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Key Tax Planning Considerations for the 2023 Tax Year

Tuesday, November 14, 2023

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Additional Information

Learning Objective To provide attendees with methods to reduce tax liability for the 2023 tax year.	**Instructional Delivery Methods** Group Internet-based
Recommended CPE 1.0 CPE Credit	**Recommended Fields of Study** Taxes
Prerequisites None required	**Advance Preparation** None
Program Level Basic	**Course Registration Requirements** None
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Today's Agenda

- Individual Tax Discussion
- Business Tax Discussion
- New Tax Law Items & Reminders

2023 Income Tax Rates for Individuals

Filing Status				
Rate (%)	Single	Head of Household	Married Filing Jointly and Surviving Spouses	Married Filing Separately
Ordinary Income Brackets				
10%	$0 to $11,000	$0 to $15,700	$0 to $22,000	$0 to $11,000
12%	$11,001 to $44,725	$15,701 to $59,850	$22,001 to $89,450	$11,001 to $44,725
22%	$44,726 to $95,375	$59,851 to $95,350	$89,451 to $190,750	$44,726 to $95,375
24%	$95,376 to $182,100	$95,351 to $182,100	$190,751 to $364,200	$95,376 to $182,100
32%	$182,101 to $231,250	$182,101 to $231,250	$364,201 to $462,500	$182,101 to $231,250
35%	$231,251 to $578,125	$231,251 to $578,100	$462,501 to $693,750	$231,251 to $346,875
37%	$578,126	$578,101	$693,751	$346,876

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2023 Capital Gains and Qualified Dividends Tax Rates

	Filing Status				
Rate (%)	Single	Head of Household	Married Filing Jointly and Surviving Spouses	Married Filing Separately	Trusts and Estates
0%	$0 to $44,625	$0 to $59,750	$0 to $89,250	$0 to $44,625	$0 to $3,000
15%	$44,626 to $492,300	$59,751 to $523,050	$89,251 to $553,850	$44,656 to $276,900	$3,001 to $14,650
20%	$492,301+	$523,051+	$553,851+	$276,901+	$14,651+

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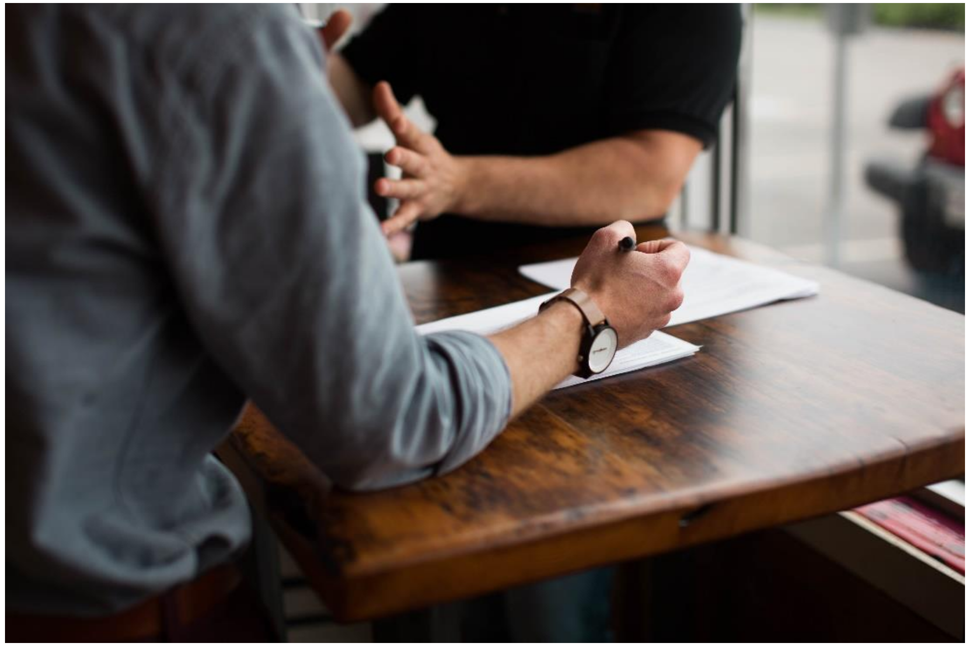
Standard Deduction vs. Itemized

- Standard deduction increased to -
    - $27,700 for Married Filing Jointly.
    - $20,800 for Heads of Household.
    - $13,850 for Single individuals and Married Filing Separately.
- Review Itemized deductions for the year to determine best course of action.



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Specific Itemized Deductions

- Medical expenses - 7.5% AGI threshold for 2023.
- To date, the State and Local Tax (SALT) deduction is still capped at $10,000.
- Mortgage Interest -
  - Mortgage prior to December 15, 2017 – cap is $1,000,000.
  - After December 15, 2017 – cap is $750,000.
- Home equity loans are **only deductible** if used for buying, building or fixing up the taxpayer's residence.
- If you can't itemize your deductions but give to charity regularly, you can bunch charitable contributions into one year to generate higher charitable contributions in one year thereby increasing your itemized deductions above the standard deduction threshold.

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Itemized Deductions - Charity

- AGI Limits
  - Cash to regular qualified charity – 60% of AGI.
  - Noncash to regular qualified charity – 30% of AGI.
  - Cash/Noncash to certain Private Foundations – 30%/20% of AGI.
  - 5-year carryover of excess contributions.
- Capital Gain Property
  - FMV deduction.
  - Do not pay tax on appreciation.
  - Creates magnified tax benefit due to FMV deduction without income (donation of $200K of stock with a basis of $100K results in extra tax savings between $15,000 – $23,800).

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Itemized Deductions - Charity

Continued

- Donor Advised Fund
  - Can be set up by most retail brokerages (Fidelity is a popular choice).
  - Make large gift to fund in year 1 and take the full deduction but spread giving over many years.
  - Can donate cash or stock (stock is more advantageous and the generally the more popular choice).
- Qualified Charitable Distribution
  - Must be a direct transfer from your IRA to the charity.
  - Taxpayer must be at least 70 ½ at the time of transfer.
  - Maximum amount is $100,000 per year per taxpayer.
  - Distribution is not taxable, and contribution is not deductible.

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Other Ways to Reduce Your Taxes

- Use your year-end bonus to max out your 401(k)/403(b) - Limit is $22,500, plus catch-up of $7,500 for those 50 and older.

- Hold investments for more than one year before selling – LTCG.
- Sell investments at a loss to offset capital gains.
  - Watch for Wash Sale rules – however, currently no wash sale rules for digital assets
- Accelerate medical expenses to get over 7.5% AGI threshold.
- Contribute to your IRA (deductible under certain circumstances) or consider converting to a Roth IRA.
  - Max contribution is $6,500, plus catch-up of $1,000 for those 50 and older
- Don't miss out on common tax credits (Child, Childcare, Education*). **subject to phase-out*
- Be sure to use all flex spendings before year-end or check with your HR for grace period

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Other Ways to Reduce Business-Related Income

Other Income/Deductions

- Report unreimbursed business expenses related to pass-through activities (partnerships).
- Maximize tax-favored retirement plan contributions for the self-employed/small business owners: IRA, Solo 401(k), SEP IRA, SIMPLE IRA, or a defined benefit plan.
- Maximize elective deferral retirement contributions such as 401(k), 403(b), 457(b) and SIMPLE IRA.
- Take the self-employed health insurance deduction.
- Deduct business mileage for your personal automobile.
- Consider the possibility of the Home Office deduction.
  - Speak with your tax professional to ensure that you qualify

Cryptocurrency Transactions Reporting

- Must answer Yes/No virtual currency question on page 1 of Form 1040.
- Treated as property for tax purposes, triggering sale/exchange reporting on Schedule D.
- No FBAR reporting requirement currently for virtual currency. FinCEN notice 2020-2 announced it intends to require FBAR reporting imminently.
- Form 8938 Specified Foreign Assets reporting – No clear guidance presently. May apply to hosted wallets.
- Potential tax savings opportunities:
  - No wash sale rule yet for virtual currency transactions. Can sell and repurchase, deduct loss.
  - Charitable contribution of highly appreciated virtual currency.
- More reporting requirements beginning January 2024.

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Polling Question #1

Which statement best describes where you currently stand with your 2023 tax planning?

A. *I have already done my planning for 2023.*
B. *I am interested in planning, but I have not begun the process.*
C. *I don't intend on doing any planning this year.*

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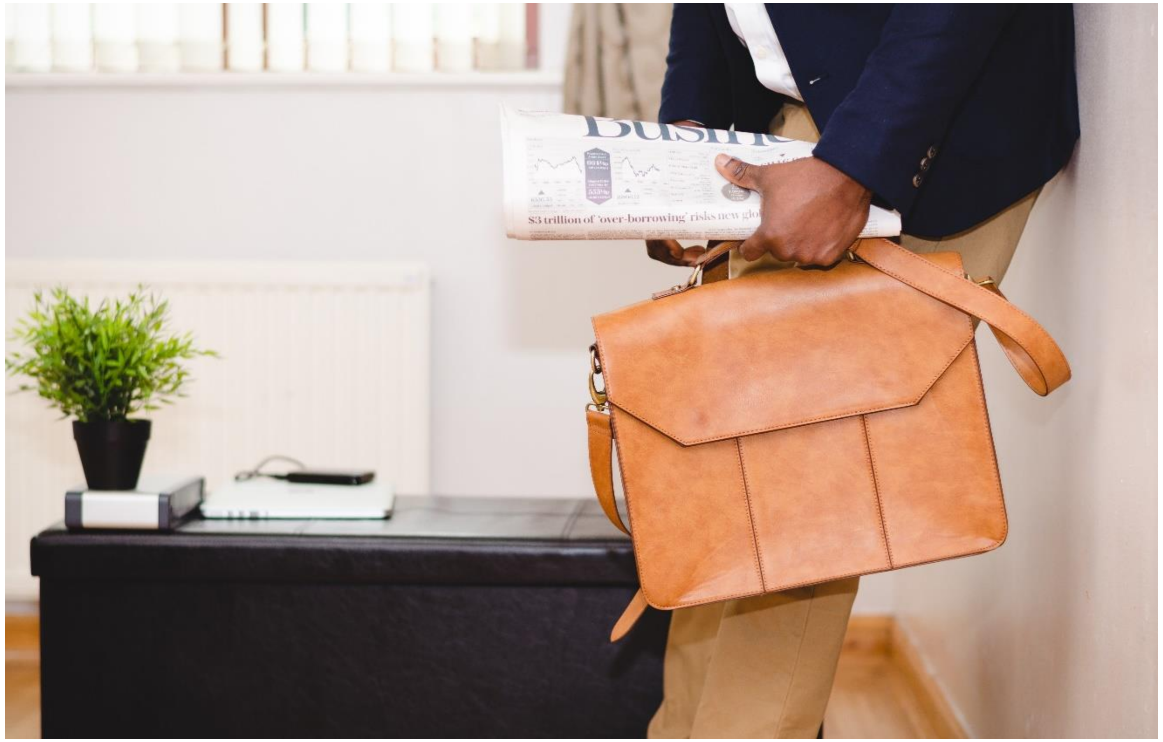
Qualified Business Income Deduction

- Taken on your personal return when you have domestic "qualified business income" (QBI).
  - Sole Proprietorship (Schedule C)
  - Partnership income
  - LLC income
  - S-Corp income
  - Rental income
  - Note: All K-1s must provide the required information in order to claim the deduction



Qualified Business Income Deduction

Continued

- Deduction equal to the **lesser** of 20% of QBI or 20% of taxable income (after removing capital gains/losses).
- The Specified Service (defined on the next slide) and Wage limitations phase in on a MFJ return with taxable income from $364,200 – $464,200 and on all other returns with taxable income from $182,100 – $232,100.
- For taxpayers who are not a specified service and have AGI above the phase-out limits their QBID is further limited to the greater of:
    - 50% of W-2 Wages (box 5) or
    - 25% of W-2 Wages (box 5) plus 2.5% of the unadjusted basis of depreciable assets.

Qualified Business Income Deduction

Further Restrictions

- Specified Service Business - defined in §1202(e)(3)(A): "any trade or business involving the performance of services in the fields of:
  - Health
  - Accounting
  - Performing Arts
  - Consulting*
  - Law
  - Actuarial Services
  - Athletes
  - Financial Services and Brokerage
  - Any other trade or business where the principal asset is the reputation or skill of an owner or employee. Defined in the regulations as income from endorsements, licensing and appearance fees.

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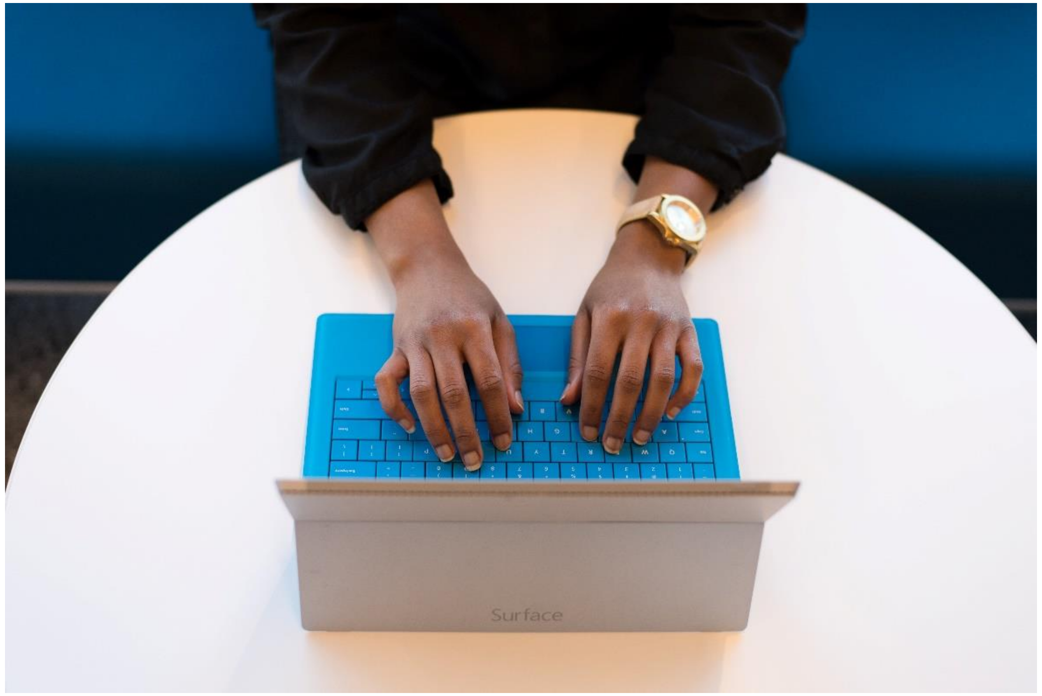
Qualified Business Income Deduction

Other Considerations

- S-Corp shareholder compensation -
  - Reduces QBI (is an issue for taxpayers below income thresholds)
  - Reasonable compensation
  - May want to increase if subject to wage limitation
- Guaranteed payments are not QBI.
- REIT Dividends and PTP income qualifies as QBI.
- QBI does not include foreign income.
- QBID is calculated on a per business basis and then aggregated (can elect to aggregate the calculation if over income limits and you meet the criteria to do so).
- Net QBI losses carryover to the next year.



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Polling Question #2

Has the QBID been a significant benefit to you?

A. Yes, I have claimed substantial deductions since 2018.

B. No, I do not have any QBI on my return.

C. Not yet but hopefully it will be this year.

D. Unsure

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Depreciation/Cost Recovery

Bonus and Section 179 Deduction

- Bonus Depreciation – 80% for 2023 (final year at this rate)
  - Applies to the cost of new or used property.
  - Applies to property with 3, 5, 7, 10, 15, 20-year life classifications.
  - Can create a loss.
  - Qualified Leasehold Improvement Property eligible for 100% bonus depreciation.

- Section 179 Deduction
  - For 2023, a taxpayer may expense (under IRC §179) up to $1,160,000 of qualified property. However, this is phased out if a business places over $2,890,000 of property in service during the tax year.
  - Section 179 applies to new and used property.
  - Cannot create or increase a loss (balance of deduction carries over).
  - Limits on passenger automobiles.

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Depreciation Details

- The 100% write-off of eligible property expired on December 31, 2022. Unless the law changes, the bonus percentage will decrease by 20 points each year for property placed in service after December 31, 2022 and before January 1, 2027.
- The phase-out schedule is as follows:
  - 2022: 100%
  - 2023: 80%
  - 2024: 60%
  - 2025: 40%
  - 2026: 20%
  - 2027 0%

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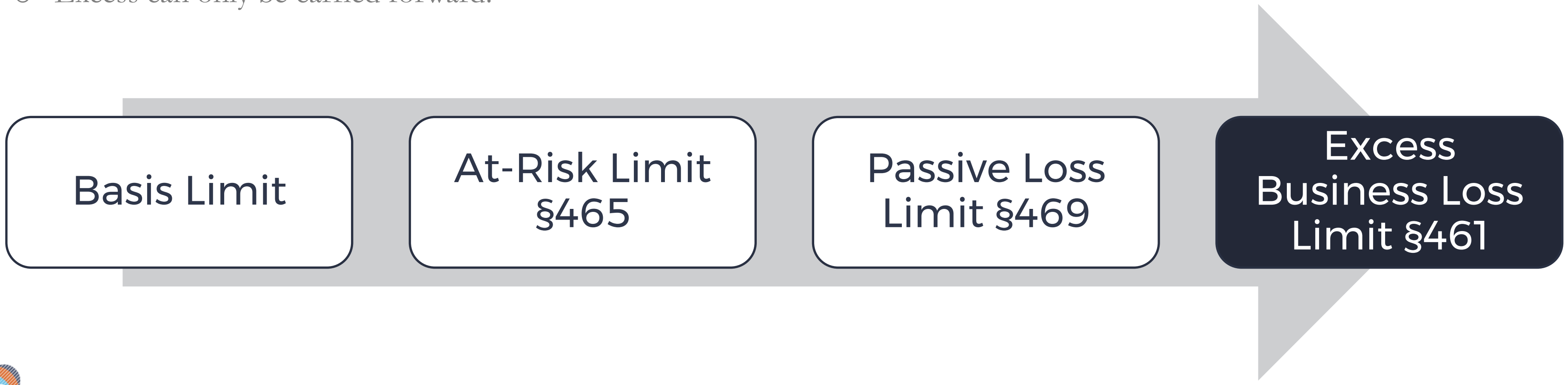
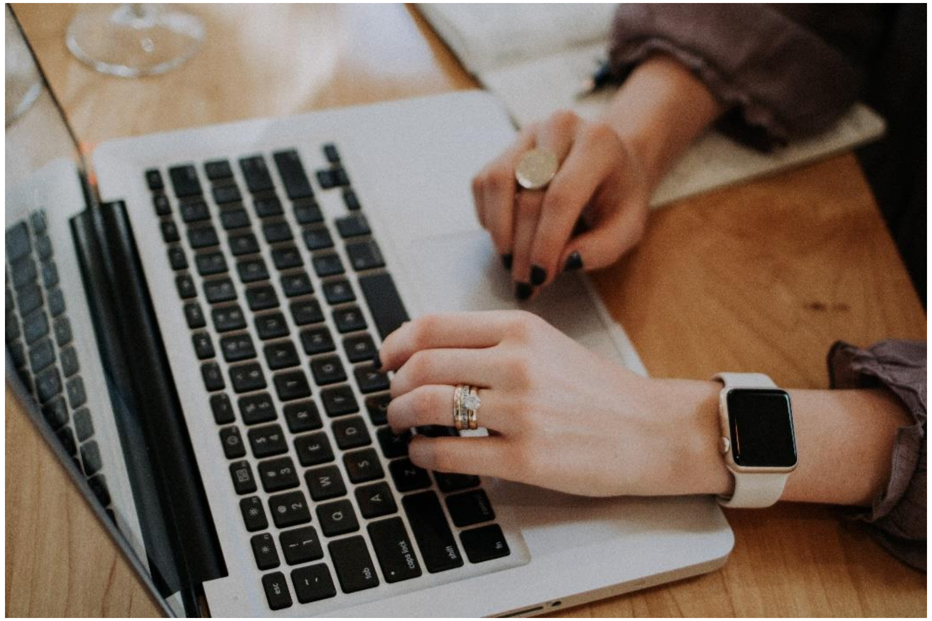
461(l) Excess Business Loss Limitation Rules

- Suspended for tax years 2018 – 2020. If limitation was applied on 2018 (too late now) or 2019 returns, an amended return is required.
- Overview of the law:
  - Active business loss limited to $578,000 MFJ and $289,000 for all other returns, up from $540,000 MFJ and $270,000 for all other returns in 2022
  - Applied on taxpayer level (rather than business level).
  - Excess can only be carried forward.



Employee Retention Credit Update

- The Employee Retention Credit (ERC) is a credit against payroll taxes based on qualified wages paid by an eligible employer.
- An "Eligible Employer" is one that meets either the Business Suspension Condition or Gross Receipts Condition.
- Applies to tax years 2020 and 2021. Can amend payroll returns to go back and get the credit.



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Employee Retention Credit Update

Continued

The CARES Act – Based on Qualified Wages paid March 13, 2020 - December 31, 2020:

- Maximum Credit of $5,000 per employee (50% of up $10,000 in wages paid).
- Gross Receipts Condition = Eligibility begins in quarter with >50% reduction in gross receipts compared to same quarter in 2019 and ends with QTR in 2020 where the corresponding reduction is <20%.

The Consolidated Appropriations Act & ARPA – Based on Qualified Wages paid January 1, 2021 - September 30, 2021:

- Maximum Credit of $7,000 per employee per quarter (70% credit rate applied on up to $10,000 in wages paid each quarter).
- Gross Receipts Condition = Eligible in each quarter where there is a >20% reduction in gross receipts compared to same quarter in 2019 (or 2020 if not in business in 2019).

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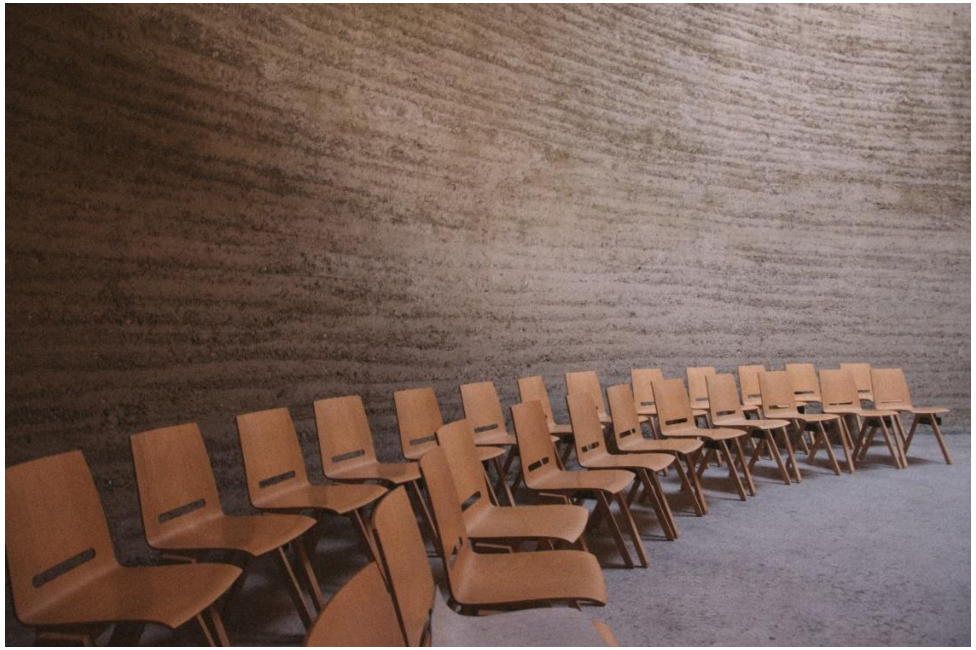
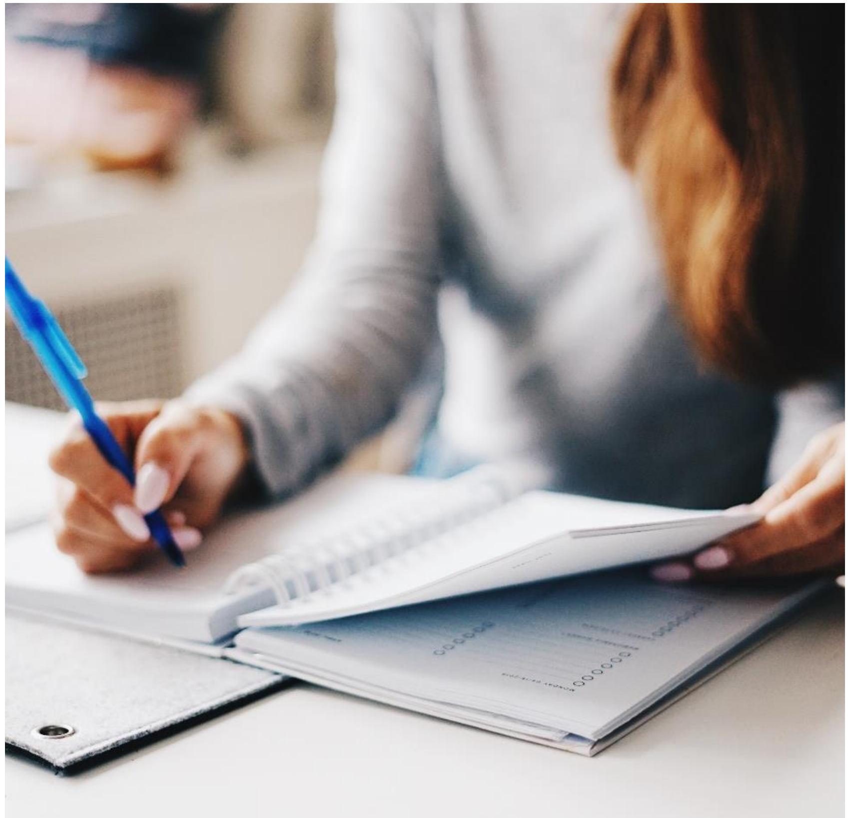
State Pass-Through Entity Taxes

- Maryland (new in 2020)
  - Allows tax to be assessed and therefore deducted at the entity level (on MD sourced income) - 8%.
  - Applies to both residents & nonresident partners, members, and shareholders. Nonresidents should still file a state return to report their income & tax credit.
  - Credit can be taken on MD resident/nonresident return.
  - For tax years beginning after December 31, 2022, PTE must decide to elect or not to elect with the first filing or payment of the tax year. Each annual elections is irrevocable once made.



Other 2023 Tax Law Changes & Reminders



- Net Operating Losses for 2023 must be carried forward and subject to 80% limit (Losses for 2018-2020 could be carried back 5 years).
- Business meals expense spent in restaurants have reverted back to 50% deducible in 2023.
- Switch to 5-year amortization of R&D expenditures starting January 2022 (15-year amortization period for foreign R&D).

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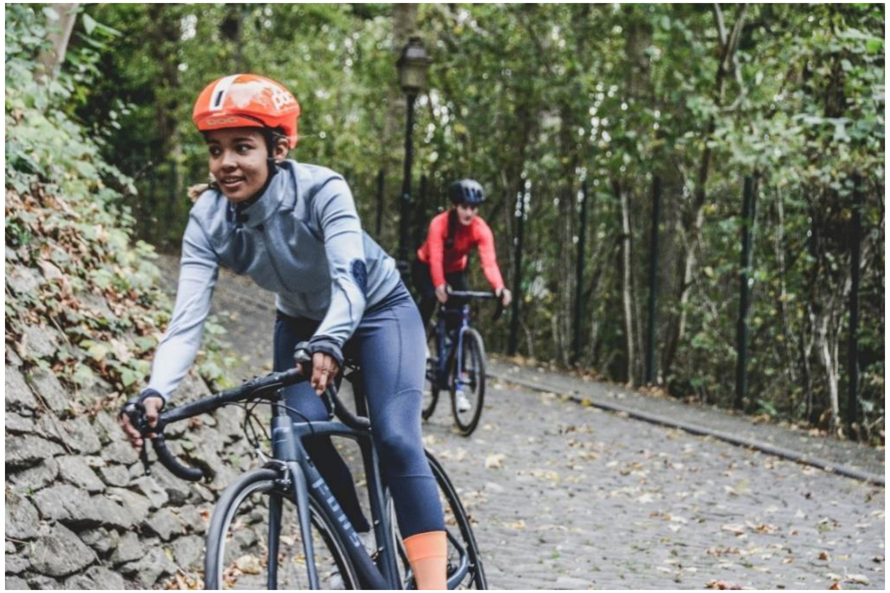
Other 2023 Tax Law Changes & Reminders

Continued

- Max Child Tax Credit is $2,000 per dependent child under age 17 (subject to phase outs).
- Max Dependent Care Credit is $3,000 for one child, $6,000 for two or more children (subject to phase outs).
- Max Dependent Care FSA contribution limit is $5,000.
- The RMD was raised from 72 to 73.



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Clean Energy Tax Credit

- Residential Clean Energy Credit
  - 30% of the costs of new, qualified clean energy property for your home installed anytime from 2022 through 2032.
  - Credit percentage rate phases down to 26% for 2033 and then 22% for 2034.
- Energy Efficient Home Improvement Credit
  - For 2023, there is a tax credit of up to $3,200 for the year the improvements were installed
    - $1,200 for energy property costs plus $2,000 per year for qualified heat pumps, biomass stoves, or biomass boilers
  - The home must be an existing home (cannot be a new home) in the U.S. and cannot be taken on a rental property
  - Credit is 30% of certain qualified expenses, including:
    - Qualified energy efficiency improvements such as windows, skylights, exterior doors, and insulation
    - Residential energy property expenses such as energy-efficient heat pumps, central A/C, furnaces, and water heaters
    - Home energy audits

Clean Energy Tax Credit Cont'd

- Clean Vehicle Credit
    - There is a credit of up to $7,500 if you buy a new, qualified plug-in EV or fuel cell electric vehicle (FCV).
    - Rules change for vehicles purchase from 2023 to 2032.
    - The credit isn't available to taxpayers with AGI over:
        - $300,000 for Married Filing Jointly
        - $225,000 for Heads of Households
        - $150,000 for all other filers
    - New rules for qualified vehicles, including requirement for final assembly in North America and MSRP limits ($80,000 for vans, sport utility vehicles and pickup trucks and $55,000 for other vehicles)

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Polling Question #3

Do you plan to take advantage of the state Pass-Through Entity Tax regime(s)?

A. *Yes, it would save me a lot of federal tax.*
B. *No, I do not have any PTE income or see much benefit.*
C. *Not sure, I need to look into this further.*

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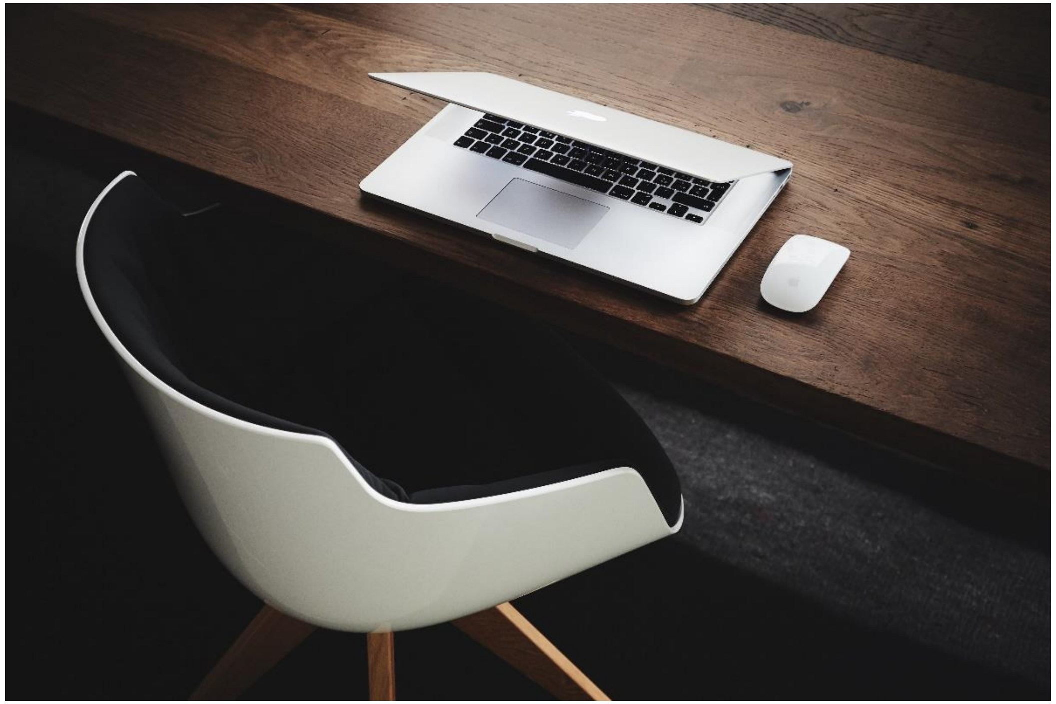
Ways to Increase Income



- Execute a Roth Conversion. (back door Roth)
- Sell investments to increase capital gains (if other income is low, then there is a zero-tax rate on LTCG up to certain limits - $44,625 single and $89,250 MFJ)
- If you are over 59 ½ as of the calendar year end, take money out of your IRA/qualified retirement plan.

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Selected 2023 COLA adjustments

- Retirement Plans -
  - 401(k)/403(b) limits - $22,500 plus $7,500 for age 50 and over.
  - Defined contribution plan limit $66,000 (while limitation on annual benefit under defined benefits plans are now $265,000)
  - SIMPLE Plan contribution limit – $15,500
  - IRA Contribution Limit - $6,500 (catch-up is still $1000)
- SSA benefits will increase 8.7%.
- Social Security wage limit $160,200.
- QBID income phaseout starting point $364,200 & $182,100.
- Foreign Earned income Exclusion - $120,000 per person (combined maximum of $240,000 for Married couples)
- Lifetime Estate/Gift Exclusion - $12,920,000; Annual Gift Exclusion - $17,000; NRA Spouse - $175,000.

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2025 Sunset Tax Provisions

Unless extended via legislation, many provisions in the Tax Cuts and Jobs Acts (TCJA) are scheduled to expire at the end of 2025. Here are some things to know:

- You may expect an increase in the federal marginal tax rates again as the TCJA lowered them from 10%, 15%, 25%, 28%, 33%, 35%, 39.6% down to 10%, 12%, 22%, 24%, 32%, 35%, and 37%
- The limitation on itemized deductions will be lifted, which can benefit those with high SALT taxes once again
- The TCJA lowered the AGI floor that was applied to medical expenses, so that may rise back up to 10%
- The amounts for the standard deduction and Child Tax Credit may also decrease as a result
- The AGI limit for charitable contributions may change, as all charitable cash contributions are currently 100% deductible
- A big change is that the Estate Tax Lifetime Giving limit may revert back to about $6 million, down from the $12.92 million limit due to TCJA

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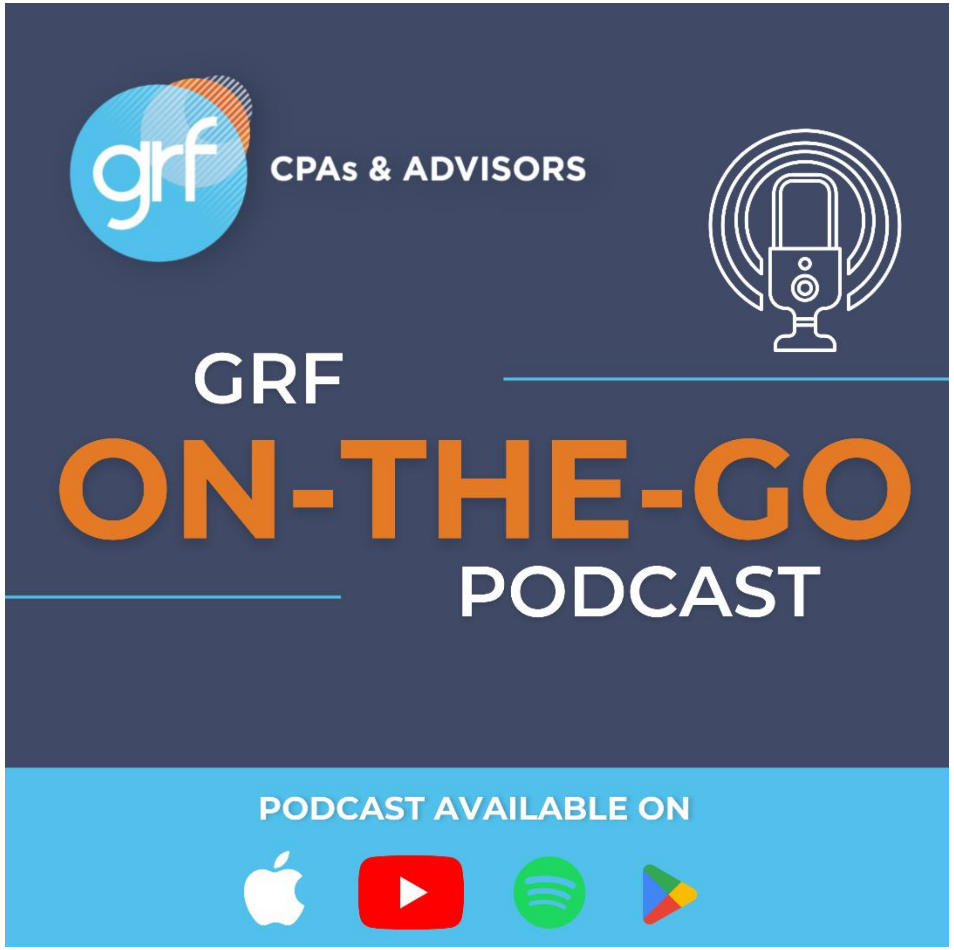
2025 Sunset Tax Provisions Cont'd

- The Alternative Minimum Tax will once again apply to more taxpayers, due to much lower exemption and income phaseout amounts with the end of TCJA provisions
- Unfortunately for businesses, the deduction for Qualified Business Income (QBI) may no longer be available after 2025
- We may also see a comeback with the following deductions: miscellaneous itemized deduction, personal casualty loss deduction, moving expenses, and personal exemptions on returns



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