full years from the placed-in-service date.



New & Used Vehicle Tax Credits

USED CLEAN VEHICLE TAX CREDITS QUALIFIED USED ELECTRIC VEHICLE (EV) OR FUEL CELL VEHICLE (FCV)

Beginning January 1, 2023, if you buy a qualified used electric vehicle (EV) or fuel cell vehicle (FCV) from a **licensed dealer for \$25,000 or less**, you may be eligible for a used clean vehicle tax credit (also referred to as a previously owned clean vehicle credit).

The credit equals 30% of the sale price up to a maximum credit of \$4,000.

The credit is nonrefundable, so you can't get back more on the credit than you owe in taxes. You can't apply any excess credit to future tax years (no carryover).

Purchases made before 2023 don't qualify.

USED CLEAN VEHICLE TAX CREDITS: WHO QUALIFIES

WHO QUALIFIES

You may qualify for a credit for buying a previously owned, qualified plug-in electric vehicle (EV) or fuel cell vehicle (FCV), including cars and light trucks, under Internal Revenue Code Section 25E.

To qualify, you must:

- Be an individual who bought the vehicle for use and not for resale
- **Not be the original owner**
- Not be claimed as a dependent on another person's tax return
- **Not have claimed another used clean vehicle credit in the 3 years before the purchase date**

In addition, your modified adjusted gross income (AGI) may not exceed:

- \$150,000 for married filing jointly or a surviving spouse
- \$112,500 for heads of households
- \$75,000 for all other filers

You can use your modified AGI from the year you take delivery of the vehicle or the year before, whichever is less. If your income is below the threshold for 1 of the two years, you can claim the credit.

USED CLEAN VEHICLE TAX CREDITS: QUALIFIED VEHICLES & SALES

QUALIFIED VEHICLES AND SALES

To qualify, a vehicle must meet all of these requirements:

- Have a sale price of \$25,000 or less
- **Have a model year at least 2 years earlier than the calendar year when you buy it.**
 - For example, a vehicle purchased in 2023 would need a model year of 2021 or older.
- Not have already been transferred after August 16, 2022, to a qualified **buyer.**
- Have a gross vehicle weight rating of less than 14,000 pounds
- Be an eligible FCV or plug-in EV with a battery capacity of least 7 kilowatt hours
- Be for use primarily in the United States

To see if a vehicle is eligible for the used clean vehicle credit, www.fueleconomy.gov

USED CLEAN VEHICLE TAX CREDITS: QUALIFICATIONS

THE SALE QUALIFIES ONLY IF:

- You buy the vehicle from a dealer
- For qualified used EVs, the dealer reports required information to you at the time of sale and to the IRS.

A dealer is a person licensed to sell motor vehicles in a state, the District of Columbia, the Commonwealth of Puerto Rico, any other territory or possession of the United States, an Indian tribal government, or any Alaska Native Corporation.

REQUIRED INFORMATION INCLUDES:

- Dealer's name and taxpayer ID number
- Buyer's name and taxpayer ID number
- Sale date and sale price
- Maximum credit allowable under IRC 25E
- Vehicle identification number (VIN), unless the vehicle is not assigned one
- Battery capacity

HOW TO CLAIM THE USED CLEAN VEHICLE CREDIT

Complete **Form 8936**, Qualified Plug-in Electric Drive Motor Vehicle Credit (Including Qualified Two-Wheeled Plug-in Electric Vehicles and New Clean Vehicles), and file it with your tax return for the year you took possession of the vehicle to claim the used clean vehicle credit. You will need to include the vehicle identification number (VIN).

CREDITS FOR NEW CLEAN VEHICLES PURCHASED IN 2023 OR AFTER: WHO QUALIFIES

If you place in service a new plug-in electric vehicle (EV) or fuel cell vehicle (FCV) in 2023 or after, you may qualify for a clean vehicle tax credit.

WHO QUALIFIES

You may qualify for a **credit up to \$7,500** under Internal Revenue Code Section 30D if you buy a new, qualified plug-in EV or fuel cell electric vehicle (FCV). The Inflation Reduction Act of 2022 changed the rules for this credit for vehicles purchased from 2023 to 2032.

The credit is available to individuals and their businesses. To qualify, you must:

- Buy it for your own use, not for resale
- Use it primarily in the U.S.

In addition, your modified adjusted gross income (AGI) may not exceed:

- \$300,000 married joint, \$225,000 heads of households and \$150,000 for all other filers

You can use your modified AGI from the year you take delivery of the vehicle or the year before, whichever is less. If your modified AGI is below the threshold in 1 of the two years, you can claim the credit.

The credit is nonrefundable, so you can't get back more on the credit than you owe in taxes. You can't apply any excess credit to future tax years. This means it does NOT carryover. It is a use it or lose it tax credit.

CREDITS FOR NEW CLEAN VEHICLES PURCHASED IN 2023 OR AFTER: CREDIT AMOUNT

CREDIT AMOUNT

The amount of the credit depends on when you placed the vehicle in service (delivery), regardless of purchase date.

For vehicles placed in service January 1 to April 17, 2023:

- \$2,500 base amount
- Plus \$417 for a vehicle with at least 7 kilowatt hours of battery capacity
- Plus \$417 for each kilowatt hour of battery capacity beyond 5 kilowatt hours
- Up to \$7,500 total

In general, the minimum credit will be \$3,751 (\$2,500 + 3 times \$417), the credit amount for a vehicle with the minimum 7 kilowatt hours of battery capacity.

For vehicles placed in service April 18, 2023 and after: Vehicles will have to meet all of the same criteria listed above, plus meet new critical mineral and battery component requirements for a credit up to:

- \$3,750 if the vehicle meets the critical minerals requirement only
- \$3,750 if the vehicle meets the battery components requirement only
- \$7,500 if the vehicle meets both

A vehicle that doesn't meet either requirement will not be eligible for a credit.

CREDITS FOR NEW CLEAN VEHICLES PURCHASED IN 2023 OR AFTER: CREDIT AMOUNT

QUALIFIED VEHICLES

To qualify, a vehicle must:

- Have a battery capacity of at least 7 kilowatt hours
- **Have a gross vehicle weight rating of less than 14,000 pounds**
- **Be made by a qualified manufacturer.** FCVs do not need to be made by a qualified manufacturer to be eligible.
See Rev. Proc. 2022-42 for more detailed guidance.
- Undergo final assembly in North America
- Meet critical mineral and battery component requirements (as of April 18, 2023).

The sale qualifies only if:

- **You buy the vehicle new**
- **The seller reports required information to you at the time of sale and to the IRS.**
- Sellers are required to report your name and taxpayer identification number to the IRS for you to be eligible to claim the credit.

How to Claim the Credit

To claim the credit, file **Form 8936**, Qualified Plug-in Electric Drive Motor Vehicle Credit (Including Qualified Two-Wheeled Plug-in Electric Vehicles) with your tax return. You will need to provide your vehicle's VIN.

CREDITS FOR NEW CLEAN VEHICLES PURCHASED IN 2023 OR AFTER: CREDIT AMOUNT

QUALIFIED VEHICLES

To qualify, a vehicle's manufacturer suggested retail price (MSRP) can't exceed:

- \$80,000 for vans, sport utility vehicles and pickup trucks
- \$55,000 for other vehicles

MSRP is the retail price of the automobile suggested by the manufacturer, including manufacturer installed options, accessories and trim but excluding destination fees. **It isn't necessarily the price you pay.**

You can find your vehicle's weight, battery capacity, final assembly location (listed as “final assembly point”) and VIN on the vehicle's window sticker.

See if a vehicle is eligible for the new clean vehicle credit. www.fueleconomy.gov

CLEAN VEHICLE CREDITS: IRS set out procedures for manufacturers, sellers of clean vehicles

Revenue Procedure 2022-42

The Treasury Department and Internal Revenue Service issued a Revenue Procedure setting out key processes for manufacturers and sellers of clean vehicles. These processes are required for vehicles to be eligible for one or more clean vehicle tax incentives, including tax credits for new and previously owned clean vehicles, as well as for commercial clean vehicles.

For vehicle manufacturers, Revenue Procedure 2022-42 provides guidance on new rules in the tax law added by the Inflation Reduction Act on how to enter into a written agreement with the IRS and how to provide periodic written reports containing specified information related to each clean vehicle manufactured. This revenue procedure also provides the procedures for persons selling vehicles to report specified information to the IRS for a vehicle to be eligible for the credit for new or previously owned clean vehicles

Also see IRS NOTICE 2022-46

ADDITIONAL INFORMATION

<https://www.irs.gov/businesses/plug-in-electric-vehicle-credit-irc-30-and-irc-30d>

INDEX OF MANUFACTURERS

<https://www.irs.gov/businesses/irc-30d-new-qualified-plug-in-electric-drive-motor-vehicle-credit>

CLEAN VEHICLE CREDITS: EXAMPLE OF WHAT IS AVAILABLE ON THE IRS WEBSITE

IRS UPDATED
INFORMATION

THIS IS NOT THE
COMPLETE LIST,
JUST AN EXAMPLE

Index to Manufacturers

⊖ American Honda Motor Co., Inc.

Model Year	Vehicle Description	Credit Amount
2014	Accord Plug-In Hybrid	\$3,626
2018, 2019, 2020, 2021	Clarity Plug-In Hybrid	\$7,500

⊕ AMP Electric Vehicles, Inc.

⊕ Audi of America, LLC

⊕ Azure Dynamics, Inc.

⊕ BMW of North America

⊕ Bentley Motors, Inc.

⊕ Boulder Electric Vehicles, Inc.

⊕ BYD Motors, Inc.

CLEAN VEHICLE CREDITS: IRS GUIDANCE & FAQs RELATED TO NEW & USED CLEAN VEHICLE CREDITS

IRS issued Notice 2023-16 that modifies the definitions of certain vehicle classifications for the new, previously owned and qualified commercial clean vehicle credits. This modifies Notice 2023-01 by changing the vehicle classification standard by which vans, sport utility vehicles, pickup trucks and other vehicles are defined.

Fact Sheet 2023-4 updates FAQs related to new, previously owned and qualified commercial clean vehicles.

The FAQs revisions are as follows:

Topic A: Eligibility Rules for the New Clean Vehicle Credit

Topic B: Income and Price Limitations for the New Clean Vehicle Credit

Topic C: When the New Requirements Apply to the New Clean Vehicle Credit

Topic D: Eligibility Rules for the Previously Owned Clean Vehicle Credit

Topic G: Qualified Commercial Clean Vehicles Credit

CLEAN VEHICLE CREDITS: EV VEHICLE THAT MADE THE CUT

These EVs can qualify for a \$7,500 tax credit:

1. Cadillac LYRIQ, 2023-2024 (MSRP limit: \$80,000)
2. Chevrolet Bolt/Bolt EUV, 2022-2023 (MSRP limit: \$55,000)
3. Ford F-150 Lightning, 2022-2023 (MSRP limit: \$80,000)
4. Tesla Model 3 Performance, 2022-2023 (MSRP limit: \$55,000)
5. Tesla Model Y, Y Long, Y Performance All-Wheel Drive, 2022-2023 (MSRP limit: \$80,000)
6. Volkswagen ID.4, 2023 (MSRP limit: \$80,000)
7. Chevrolet Blazer, 2024 (MSRP limit: \$80,000)
8. Chevrolet Equinox, 2024 (MSRP limit: \$80,000)
9. Chevrolet Silverado, 2024 (MSRP limit: \$80,000)

These EVs can qualify for a \$3,750 tax credit:

1. Ford E-Transit, 2022-2023 (MSRP limit: \$80,000)
2. Ford Mustang Mach-E, 2022-2023 (MSRP limit: \$80,000)
3. Rivian R1S, 2023 (MSRP limit: \$80,000)
4. Rivian R1T, 2023 (MSRP limit: \$80,000)
5. Tesla Model 3 Standard Range Rear Wheel Drive, 2022-2023 (MSRP limit: \$55,000)

CLEAN VEHICLE CREDITS: PHEV VEHICLE THAT MADE THE CUT (PLUG-IN HYBRIDS)

PHEVs that can qualify for a \$7,500 tax credit:

1. Chrysler Pacifica PHEV, 2022-2023 (MSRP limit: \$80,000)
2. Lincoln Aviator Grand Touring, 2022-2023 (MSRP limit: \$80,000)

These PHEVs can qualify for a \$3,750 tax credit:

1. Ford Escape Plug-in Hybrid, 2022-2023 (MSRP limit: \$80,000)
2. Jeep Grand Cherokee PHEV 4xe, 2022-2023 (MSRP limit: \$80,000)
3. Jeep Wrangler PHEV 4xe, 2022-2023 (MSRP limit: \$80,000)
4. Lincoln Corsair Grand Touring, 2022-2023 (MSRP limit: \$80,000)



Clean Vehicle Tax Credit 2024 Update

CLEAN-VEHICLE BUYERS CAN TRANSFER TAX CREDITS TO REDUCE PURCHASE PRICE

Buyers of qualified clean vehicles can transfer Sec. 30D or Sec. 25E credits to an IRS registered dealer in return for a cash payment or having the credit treated as a partial payment or down payment on the vehicle starting January 1, 2024.

This from IRS proposed regulations (REG-113064-23). Rev. Proc. 2023-33 provides additional information on the mechanics of this transaction.

The transfer will allow buyers to reduce their purchase price at the time of sale vs. having to wait to take the credit on their tax return (which is in the following year) and have potential phase-outs of the credit due to income levels.

These are for transfers of the new clean vehicle credit, up to \$7,500, and the used clean vehicle credit, up to \$4,000, out of the Inflation Reduction Act.

CLEAN-VEHICLE BUYERS CAN TRANSFER TAX CREDITS TO REDUCE PURCHASE PRICE

Unlike if the credit is solely taken on the tax return, if there is not enough tax liability to cover the tax credit, there will be NO recapture of the tax credit taken when transacted at the dealership.

However, like when the credit is solely taken on the tax return, if the AGI is too high, the available credit still phases out, and would need to be recaptured on the Form 1040. This will be a tax added to other taxes, and paid with the individual taxes.

NOTE: Be mindful that the credit allowed reduces the depreciable basis. So, if the credit does get phased out, be sure not to reduce the depreciable basis.

CLEAN-VEHICLE BUYERS CAN TRANSFER TAX CREDITS TO REDUCE PURCHASE PRICE

The IRS expects to issue advance payments to dealers in the amount of the transferred credit within 72 hours of the purchase along with the dealer submitting required information on the IRS' "time of sale" report.

The Proposed Regulations also provide for recapture (forgoing or paying the credit back to the IRS) provisions.

1. Cancelled sale: The buyer is denied the credit. The dealer is allowed to provide the full credit to the next buyer.
2. Vehicle returns: If the vehicle is returned within 30 days of the placing the vehicle in service, the tax credit is nullified, the previous advance payment will be recaptured to the dealer and the vehicle will NOT be eligible for the new or used vehicle tax credit to the next buyer. However, if the vehicle history does not reflect the prior sale and return, the vehicle remains eligible for the used vehicle tax credit (but not the new vehicle tax credit because it is no longer considered new.)

CLEAN-VEHICLE BUYERS CAN TRANSFER TAX CREDITS TO REDUCE PURCHASE PRICE

CONTINUED: The Proposed Regulations also provide for recapture (forgoing or paying the credit back to the IRS) provisions.

3. Resales: If the vehicle is sold within 30 days of the vehicle being placed in service, the buyer will pay back the tax credit it transferred to the dealer at the time of purchase. The dealer is not responsible for updating the “time of sale” report and will not experience a tax credit recapture.
4. Resales more than 30 days after purchase: If the vehicle is sold more than 30 days after the purchase it will not need to be paid back as long as the vehicle was not purchased originally with the intent to resale it. The IRS will monitor who is receiving these tax credits as reported by the dealers and will consider the buyers intent on a case-by-case basis. NOTE: No more than one (1) credit is allowed in any given year and credits are tracked by the buyers SSN or EIN as reported by the dealers on the “time of sale” reports. Therefore, it will be difficult for anyone to abuse this.



IRS: UPDATES TO QUESTION ON DIGITAL ASSETS; TAXPAYERS SHOULD CONTINUE TO REPORT ALL DIGITAL ASSET INCOME

For the 2022 tax year it asks: "At any time during 2022, did you: (a) receive (as a reward, award or payment for property or services); or (b) sell, exchange, gift or otherwise dispose of a digital asset (or a financial interest in a digital asset)?"

What is a digital asset?

A digital asset is a digital representation of value which is recorded on a cryptographically secured, distributed ledger.

Common digital assets include:

Convertible virtual currency and cryptocurrency

Stablecoins

Non-fungible tokens (NFTs)

Everyone must answer the question

Everyone who files Form 1040, Form 1040-SR or Form 1040-NR must check one box, answering either "Yes" or "No" to the digital asset question. The question must be answered by all taxpayers, not just those who engaged in a transaction involving digital assets in 2022.

IRS: UPDATES TO QUESTION ON DIGITAL ASSETS; TAXPAYERS SHOULD CONTINUE TO REPORT ALL DIGITAL ASSET INCOME

When to check "Yes"

Normally, a taxpayer must check the "Yes" box if they:

- Received digital assets as payment for property or services provided;
- Transferred digital assets for free (without receiving any consideration) as a bona fide gift;
- Received digital assets resulting from a reward or award;
- Received new digital assets resulting from mining, staking and similar activities;
- Received digital assets resulting from a hard fork (a branching of a cryptocurrency's blockchain that splits a single cryptocurrency into two);
- Disposed of digital assets in exchange for property or services;
- Disposed of a digital asset in exchange or trade for another digital asset;
- Sold a digital asset; or
- Otherwise disposed of any other financial interest in a digital asset.

IRS: UPDATES TO QUESTION ON DIGITAL ASSETS; TAXPAYERS SHOULD CONTINUE TO REPORT ALL DIGITAL ASSET INCOME

When to check "No"

Normally, a taxpayer who merely owned digital assets during 2022 can check the "No" box as long as they did not engage in any transactions involving digital assets during the year. They can also check the "No" box if their activities were limited to one or more of the following:

- Holding digital assets in a wallet or account;
- Transferring digital assets from one wallet or account they own or control to another wallet or account they own or control; or
- Purchasing digital assets using U.S. or other real currency, including through electronic platforms such as PayPal and Venmo.

For more information, see page 15 of the Tax Year 2022 1040 (and 1040-SR) Instructions

CRYPTO-CURRENCY

Form **1040** Department of the Treasury—Internal Revenue Service **2022** U.S. Individual Income Tax Return OMB No. 1545-0074 IRS Use Only—Do not write or staple in this space.

Filing Status Single Married filing jointly Married filing separately (MFS) Head of household (HOH) Qualifying surviving spouse (QSS)

Check only one box. If you checked the MFS box, enter the name of your spouse. If you checked the HOH or QSS box, enter the child's name if the qualifying person is a child but not your dependent:

Your first name and middle initial	Last name	Your social security number
If joint return, spouse's first name and middle initial	Last name	Spouse's social security number
Home address (number and street). If you have a P.O. box, see instructions.		Apt. no.
City, town, or post office. If you have a foreign address, also complete spaces below.		State
Foreign country name		Foreign province/state/county
Foreign postal code		Foreign postal code

Digital Assets At any time during 2022, did you: (a) receive (as a reward, award, or payment for property or services); or (b) sell, exchange, gift, or otherwise dispose of a digital asset (or a financial interest in a digital asset)? (See instructions.) Yes No

You Spouse



CRYPTOCURRENCY IRS GUIDANCE

IRS Notice 2014-21

Revenue Ruling 2019-24

IRS FAQs (IRS Website)

NEW: IRS Announcement 2023-02:

The Treasury Department and Internal Revenue Service announced that brokers are not required to report additional information with respect to dispositions of digital assets until final regulations are issued under sections 6045 and 6045A.

CRYPTOCURRENCY TAX RAMIFICATIONS

CRYPTOCURRENCY –

IRS considered a capital asset at time of sale.

Follow capital gains/losses tax laws.

IRS considers receipt without purchase ordinary income.

SELLING CRYPTOCURRENCY – Capital Transaction. Gain or loss compared to basis.

TAX BASIS IN CRYPTOCURRENCY – FMV at time of purchase or receipt.

RECEIVING CRYPTOCURRENCY NOT FROM A PURCHASE –

FMV at time of receipt is ordinary income.

Sale of goods and services (cryptocurrency was paid for such goods and services)

Rewards paid for holding the cryptocurrency for a period of time.

Rewards paid for promoting the cryptocurrency.

CRYPTOCURRENCY EXAMPLE OF TAX RAMIFICATIONS

John buys 100 cryptocurrency “tokens” for \$100 US dollars (each token worth \$1 US dollars)

John’s cost basis is \$100 in 100 tokens

John receives 1 token worth \$1 for holding the cryptocurrency for 1 year

John recognizes ordinary income of \$1 FMV in US dollars

The recognition of income at FMV in US dollars is now the “tax basis” for that token

John now has 101 tokens with cost basis of \$1 per token or \$101 US dollars

John purchases good and/or services from Sally

John owes Sally 10 tokens

At the time of this transaction the FMV of each token has doubled

John paid \$20 FMV US dollars

John recognizes a capital transaction

John received \$20 FMV US dollars and has “sold” 10 tokens, “capital transaction”

John has cost basis of \$10. Sold \$20. \$10 capital gain. Long-term (over 1 year)

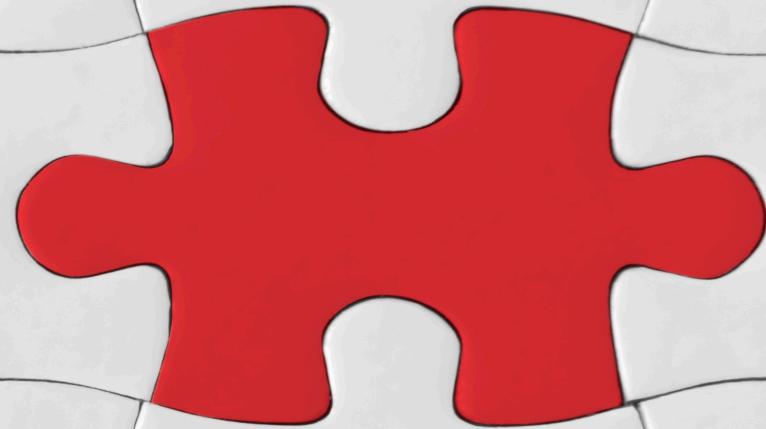
John now has 91 tokens (101 – 10) with a cost basis of \$1 per token (still)

Sally recognizes ordinary income of \$20, and has cost basis of \$20 in 10 tokens



IRS

Department of the Treasury
Internal Revenue Service



AMENDED FROM 1040 TAX RETURNS GET A BOOST

Not only can Form 1040 be amended by e-file, but you can now (new) request refunds to be direct deposit.

IRS UPGRADES 'WHERE'S MY REFUND' TOOL TO TRACK REFUNDS FOR TWO YEARS

The Internal Revenue Service has enhanced its “Where’s My Refund?” online tool, that enables taxpayers to check the status of their current tax year and tax refunds for the two previous years, as the agency continues to come under fire for processing backlogs.

With the upgrade, taxpayers can now select any of the three most recent tax years to check their refund status. They will need to enter either their Social Security number or ITIN, filing status and expected refund amount from the original filed tax return for the tax year they’re checking.

SETUP & HAVE AN IRS INDIVIDUAL TAX ACCOUNT, AND TAX PRO'S HAVE AN ACCOUNT AS WELL

The Internal Revenue Service offers online Individual tax accounts and Tax Pro Accounts that individual and tax practitioners can use for submitting an authorization request to an individual client's own taxes online with the IRS.

The accounts can be used for submitting a power of attorney request and a tax authorization request. The IRS plans to expand the features available to tax professionals through the Tax Pro Accounts in the future.

The IRS also said that it's adding more features to the online taxpayer accounts that it has been providing to taxpayers.

Taxpayers can now view the amount they owe, updated for the current calendar day; their balance details by year; their payment history and any scheduled or pending payments; key information from their most recent tax return; payment plan details; digital copies of select notices from the IRS; and their address on file with the IRS.

SETUP IS EASY



How to Submit Authorizations Using Tax Pro Account and Online Account



1. Steps for the Tax Professional

- Log in to Tax Pro Account at www.irs.gov/taxproaccount after validating identity.
- Initiate request for either a power of attorney (POA) or tax information authorization (TIA).
- Enter tax professional's information – name, address, and Centralized Authorization File (CAF) number.
- Enter taxpayer's information – name, address, and tax identification number (TIN).
- Select tax matter(s) and tax period(s).
- Check box as electronic signature (for POA only) and submit authorization for IRS validation and routing to taxpayer's Online Account.
- Inform taxpayer that an authorization request should be pending in their Online Account for their review and approval.

2. Steps for the Taxpayer

- Log in to Online Account at www.irs.gov/account after validating identity.
- Select the "Authorizations" tab.
- Review request from tax professional for accuracy.
- Check box as digital signature and approve the request; taxpayer also has the option to reject the request.

3. Most requests record immediately to the CAF database; will show as approved in Online Account and Tax Pro Account.

Tips

- Tax professional and taxpayer names and addresses must match IRS records exactly.
- Tax professional must already have a CAF number and be in good standing with the IRS.
- Tax Pro Account is available to tax professionals and taxpayers with addresses in the United States.
- Prior authorization revoked when new request is recorded for same request type, tax matter and period.
- Taxpayers maintain control over who can represent them before IRS or see their IRS tax records.

SETUP IS EASY



Online Account
www.irs.gov/account

Why You Should Create an IRS Online Account



New Feature

- Use the "authorization" option in Online Account to control who can represent you before the IRS or view your tax records.
- Approve and electronically sign Power of Attorney and Tax Information Authorization requests made by your tax professional.

Access Tax Records

- View key data from your most recent tax return.
- Access additional records via Get Transcript.
- View your Economic Impact Payment amounts.

View Balance and Notices

- View amount owed.
- Access digital versions of select correspondence from the IRS.

Payment Plans

- Learn about payment plan options.
- View payment plan details.

Make and View Payments

- Make a payment from your bank account or by debit/credit card.
- View five years of payment history and any pending or scheduled payments.

Upcoming Feature

Update Profile

- View and update address on file.
- Manage preferences such as email notifications.

Upcoming Feature

Opt-Out of Paper Notices

- Go paperless for certain correspondence from the IRS.

Create or access your account at www.irs.gov/account.

IRS UPDATES CAPABILITIES TO TAX PRO ACCOUNT

The IRS' Tax Pro account now allows tax professionals with a CAF number to manage their active client authorizations on file with the Centralized Authorization File (CAF) database, including the new feature that Tax Pro Account users can also withdraw from their active authorizations online in real time.

Tax professionals can use Tax Pro Account to send Power of Attorney (POA) and Tax Information Authorization (TIA) requests directly to a taxpayer's individual IRS Online Account. Upon the taxpayer's approval and validation of the information, the authorization records immediately to the CAF database, which avoids faxing, mailing, uploading and long review and processing time by the CAF Unit.

Other enhancements will allow tax professionals to view their client's tax information, including balance due amounts.

IRS EXPANDS USE OF CHATBOTS TO HELP ANSWER QUESTIONS ON KEY NOTICES

The Internal Revenue Service today announced the availability of expanded chatbot technology to help quickly answer basic questions for people receiving notices about possibly underreporting their taxes. The new chatbot feature will assist taxpayers who receive notices CP2000, CP2501 and CP3219A. These mailings inform taxpayers if the tax information the IRS received from third parties doesn't match the information they provided themselves to the IRS. This technology expansion is supported through the Inflation Reduction Act funding to transform the IRS and improve services to help taxpayers.

The new IRS chatbot is available to help taxpayers with questions such as:

- What to do if they received a notice.
- What to do if they need more time to respond to a notice.
- How to find out if the IRS received their response.

TAXPAYERS CAN NOW UPLOAD MORE DOCUMENTS TO IRS; NEW ONLINE OPTION FOR 9 NOTICES CAN HELP RESOLVE ISSUES FASTER

IRS created the Document Upload Tool

IRS information technology specialists developed a prototype for the Document Upload Tool in 2021. Since then, the IRS has been testing this feature on a limited number of exam-related notices, and 38% of the responses to these notices have used the agency's secure electronic communications rather than traditional mail.

HOW IT WORKS

Language on the notice informs the taxpayer to, "Send us your documents using the Documentation Upload Tool within 30 days from the date of this notice." It includes the link and a unique access code.

- The taxpayer can open the link in any browser and then input their unique code, their first and last name and their Social Security, Individual Taxpayer Identification or Employee Identification number.
- The taxpayer can then securely upload scans, photos or digital copies of documents (maximum of 15MB per file, up to 40 files).
- The taxpayer receives a confirmation that the IRS received their documents, and the IRS employee assigned the case can manage the transmitted documents.

TAXPAYERS CAN NOW UPLOAD MORE DOCUMENTS TO IRS; NEW ONLINE OPTION FOR 9 NOTICES CAN HELP RESOLVE ISSUES FASTER

WHAT NOTICES QUALIFY?

Taxpayers who receive one of the following notices with the link and access code can choose to upload their documents:

- CP04, relating to combat zone status.
- CP05A, information request related to a refund.
- CP06 and CP06A, relating to the Premium Tax Credit.
- CP08, relating to the Child Tax Credit.
- CP09, relating to claiming the Earned Income Tax Credit.
- CP75, relating to the EITC.
- CP75a, relating to the EITC.
- CP75d, relating to the EITC and other credits.

Future expansion planned: In the coming months and years, the IRS plans to expand this capability to dozens of other notices. In addition, the IRS will offer digital correspondence on a variety of other taxpayer interactions. During live interactions such as phone calls with taxpayers, IRS employees will be able to grant upload access by providing the link and unique access code.

TAX TIME GUIDE: USING ELECTRONIC PAYMENT AND AGREEMENT OPTIONS FOR TAXPAYERS WHO OWE CAN HELP AVOID PENALTIES AND INTEREST

To avoid late filing and interest penalties on any payments due, the IRS offers several different options to help online.

“One time” payment can be made directly on the IRS website, even without a formal online account with the IRS.

IRS ENDS UNANNOUNCED REVENUE OFFICER VISITS TO TAXPAYERS; MAJOR CHANGE TO END CONFUSION, ENHANCE SAFETY AS PART OF LARGER AGENCY TRANSFORMATION

As part of a larger transformation effort, the Internal Revenue Service today announced a major policy change that will end most unannounced visits to taxpayers by agency revenue officers to reduce public confusion and enhance overall safety measures for taxpayers and employees.

The change reverses a decades-long practice by IRS revenue officers, the unarmed agency employees whose duties include visiting households and businesses to help taxpayers resolve their account balances by collecting unpaid taxes and unfiled tax returns.

Effective immediately, unannounced visits will end except in a few unique circumstances and will be replaced with mailed letters to schedule meetings.

TAXPAYERS CAN EXPECT APPOINTMENT LETTERS; LIMITED SITUATIONS WHERE UNANNOUNCED VISITS WILL OCCUR

In place of the unannounced visits, revenue officers will instead make contact with taxpayers through an appointment letter, known as a 725-B, and schedule a follow-up meeting. This will help taxpayers feel more prepared when it is time to meet.

Taxpayers whose cases are assigned to a revenue officer will now be able to schedule face-to-face meetings at a set place and time, with the necessary information and documents in hand to reach resolution of their cases more quickly and eliminate the burden of multiple future meetings.

The IRS noted there will still be extremely limited situations where unannounced visits will occur. These rare instances include service of summonses and subpoenas; and also sensitive enforcement activities involving seizure of assets, especially those at risk of being placed beyond the reach of the government.

To put this in perspective, these types of situations typically number less than a few hundred each year – a small fraction compared to the tens of thousands of unannounced visits that typically occurred annually under the old policy.

\$21.4 BILLION CUT IN IRS FUNDING

ANNUAL IRS (NORMAL) BUDGET

- \$14.3 Billion

DEBT CEILING DEAL

- Doesn't Cut IRS Normal Budget
- Cuts \$1.4 Billion to IRS Immediately
 - This is the EXTRA increase of funds to be infused from the Inflation Reduction Act (NOT FROM CURRENT BUDGET)
 - Not directed towards taxpayer services and technology
- Cuts \$10 Billion in 2024
 - From Inflation Reduction Act Planned Infusion
- Cuts Another \$10 Billion in 2025
 - From Inflation Reduction Act Planned Infusion
- IRS Still Has \$60 Billion from Inflation Reduction Act



Internal Revenue Service Inflation Reduction Act Strategic Operating Plan

FY2023 – 2031

Objective **3** Focus expanded enforcement on taxpayers with complex tax filings and high-dollar noncompliance to address the tax gap

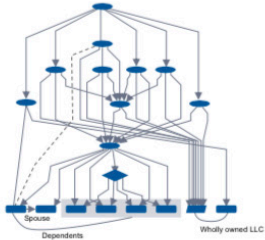
Even with improved taxpayer service, some taxpayers will not comply. The rising breadth and complexity of tax administration, coupled with the sophisticated ways that some taxpayers attempt to evade tax, have outpaced our resources and ability to monitor compliance and close the gap between taxes owed and collected. We will improve our efforts to help ensure that the proper amount of tax is paid and to promote future compliance. Pursuant to Treasury’s directive, small businesses and households earning \$400,000 or less will not see audit rates increase relative to historical levels. We will increase our focus on segments of taxpayers with complex issues and complex returns where audit rates are minimal today, such as those related to large partnerships, large corporations, and high-income and high-wealth individuals. Modern data analysis tools can greatly streamline these efforts, and the technology investments from Objective 4 will enable this work.

Where we are heading

- We will increase compliance coverage in areas with complex issues and complex returns where we have not had the resources to fully assess risks, such as those relating to complex partnership structures, large corporations, and high-income and high-wealth individuals.
- We will improve enforcement and risk identification through better use of data analytics, technology, and centralized operations.
- We will increase the expertise and capacity necessary to examine highly complex returns and issues more effectively.

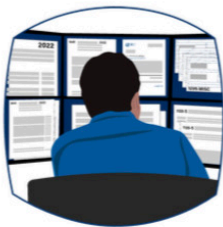
Large business filings and examinations can require a variety of expertise and significant resources

Business structures can be complex



Related entities can include hundreds of investors in multiple tiers.

Complex taxpayer filings are long and time-consuming to examine



Some returns are thousands of pages long, requiring hundreds of staff hours to effectively review.

Many specialists and resources are needed to examine these filings



Complex returns require many specialists, including data scientists, auditors, counsel, international and financial products specialists, economists, and engineers.

Visuals are illustrative

Indicators of success

- ✓ Decreased repeat noncompliance rates
- ✓ Decreased enforcement contact with the IRS for compliant taxpayers
- ✓ Appropriate compliance activities for priority segments that are sufficient to achieve voluntary compliance
- ✓ Decreased tax gap relative to the gap without the resources provided by the IRA



How expanded enforcement will further the energy security and clean energy provisions of the IRA for consumers, small businesses, communities, and industries

- We will quickly identify and address noncompliant activity, including fraud, to ensure credits are properly claimed by eligible taxpayers.

Strategic shifts

From	To
Enforcement efforts underutilize risk analytics to identify high-priority segments.	We will use enhanced data and analytics to select compliance cases based on highest risk of noncompliance, and to choose enforcement actions predicted to be most effective.
Enforcement is resource-constrained, with coverage rates for complex filings and high dollar noncompliance at historical lows.	We will increase capacity and expertise for enforcement to better address high-dollar noncompliance among complex filers.

Initiatives included in this objective

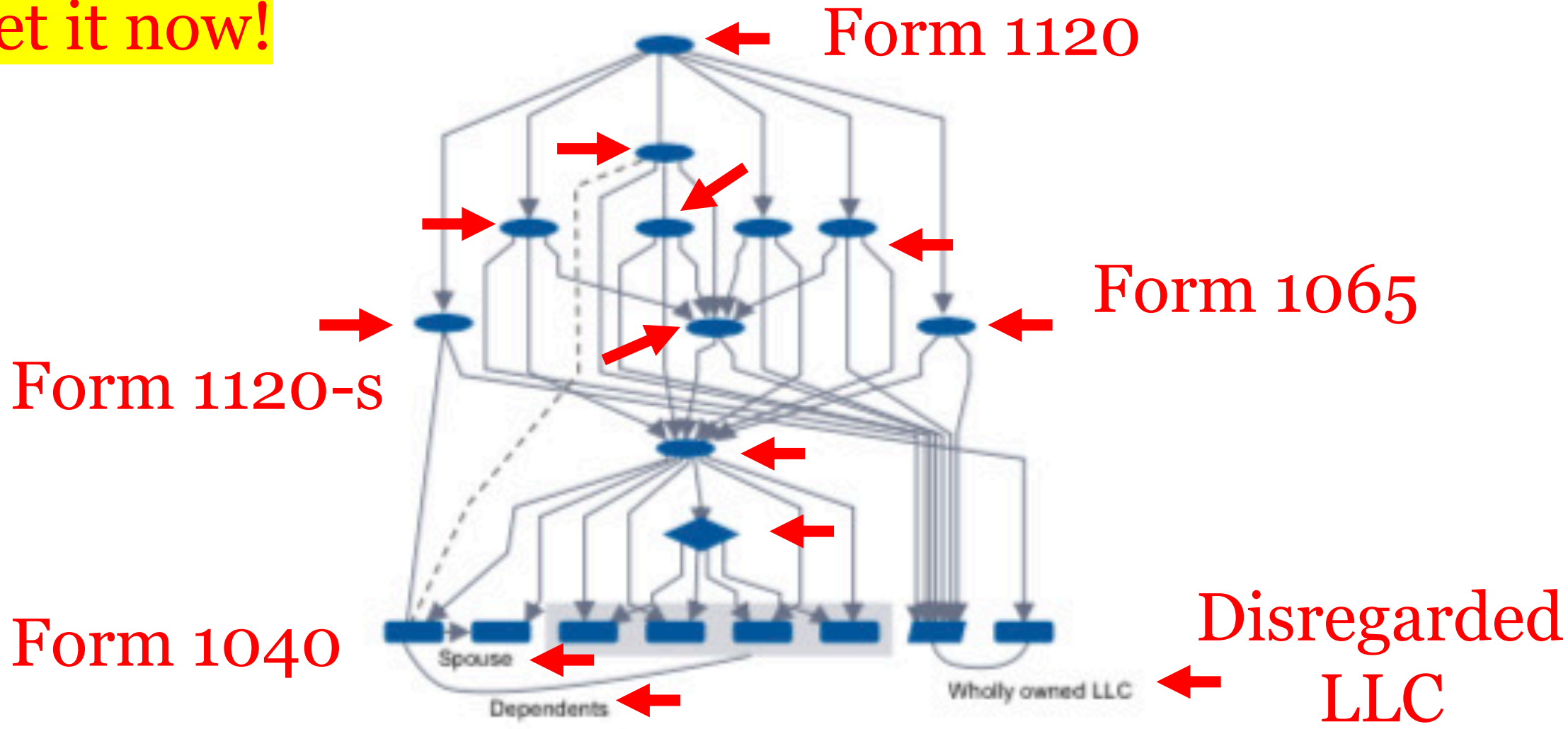
3.1 Employ centralized, analytics-driven, risk-based methods to aid in the selection of compliance cases: The IRS will use improved analytics to aid in the selection of cases predicted to be at risk of noncompliance, choosing enforcement treatments that maximize opportunities to improve and sustain taxpayer compliance while ensuring fairness in selection

3.2 Expand enforcement for large corporations: The IRS will increase enforcement activities to help ensure tax compliance of large corporate taxpayers

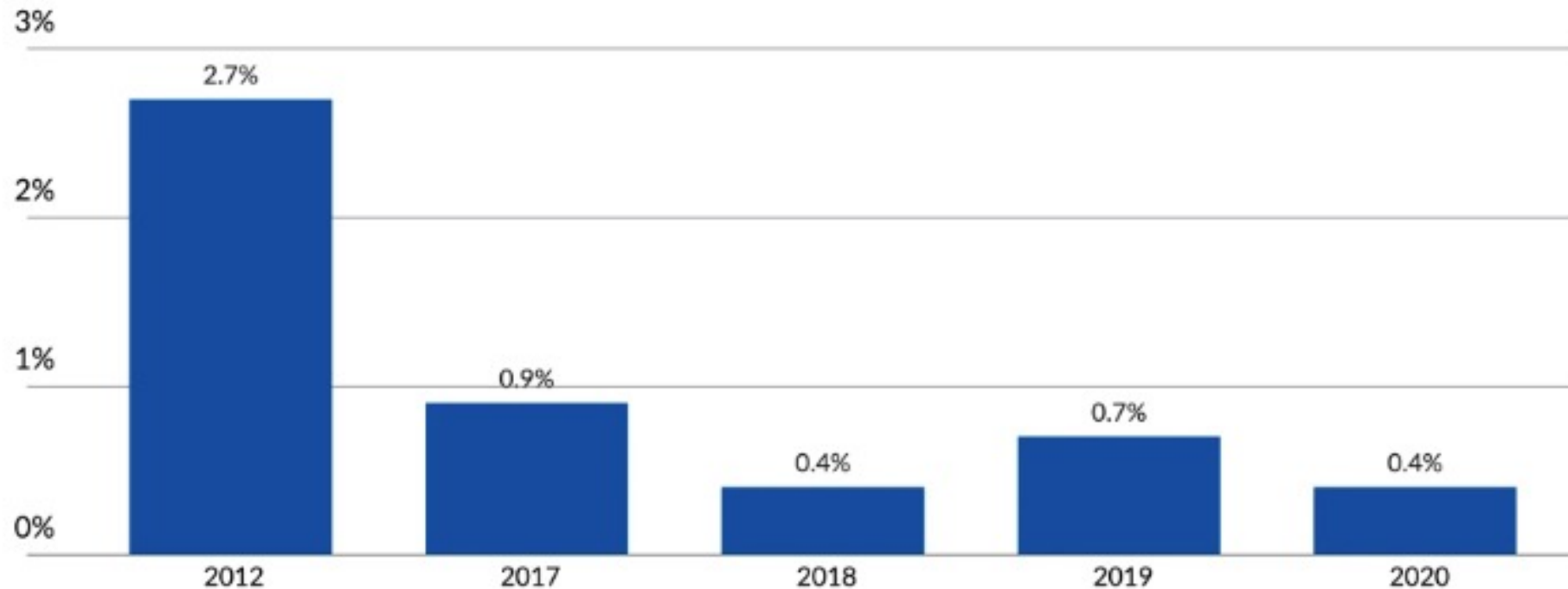
FROM IRS STRATEGIC PLAN

They get it now!

Business structures can be complex



Audit rates for people making \$500,000 to less than \$1 million



Source: Internal Revenue Service 2022 Data Book.

2012: For every 1,000 taxpayers, 2.7% = **27** Audits

2020: For every 1,000 taxpayers, 0.4% = 4 Audits

AUDITS INCREASING 675% GETS US BACK TO 2012 LEVELS

IRS WRAPS UP 2023 DIRTY DOZEN LIST; REMINDS TAXPAYERS AND TAX PROS TO BE WARY OF SCAMS AND SCHEMES

1. ERTC
2. Phishing and smishing
3. Online account help
4. False fuel credit claims
5. Fake Charities
6. Unscrupulous tax preparers
7. Social media advice
8. Spear phishing & cybersecurity
9. Offer in compromise mills
10. Schemes aimed at high-income
11. Bogus tax avoidance strategies
12. Schemes with international elements

IRS TWEAKS CRYPTO GUIDANCE FOR BITCOIN

The Internal Revenue Service has slightly revised its 2014 guidance on the treatment of virtual currency to reflect the fact that some countries now accept Bitcoin as legal tender.

The IRS issued Notice 2023-34, basically updating Notice 2014-21 because it stated that digital currencies were not legal tender; however, the IRS noted that since that time, some foreign jurisdictions have enacted laws that characterize Bitcoin as legal tender.

"Thus, the sentence in the background section of Notice 2014-21 stating that virtual currency does not have legal tender status in any jurisdiction is no longer accurate as to Bitcoin," said the IRS.

CRYPTOCURRENCY IRS GUIDANCE

IRS Notice 2014-21

Revenue Ruling 2019-24

IRS FAQs (IRS Website)

NEW: IRS Announcement 2023-02:

The Treasury Department and Internal Revenue Service announced that brokers are not required to report additional information with respect to dispositions of digital assets until final regulations are issued under sections 6045 and 6045A.

NFT GUIDANCE BEGINS TO TAKE SHAPE

The Treasury and the IRS are soliciting feedback for upcoming guidance on the tax treatment of nonfungible tokens, or NFTs, as collectibles.

NFTs that are collectibles would be taxed at a rate not exceeding 28%, while an asset that is not a collectible would be subject to a lower capital gains rate.

In IRS Notice 2023-27, the IRS suggested using a "look-through" approach.

IRS ISSUES GUIDANCE ON NONFUNGIBLE TOKENS

The Treasury Department and the Internal Revenue Service announced that they are soliciting feedback for upcoming guidance regarding the tax treatment of a nonfungible token (NFT) as a collectible under the tax law. The guidance also requests comments on the treatment of NFTs as collectibles and describes how the IRS intends to determine whether an NFT is a collectible until the further guidance is issued.

A nonfungible token (NFT) is a unique digital identifier that is recorded using distributed ledger technology and may be used to certify authenticity and ownership of an associated right or asset.

Distributed ledger technology, such as blockchain technology, uses independent digital systems to record, share and synchronize transactions, the details of which are recorded simultaneously on multiple nodes in a network. A token is an entry of data encoded on a distributed ledger. A distributed ledger can be used to identify ownership of both NFTs and fungible tokens, such as cryptocurrency, as described in Rev. Rul. 2019-24.

IRS ISSUES GUIDANCE ON NONFUNGIBLE TOKENS

Section 408(m)(2) of the tax code provides for a specific list of items that constitute collectibles for certain purposes. Acquisition of a collectible by an individual retirement account (IRA) or individually-directed account of a qualified plan is treated as a distribution from the account equal to the cost to the account of the collectible.

Generally, collectibles also do not have as advantageous capital-gains tax treatment as other capital assets. Until additional guidance is issued, the IRS intends to determine when an NFT is treated as a collectible by using a "look-through analysis." Under the look-through analysis, an NFT is treated as a collectible if the NFT's associated right or asset falls under the definition of collectible in the tax code.

For example, a gem is a collectible under section 408(m); therefore, an NFT that certifies ownership of a gem is a collectible. In Notice 2023-27, the Treasury Department and the IRS are requesting comments on any aspect of NFTs that might affect the treatment of an NFT as a collectible as well as certain comments specifically set out in the notice.

SCHEDULE K-1 ACTIVITIES: AUDIT HOT SPOTS

THE FUTURE OF AUDITS: Employment taxes, S-corporation reasonable compensation, self-employment earnings in partnerships, passive or non-passive classifications and properly accounting for basis when losses are taken.

Easiest audit adjustment:

- Reasonable compensation (S-corps)
- Distributions vs. payroll (S-corps)
- Self-employment earnings (partnerships)
- Disallow losses (both S-corps & partnerships)
- Passive or non-passive treatment (both S-corps & partnerships)

Easy to spot:

- Compensation reported (line 7 of form 1120-s)
- Distributions vs. compensation reported (Form 1120-s: pg. 1, ln 7 vs. pg. 3, ln 16 d)
- Self-employment earnings reported (box 14 of Form 1065 Schedule k-1)
- Losses, passive & non-passive taken on Schedule E, page 2 of Form 1040

Easy to challenge:

- Compensation reasonable
- General ledger review of frequency & amounts of distributions
- Non-passive income subject to self-employment taxes
- Passive treatment based on activity (documentation)
- Tax basis & at-risk basis (just show us your calculation)

SCHEDULE K-1 AUDIT CONSIDERATIONS

PARTNERSHIP SCHEDULE K-1

- PARTNERS BASIS MUST BE REPORTED ON “TAX BASIS”
 - ENSURE WHAT YOU ARE USING IS THE “TAX BASIS”

S-CORPORATION SCHEDULE K-1

- FORM 7203
 - FORMAL REPORTING S CORPORATION SHAREHOLDER STOCK AND DEBT BASIS LIMITATIONS

JUST BE PREPARED!

Records to prove income & expenses

- Bank statements
- Credit card statements
- Receipts

Completeness of income that is accurate & proven

Appropriateness of expenses

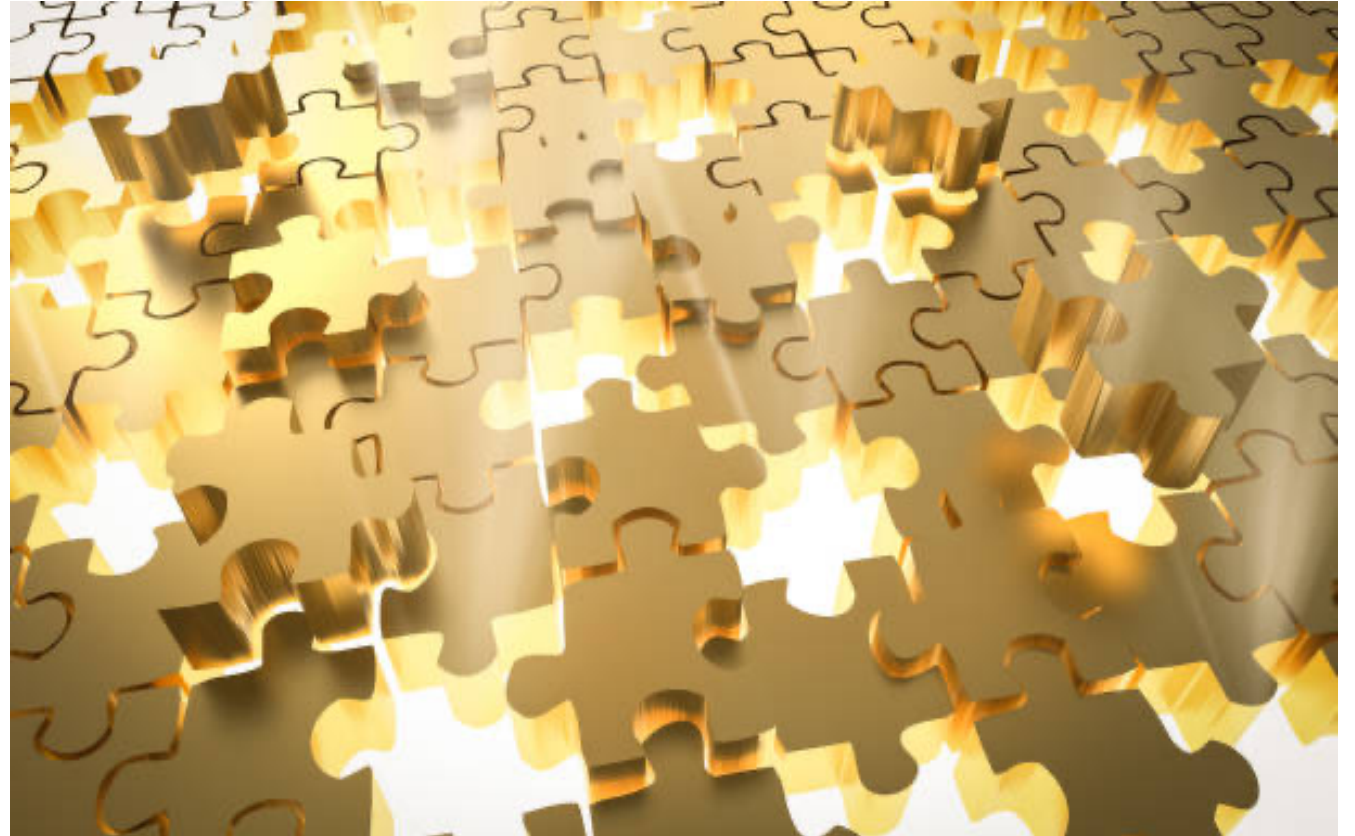
- IRC Sec. 162: Ordinary & necessary to the business

Engagement letter

- Define scope of services: What is assumed?
- Complete income
- Define IRC Sec. 162
- Records to keep

<http://www.jjthecpa.com/g2023cpe>

Links to Presented
Tax Forms,
IRS Instructions,
IRS Publications,
Tax Court Cases,
IRS Regs &
Rev Rulings, etc.



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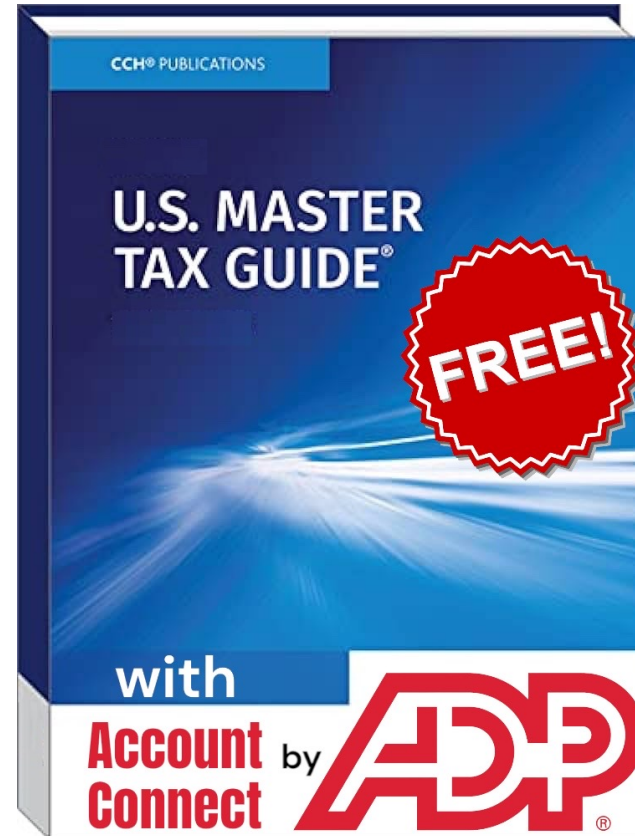
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