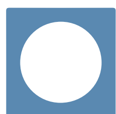
2022

TAX PLANNING GUIDE



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TAX PLANNING GUIDE 2022

While the pandemic continued to dominate the tax scene in 2021, there were a few other noteworthy changes and strategies for both individuals and businesses that you should know about for your 2022 tax planning.

After a tumultuous two years, uncertainty remains the watchword for 2022, especially when it comes to tax planning. So, understanding how the recent changes in the tax code could affect your investments, estate plans, retirement, and business strategies is critical to developing and implementing tax-saving strategies and preparing for a financially secure future. Because tax planning has become increasingly complex and each tax situation is unique, we urge you to consult your tax professional who can advise you regarding your personal situation.

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NOTABLE CHANGES

TEACHERS AND EDUCATORS

Teachers can include any unreimbursed COVID-19 prevention and cleaning supplies in their educator expense deduction. This deduction allows up to a $300 tax deduction for qualified unreimbursed education expenses. This is an increase from the $250 limit in 2021.

REQUIRED MINIMUM DISTRIBUTION (RMD) STARTS AT AGE 72

The age at which taxpayers must begin taking required distributions has been increased from 70½ to 72. However, taxpayers born before June 30, 1949 must still use age 70½ as the RMD age—and begin taking RMDs no later than April 1st of the year after the year in which they turn 70½. After that, all RMDs must be distributed by December 31st each year. Failure to take RMDs by the specified due date results in a 50% penalty on the shortfall.

MEDICAL EXPENSES

Amounts paid for personal protective equipment (e.g., masks, hand sanitizer, home COVID-19 tests, and disinfecting wipes) to help prevent the spread of COVID-19 can be reimbursed through flexible spending, health savings, and medical savings accounts. These expenses also qualify as medical expenses that can be deducted as an itemized deduction to the extent they exceed 7.5% of adjusted gross income.

EMERGENCY FINANCIAL AID FOR STUDENTS

Emergency financial aid grants for an event related to the COVID-19 pandemic are not taxable to the student.

PENALTY-FREE WITHDRAWALS FOR NEW PARENTS

New parents may qualify for an exception to the 10% penalty that normally applies to early distributions (prior to age 59½) from IRA or 401(k) accounts. You can take the withdrawal following a qualified birth or adoption of a new child, provided you do so within a year of birth or adoption. The withdrawal is limited to $5,000 per parent, per eligible retirement account. You also have the option to repay at a later date, although it isn't required.

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PART-TIME EMPLOYEES MAY PARTICIPATE IN 401(k)

Part-time workers may contribute to their employer's 401(k) plan once they have worked 500 hours or more for three consecutive 12-month periods after January 1, 2021. Employers are not required to match contributions.

DIGITAL ASSET REPORTING

Digital assets, like cryptocurrency, will require informational reporting for the 2023 tax year, starting January 1, 2024. This means taxpayers who own cryptocurrency will receive a tax document from their broker that summarizes their digital activity for the tax year, which will be used to prepare your personal tax return. This reporting requirement originated from the Infrastructure Investments and Jobs Act, November 2021. With the delayed effective date, there may be legislative changes to this rule before it's in force.

INHERITED IRAS: NEW 10-YEAR RULE

Effective in 2020, "non-eligible" designated beneficiaries of IRAs must withdraw all funds from the inherited accounts within ten years. There are no annual required minimum distributions—except the last one. This does not apply to "eligible" designated beneficiary (EDB) including a surviving spouse, a disabled or chronically ill individual, an individual who is not more than 10 years younger than the IRA owner, or a child of the IRA owner who has not reached the age of majority. Additionally, certain trusts named as an IRA beneficiary are considered EDBs.

The Ten-Year Rule also applies to trusts that receive IRA assets on behalf of beneficiaries. If a conduit trust is established to help protect assets, it still must forward all the IRA income to beneficiaries. This would potentially expose the inherited IRA assets to heirs' creditors and any bankruptcy or divorce proceedings—defeating the purpose of an asset protection trust. In some circumstances, you may wish to have an attorney redraft any existing conduit trusts to allow the trust to retain the assets, rather than distribute income to beneficiaries. The downside is that these assets would then be subject to less favorable trust tax rates. If you have significant assets in retirement accounts that you are planning to pass on to non-spousal beneficiaries, it is a good idea to review your estate plan documents.

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FARMERS IN DROUGHT AREA

Farmers living in affected drought areas who were forced to sell certain livestock between 2015 and 2021 have an additional year to replace them and defer any gains on the forced sale. Usually, you have four years to replace livestock from a forced sale. This change will affect those living in counties designated as having exceptional, extreme, or severe drought conditions. Currently, portions of 37 states and territories qualify and only livestock used for draft, dairy, or breeding purposes are eligible. Poultry and livestock raised for slaughter or sport don't qualify.

ABLE ACCOUNTS

Achieving a Better Life Experience (ABLE) accounts are designed to help people with disabilities save and pay for disability-related expenses. Now through 2025, eligible individuals can roll over money from a qualified 529 plan into their ABLE account. And certain contributions made by low and moderate income workers may qualify for the Saver's Credit which could be as much as 50% of their contribution.

QUALIFIED CHARITABLE DISTRIBUTIONS (QCD)

Taxpayers who have reached age 70½ can donate up to $100,000 of taxable IRA distributions directly to qualified charities. This satisfies the minimum distribution requirement and is excluded from taxable income.

WASH SALES

When dealing with investment losses, keep the wash sale rules in mind. These rules prevent you from taking a loss on a security if you buy a substantially identical security within 30 days of the sale. You can avoid triggering the wash sale rules while maintaining the same portfolio allocations by:

- Selling the security and then waiting 31 days to repurchase it
- Selling the security and buying shares in a mutual fund that holds similar securities

Currently, the wash sale rules don't apply to digital assets, including cryptocurrency. But that could change in the future.

PASSIVE ACTIVITIES

If you've invested in a trade or business in which you don't materially participate, and where income or losses flow through to your tax return, keep the passive activity rules in mind.

Passive activity income may be subject to the 3.8% Net Investment Income Tax and passive activity losses are generally deductible only against income from other passive activities.

In general, a taxpayer materially participates in an activity only if the participation is regular, continuous and substantial. You're deemed to materially participate if you meet just one of seven tests. So, understand the rules and document your time and activities carefully. (Special rules apply to real estate.)

> *If you don't pass material participation rules, consider increasing your involvement to exceed the 500 hour benchmark or dispose of your investment. You'll generally be allowed to deduct all passive losses in the year of sale, but the rules are complex. So discuss this with your tax professional before you sell a passive investment.*

TELECOMMUTING EMPLOYEES

If you are working remotely in a home office that is located in a state outside of your company's primary office location, you may be subject to additional taxes.

Some states impose a "convenience" rule that sources income to the employer's office location if an employee is working remotely out of convenience and not out of necessity for the employer. Also, changing state residency is typically scrutinized by the original state, because it creates a loss in revenue. Careful consideration must be given to ending residency in one state while establishing residency in another state.

BRACKETS AND RATES

2022 tax rates remain level, however, the tax brackets were adjusted slightly for inflation. All federal income tax brackets are based on taxable income.

You can use the IRS' tax withholding calculator to see if you're withholding an adequate amount at: *https://www.irs.gov/individuals/tax-withholding-estimator*

MARRIED FILING JOINTLY & SURVIVING SPOUSES

TAX RATE	2021 INCOME	2022 INCOME
10%	$0–$19,900	$0–$20,550
12%	$19,901 - $81,050	$20,551 - $83,550
22%	$81,051 - $172,750	$83,551 - $178,150
24%	$172,751 - $329,850	$178,151 - $340,100
32%	$329,851 - $418,850	$340,101 - $431,900
35%	$418,851 - $628,300	$431,901 - $647,850
37%	$628,301 or more	$647,851 or more

MARRIED FILING SEPARATELY & SINGLES & HEAD OF HOUSEHOLD

TAX RATE	MARRIED FILING SEPARATELY INCOME		SINGLE INCOME		HEAD OF HOUSEHOLD INCOME	
	2021	2022	2021	2022	2021	2022
10%	$0–$9,950	$0 – $10,275	$0–$9,950	$0–$10,275	$0–$14,200	$0 – $14,650
12%	$9,951–$40,525	$10,276 – $41,775	$9,951–$40,525	$10,276 – $41,775	$14,201 - $54,200	$14,651 - $55,900
22%	$40,526 - $86,375	$41,776 - $89,075	$40,526 - $86,375	$41,776 - $89,075	$54,201 - $86,350	$55,901 - $89,050
24%	$86,376 - $164,925	$89,076 - $170,050	$86,376 - $164,925	$89,076 - $170,050	$86,351 - $164,900	$89,051 - $170,050
32%	$164,926 - $209,425	$170,051 - $215,950	$164,926 - $209,425	$170,051 - $215,950	$164,901- $209,400	$170,051 - $215,950
35%	$209,426 - $314,150	$215,951 - $323,925	$209,426 - $523,600	$215,951 - $539,900	$209,401 - $523,600	$215,951 - $539,900
37%	$314,151 or more	$323,926 or more	$523,601 or more	$539,901 or more	$523,601 or more	$539,901 or more

PROOF

ALTERNATIVE MINIMUM TAX

The Alternative Minimum Tax (AMT) was designed to help ensure that the highest-income tax payers pay their fair share of taxes, by limiting allowable deductions.

AMT EXEMPTION AMOUNTS		
STATUS	2021	2022
Exemption for Singles	$73,600	$75,900
Exemption for Married Filing Separately	$57,300	$59,050
Exemption for Married Filing Jointly	$114,600	$118,100
Phase-out for Singles & Married Filing Separately	$523,600	$539,900
Phase-out for Married Filing Jointly	$1,047,200	$1,079,800

KIDDIE TAX

For 2020 and forward, the kiddie tax reverts to the previous method of using the parent's marginal tax rate. Children who have both earned and unearned income are allowed a standard deduction of up to $1,150 of their unearned income or their earned income, plus $350, whichever is greater. However, the total deduction may not be more than the regular standard deduction amount.

SOCIAL SECURITY TAX WAGE BASE INCREASED

Beginning in 2022, the maximum earnings subject to Social Security tax will rise to $147,000. Currently, the maximum of earnings taxed is $142,800.

Currently, the employer and employee each pay half of the 12.4% Social Security tax due. Workers also pay a Medicare tax of 1.45% each year.

Self-employed workers must pay the full 12.4% Social Security tax, which could result in a maximum tax increase of $520.80 on earnings between $142,800 and $147,000.

PROOF

CAPITAL GAINS TAX

Remember that you pay long-term capital gains taxes on investments held longer than one year, while you pay ordinary income taxes on short-term investment gains. The capital gains tax brackets are based on taxable income, just like the ordinary income tax brackets.

CAPITAL GAINS TAX BRACKETS

TAX RATE	MARRIED FILING JOINTLY		FILING SINGLE	
	2021	2022	2021	2022
0%	$80,800	$83,350	$40,400	$41,675
15%	$80,801 - $501,600	$83,351 - $517,200	$40,401 - $445,850	$41,676 - $459,750
20%	$501,601 and up	$517,201 and up	$445,851 and up	$459,751 and up

> *Consider gifting appreciated stock or mutual funds to relatives in lower tax brackets. They will pay less or no tax on the long-term capital gains when the shares are sold.*

TREATMENT OF LOSSES

A capital gain or loss is the difference between your basis, which is typically the cost of buying an asset or investment, adjusted by certain previous deductions for depreciation and/or depletion, and what you get for selling it. If your investments have a net capital loss, you can deduct up to $3,000 of the loss against your income annually if filing jointly, ($1,500 married filing separately). If your losses exceed the annual limit, you may carry losses forward to future years, deducting up to $3,000 per year against your income until your capital losses are exhausted.

A WORD ABOUT DIVIDENDS

Qualified dividends are eligible for more favorable capital gains tax rates, while unqualified dividends are taxed as ordinary income. Generally, dividends from real estate investment trusts (REITs) are unqualified, as are those from credit unions and mutual savings banks.

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HEALTH SAVINGS ACCOUNTS

Some limits increased for Health Savings Accounts (HSAs) and their companion High-Deductible Health Plans (HDHPs).

HEALTH SAVINGS ACCOUNTS AND HIGH DEDUCTIBLE HEALTH PLANS		
	2021	**2022**
HSA contribution limit*	Self-only: $3,600 Family: $7,200	Self-only: $3,650 Family: $7,300
HSA catch-up contribution	$1,000	$1,000
HDHP minimum deductible	Self-only: $1,400 Family: $2,800	Self-only: $1,400 Family: $2,800
HDHP maximum out-of-pocket expenses	Self-only: $7,000 Family: $14,000	Self-only: $7,050 Family: $14,100

**Combined employer and employee contributions*

HDHPs now cover remote health care services and costs of COVID-19 related testing and treatment before the annual deductible is met.

Also, HSAs now cover menstrual care products and over-the counter products and medications.

> *HSAs are triple tax-advantaged with tax-deferred contributions, tax-free potential earnings, and tax-free withdrawals for qualified medical expenses, and you can roll over any balance to the next year. Nonqualified withdrawals incur a tax penalty, but that disappears at age 65, when you can take withdrawals for any reason (just pay income tax on the nonqualified amount).*

PROOF

DEDUCTIONS AND CREDITS

STANDARD DEDUCTION

The standard deduction reduces the amount of your taxable income. For 2021, the standard deduction amount is $25,100 ($25,900 in 2022) for married taxpayers filing jointly, $18,880 ($19,400 in 2022) for those who file as heads of household, and $12,550 ($12,950 in 2022) for those who file as single or married filing separately.

CHILD TAX CREDIT

The *enhanced* child tax credit amounts and advance payments from the American Rescue Plan Act were for 2021 only. In 2022, each dependent child under the age of 17 with a Social Security number qualifies for a $2,000 tax credit, subject to income limitations. Up to $1,500 of the credit is refundable. The credit phases out at $400,000 for joint filers and $200,000 for everyone else.

DEPENDENT TAX CREDIT

You're allowed a $500 tax credit for each dependent adult child or elderly parent in your care. The dependent doesn't need to be related to you if they lived with you for the entire tax year and is a U.S. citizen, national, or resident alien. This credit is subject to the child tax credit's income limits discussed above.

ITEMIZED DEDUCTION LIMIT GONE

Itemized deductions, which were previously phased out for taxpayers with higher incomes, have no income-based limit through 2025.

MEDICAL EXPENSE DEDUCTIONS

Medical expenses will now be deductible to the extent they exceed 7.5% of your adjusted gross income. The 7.5% threshold was made permanent for tax years 2020 and beyond.

EMPLOYEE BUSINESS EXPENSE DEDUCTION

Only certain employees can claim unreimbursed business expenses as an itemized deduction now. Eligible employees include Armed Forces reservists, qualified performing wwd work expenses. These individuals can deduct ordinary and necessary expenses incurred while conducting business as an employee. Expenses must be paid or billed during the tax year.

HOME LOANS

Married taxpayers filing jointly may deduct the interest on a maximum of only $750,000 of mortgage principal. The deduction is limited to half of that for single taxpayers. Interest on home equity loans, home equity lines of credit (HELOCs) and second mortgages may be deducted only when used to buy, build or substantially improve the taxpayer's primary or secondary qualified residence that secures the loan, subject to limits.

REAL ESTATE SECTION 1031 LIKE-KIND EXCHANGES

The treatment of investment property for Section 1031 exchanges is now limited to real property, including land and permanent structures on that land. However, you can still sell one property and buy up to three others within a certain timeframe. You may be able to defer taxable gains when you sell investment property. You have 45 days after the sale to identify other income-producing property that you will purchase within 180 days of the sale, or by the due date of your tax return, including extensions. Your tax professional can give you more information.

SALT TAXES

Taxpayers are limited to $10,000 on state and local tax (SALT) deductions. This provision is especially harsh on homeowners in high-tax states, where state income and property taxes can easily exceed this figure. Making "charitable deductions" to a state-run charitable fund won't allow you to get around the SALT limitations. Buying SALT credits this way is not allowed, because as with all charitable contributions, you'll have to reduce the amount of your contribution by the value of anything you receive.

> ***If you are a partner in a partnership or owner of an S-corporation, discuss the pass-through entity tax with your tax professional as a workaround of the $10,000 SALT tax deduction limit.***

PROOF

ESTATE TAXES

If you haven't discussed estate planning opportunities with your legal, tax, and financial professionals yet, now is a good time. Even with more generous federal estate tax exemptions, taxpayers need to be aware of local estate and inheritance taxes. Although some states have repealed their estate tax statutes and others increased their exemptions recently, a few still have the tax. A handful of states also have an inheritance tax.

TRANSFER TAXES

The total amount that a U.S. citizen or resident can transfer to another individual free of estate, gift, or Generation-Skipping Transfer (GST) taxes (collectively, the "transfer taxes") has increased to $12.06 million for individuals in 2022, up from $11.7 million in 2021. Married couples filing jointly qualify for $24.12 million in 2022, up from $23.4 million in 2021. (Subject to an annual adjustment for inflation).

EXEMPTION PORTABILITY

If part (or all) of one spouse's estate tax exemption is unused at that spouse's death, the estate can elect to permit the surviving spouse to use the deceased spouse's remaining exemption. This exemption "portability" provides flexibility at the first spouse's death, but it has some limits. Be aware that portability is available only from the most recently deceased spouse, doesn't apply to the GST tax exemption and isn't recognized by many states.

GIFT TAXES

The annual gift tax exemption increased to $16,000 per donor for each recipient in 2022, up from $15,000 in 2021. If, for example, you and your spouse each max out your annual gift exemption to three grandchildren, you will avoid gift tax and preserve your entire estate tax exemption. Be sure you use your annual exemption by December 31, because it doesn't carry over from year to year.

> ***Paying for someone else's tuition or medical bill is an exception to the gift tax if you do it correctly. Payments made directly to providers or schools aren't considered gifts.***

PROOF

STEP UP IN BASIS

A new fair market value is established for assets received after a donor's death—a step up in basis—but there is no step up in basis for gifts received during a donor's life. The step-up in basis sets a new starting value for inherited assets, which can make a big difference if the assets have appreciated significantly, while making it less likely to trigger the favorable capital gains tax.

CHARITABLE CONTRIBUTIONS

Donations of goods to charity are valued at their market value at the time of donation. You can't claim the price you paid for the item.

Remember all donations of goods with a market value greater than $250 must have a receipt from the charity.

If you don't itemize because your deductions are less than the standard deduction you might consider accelerating or bunching contributions for several years. For example, if you give $10,000 per year to a charity, bunch three years of contributions—$30,000—into one year instead, then itemize the deduction on your tax return. Take the standard deduction in the other two years.

> ***When donating to charity, ensure the charity is qualified by searching the IRS database. Only donations qualified by the IRS are eligible for tax deductions.***

PROOF

RETIREMENT & HEALTH SAVINGS PLAN CONTRIBUTION LIMITS

PLAN		2021	2022
401(k) 403(b) 457	Employee Contribution Limit	$19,500	$20,500
	Catch-Up Contributions (Age 50+)	$6,500	$6,500
	Combined Employer / Employee Contribution	$58,000	$61,000
Traditional IRA / Roth IRA	Contribution Limit	$6,000	$6,000
Traditional IRA Limits for Deductible Contributions (Based on Adjusted Gross Income, not taxable income.)	Catch-Up Contribution Limit (Age 50+)	$1,000	$1,000
	Single or Head of Household Income Limit	$66,000 - $76,000	$68,000 - $78,000
	Married Filing Jointly Income Limit	$105,000 - $208,000	$109,000 - $214,000
Roth IRA Income Limit (Based on Adjusted Gross Income, not taxable income.)	Single or Head of Household	$125,000 - $140,000	$129,000 - $144,000
	Married Filing Jointly	$198,000 - $208,000	$204,000 - $214,000
SIMPLE IRA	Elective Contribution Limit	$13,500	$14,000
	Catch-Up Contribution (Age 50+)	$3,000	$3,000
	Employer Non-Elective Contribution Limit	2% of Compensation up to $290,000	2% up to $305,000
SEP-IRA / Profit Sharing / Money Purchase	Contribution Limit	$58,000	$61,000
Defined Benefit	Maximum Annual Benefit	$230,000	$245,000
Supplemental Security Income (SSI) Employee Deduction	Annual Income When Deduction Stops	$142,800	$147,700
Health Savings Account (HSA) Maximum Contribution	Single	$3,600	$3,650
	Family	$7,200	$7,300
	Catch Up (Age 55+)	$1,000	$1,000
High Deductible Health Plan (HDHP)	Single Coverage Deductible	$1,400	$1,400
	Family Coverage Deductible	$2,800	$2,800
HDHP Maximum Out-Of-Pocket Limit	Single Coverage	$7,000	$7,050
	Family Coverage	$14,000	$14,100

TAX PLANNING AND COLLEGE

SECTION 529 PLANS

Owners of 529 accounts may now make tax-free withdrawals of up to $10,000 from these plans for the purposes of paying down qualified student loans. This $10,000 is a lifetime limit that applies to the 529 plan beneficiary and each of his or her siblings. So, a parent with three children can make a tax-free withdrawal of up to $30,000 total—one for each child. Any interest paid down with a 529 plan is ineligible for the student loan interest deduction.

You can also use 529 plans to pay qualified apprenticeship program costs. The apprenticeship program must be registered with and certified by the U.S. Department of Labor.

Additionally, the Tax Cuts and Jobs Act extended the definition of qualified 529 plan distributions to include some K-12 educational costs—up to $10,000 per year, beginning in 2017. These include tuition, books, fees, and computers. You can withdraw up to $10,000 annually to pay for elementary or secondary education costs, provided your state plan allows. Plus, the higher withdrawal allowances for higher education expenses still apply.

COVERDELL ESA

The Coverdell Education Savings Account (ESA) remains unchanged, with a $2,000 annual contribution limit per student. You qualify to make a full nondeductible contribution if you file jointly, but the limit is phased out at a modified AGI of $190,000–$220,000. Limits for singles are half of those for joint filers. Earnings are tax-deferred and qualified withdrawals are tax-free. You have until the April 2022 tax filing deadline to make a Coverdell ESA contribution for 2021.

> ***Reduce your taxable estate by putting five years' worth of gifts into a 529 plan for a loved one's college education. Maximize your gift by giving up to the maximum annual tax-free gift limit of $16,000 each year for five years per donor per recipient; the plan's assets then grow tax-deferred and qualified withdrawals are tax-free.***

PROOF

EDUCATION TAX CREDITS

You may have a choice of taking a Lifetime Learning Tax Credit (up to $2,000) or an American Opportunity Tax Credit (up to $2,500 per student) for qualified education expenses, but you can't take both in the same year for the same student. The deduction for qualified tuition expenses expired at the end of 2020 but is replaced with increased income phaseout thresholds on the Lifetime Learning Tax Credit.

IRA CONTRIBUTIONS FOR GRADUATE AND DOCTORAL STUDENTS

Stipend payments for graduate and doctoral students are 'earned income' for the purposes of determining allowable IRA contributions. If you or your spouse receives such a stipend; you may be able to contribute more toward a traditional or Roth IRA.

CUSTODIAL ACCOUNTS

The Uniform Gifts to Minors Act (UGMA) and Uniform Transfers to Minors Act (UTMA) facilitate custodial accounts set up for the benefit of minors. While they don't have restrictions like qualified education accounts, they feature two distinct disadvantages:

- Beneficiaries who have reached the age of majority will own the account assets and can do what they want with the funds.
- Students are expected to contribute a greater percentage of assets than parents when paying for education expenses.

STUDENT LOANS

Borrowers have a few ways to see their student loans forgiven, cancelled, or discharged for working in public service and other sectors. Talk to your tax professional to learn if any apply to your situation.

For those taxpayers paying off their student loans and who qualify by income, may deduct from their AGI up to $2,500 in qualified education loan interest. This deduction phases out for individuals with a modified AGI greater than $70,000.

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PLAN FOR RETIREMENT

Ask anyone nearing or in retirement and they'll tell you the future is closer than you think. That's why the steps you take many years before retirement will shape your financial picture in retirement.

There are a variety of retirement savings vehicles to which you can contribute, depending on your employment situation, including traditional and Roth IRAs, Simplified Employee Pensions (SEPs), SIMPLE plans, and 401(k), 403(b), and 457 plans. Many of these plans enable you to reduce your taxable income by contributing before-tax funds.

Making tax-deductible contributions to a qualified retirement plan makes sense if you believe that your future tax rate will be higher than your current tax rate. At minimum, if your employer offers matching contributions in a 401(k) contribute enough to receive the maximum match.

ROTH IRAS

Roth IRAs require after-tax contributions, but qualified distributions are tax-free and there are no required minimum distributions during your lifetime, unlike most other retirement accounts. However, if a withdrawal is made within five years of the first contribution it is not considered a qualified distribution in most cases.

Contributing to a Roth IRA makes sense if you do not need the tax deduction now. Roth IRAs can provide tax-free income before RMDs kick in, requiring you to take distributions from qualified retirement accounts.

This year, due to the lower tax rates, many people have rolled over their traditional IRAs to a Roth IRA to avoid paying higher tax rates in the future. This only makes sense for people with the liquidity to pay the tax bill due in April without tapping retirement funds. If you are in a higher tax bracket now and planning to retire soon, a rollover may not make sense for you.

> *When changing jobs, rollover any retirement funds directly into an IRA to avoid tax and potential early withdrawal penalties.*

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PERSONAL TAX CONSIDERATIONS

The following checklist includes items to think about and perhaps address with your team of legal, tax and financial professionals.

- ☐ Check your wills, trusts and other legal documents to potentially change outdated information. Tax law changes or not, it's always good to review these documents annually to make sure they are drafted as you wish.
- ☐ Talk to your human resources department to ensure you are withholding just enough from your income to pay next year's taxes.
- ☐ Reexamine saving for college through a 529 plan for at least these two reasons:
    - First, the federal tax law now allows qualified withdrawals for private and parochial grade school and high school of up to $10,000 annually. Check to see if your state 529 plan will allow this, first.
    - Second, use your full annual gift tax exemption times five. You can combine five years of contributions up to the annual gift tax limit for each of the five years. (You can't make another gift to the same person during this time.)
- ☐ Did you make some money on the side? If you did, you need to report all the income, not just that for which you received a 1099 statement. This form isn't required for annual earnings under $600, but taxes are still due.

> ***Talk to your tax professional to get a complete list of what you will need for your next tax planning meeting.***

PROOF

TAX RATES AND BUSINESS STRUCTURES

The corporate tax rate is now a flat 21%. There is also favorable treatment for pass-through entities, including S corporations and limited liability companies (LLCs). Now may be a good time to discuss your corporate structure with your tax and legal professionals.

REDUCED FEDERAL INCOME TAX RATE

Corporate business owners are still double taxed—paying corporate taxes and personal taxes. While the lower corporate tax rate should help ease a bit of this tax burden, business owners can avoid this double taxation by organizing their businesses as pass-through-entities, such as S corporations or limited liability companies (LLCs). There is no corporate income tax on business income for these entities. Instead, profits flow through to the individual tax returns of owners, paying income tax once at the individual tax rate.

Sole proprietorships and partnerships also avoid double taxation and receive flow through treatment. But these latter two forms do not provide limited liability. Sole proprietors and partners may be personally liable for claims against their businesses.

PASS-THROUGH INCOME

Owners of some pass-through businesses can now take a deduction of up to 20% of qualified business income—plus 20% of qualified real estate investment trust (REIT) dividends and qualified publicly-traded partnership (PTP) income. This tax break phases out for single taxpayers at $170,050 of taxable income, and for married taxpayers at $340,100—not including qualified business income deduction. Above these thresholds, the deduction is based on whether you are a specified service trade business (SSTB) or not. There is a caveat: The pass-through provision will expire in 2026 unless Congress votes to make it permanent.

NET OPERATING LOSSES

Net operating losses for corporations can be carried forward indefinitely. The previous ability to carry back losses and apply them to years when a company had taxable income was eliminated in 2017 under the Tax Cuts and Jobs Act (TCJA).

PROOF

RENTAL REAL ESTATE TAX BENEFITS

Certain interests in rental real estate now qualify for the 20% pass-through income deduction. These enterprises are generally defined as owning real estate for purposes of generating rental income. To claim the deduction, you'll need to meet these requirements:

- Keep separate books showing income and expenses for each rental real estate enterprise.
- Complete 250 hours or more of rental services each year if your rental real estate enterprise is less than four years old. For properties you've owned longer, 250 or more hours of rental services must have been performed in at least three of the past five years. Rental services include advertising the property for rent, collecting rent, and completing routine repairs or maintenance on the property.
- Maintain meticulous records, including time logs for hours of all services performed, description of all services performed, dates on which such services were performed, and who performed the services. Attach this report to your tax return.

The formula to figure out your tax liability with the pass-through income provision is complex, so work with your tax professional, who can help you calculate your pass-through income and its tax.

SALT TAX WORK AROUND

The IRS now allows a pass-through entity tax (PTE tax) that would allow partnerships and S-corporations to pay state income taxes, without limitations, at the entity-level, rather than on the personal returns of the partners or owners. These taxes become deductible for the business, lowering taxable income.

Over 20 states have enacted PTE tax legislation, and some require an annual election to pay the tax, while others have irrevocable elections. While the PTE tax may be deductible for federal income tax purposes, states may have different rules. Be sure to chat with your tax professional to see if this work around makes sense for you and your business.

PROOF

NOTEWORTHY CONSIDERATIONS

TAXABLE FRINGE BENEFITS

Generally, you must report the value of benefits you provide to your staff as employees' taxable income—unless explicitly excluded by the IRS. This includes certain employee discounts on goods or services, parking subsidies of up to $280, company services at cost, and benefits of small value items, such as modest holiday gifts, minimal personal use of office equipment, or occasional company parties. The value of more substantial benefits must be included in taxable income. This includes things like personal use of a company car or a country club membership.

FAMILY MEMBERS ON PAYROLL

Consider adding your spouse or children to your payroll to help maximize business tax deductions. When you add your spouse to your roster, he or she may be entitled to make IRA contributions, or participate in your company's retirement plan. Also, you can provide your spouse with family health insurance coverage, which will increase the business deduction for premium payments. And if you're self-employed, any wages you pay children under age 18 are not subject to Social Security or Medicare taxes. Of course, your kids must work to earn the wages.

HOME OFFICE DEDUCTION

Self-employed business owners who use their home as their principal place of business and use a portion of their residence as a dedicated office (or warehouse/storage) space can claim the home office deduction. You can deduct a portion of your mortgage interest, property taxes and insurance, and utilities equal to the percentage of your home's square footage that's dedicated to business use. Alternatively, the simplified method allows a maximum $1,500 deduction, depending on square footage used.

> ***When reimbursing employees for business expenses, ensure that you receive adequate documents and receipts. All documentation should include the business purpose of the expense, and the relationship of the person for whom expenses were incurred.***

EXIT PLANNING

When the time comes to sell your company, the tax consequences can have a major impact on the transaction's profit. Consider an installment sale if the buyer lacks sufficient cash or will pay a contingent amount that's based on the company's performance. Installment sales have tax advantages, such as spreading the gain over many years to avoid triggering the Net Investment Income Tax or short-term capital gains. However, there can be drawbacks, including the recapture of depreciation in the year of the sale or increasing tax rates in future years. Of course, tax consequences are only one of many important considerations when planning to sell your business.

RESEARCH AND DEVELOPMENT (R&D) TAX CREDITS

The R&D tax credit has been around since the early 1980s and benefits U.S. businesses in various sectors, including manufacturing and distribution, software and technology, healthcare, construction, and consumer products. The amount of the credit is based on a company's qualified research expenses and consists of wages, supplies used in the R&D process, and 65% of third-party contract research. Research must be completed in the U.S. and meet the IRS Four-Part Test. Your state may have its own R&D credit, so speak with your tax professional to find out if your business would be eligible.

DEFERRED PAYROLL TAXES

If your company utilized the CARES Act to elect to defer paying certain employment taxes for 2020, you should have made your first installment payment by December 31, 2021 and the remainder needs to be paid by December 31, 2022.

MORE NOTEWORTHY CONSIDERATIONS

SECTION 179

For 2021, the limit for Section 179 expensing on eligible property is now $1,050,000 and phases out completely at $2,620,000. The limits for 2022 are $1,080,000 and phases out completely at $2,700,000.

Within these guidelines, Section 179 also allows for immediate and 100% expensing of qualified improvement property placed in service starting in tax year 2018. This provision phases out in 2023. Improvements include:

- Any improvement to a building's interior but not building enlargements, elevators and escalators, or changes to the internal structural framework of the building
- Roofs, HVAC, and security and fire alarms.

BONUS DEPRECIATION

The amount of bonus depreciation percentage you can use for qualified property acquired and placed in service after September 27, 2017 until January 1, 2023 is now 100%. In contrast, the bonus depreciation percentage for qualified property that a taxpayer acquired before September 28, 2017 and placed in service before January 1, 2018, remains at 50%. Talk to your tax professional to get the specifics, of which there are many.

WORK OPPORTUNITY TAX CREDIT EXTENDED

The Work Opportunity Tax Credit is still available through December 31, 2025. This credit provides an incentive for employers to hire long-term unemployed individuals (i.e., those unemployed for 27 weeks or longer.) Generally, the credit is equal to 40 percent of the first $6,000 in wages paid out to the newly hired worker.

EMPOWERMENT ZONE TAX INCENTIVES

The Empowerment Zone Tax Incentive program, which was designed to incentivize business investment and job growth in certain economically disadvantaged areas is available through December 31, 2025. The program may entitle you to expanded Section 179 deduction allowances, potential deferral of capital gains under IRC Section 1397B, and the ability to finance projects using certain tax-exempt bonds under IRC Section 1394.

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VEHICLE DEPRECIATION

Depreciation limits have changed for passenger vehicles placed in service after December 31, 2017. If the taxpayer doesn't claim bonus depreciation, limits range from $10,200 in the first year to $5,860 for years four and beyond.

- $10,200 for the first year,
- $16,400 for the second year,
- $9,800 for the third year, and
- $5,860 for each taxable year thereafter in the recovery period.

If the taxpayer claims 100% bonus depreciation, the first-year limit is $18,200, while the limits for the other years remain the same.

INTEREST EXPENSING

Through 2025, amended IRC Section 163(j) limits corporations' business interest expensing to any business interest income, plus 30% of the business' adjusted taxable income. This interest expensing provision doesn't apply to companies with gross average receipts of $26 million or less for the three previous years.

MEALS AND ENTERTAINMENT

For 2021 and 2022, business meals from restaurants are 100% deductible, rather than the usual 50%. Entertainment expenses remain non-deductible.

ACCOUNTING METHODS

If your average annual gross receipts were $26 million or less in the three previous tax years, you can choose either a cash or accrual method of accounting.

If your gross receipts exceed that threshold, you must use the accrual method. For more information about the advantages and disadvantages of each method, speak with your tax professional, or see IRS Publication 538 – *Accounting Periods and Methods.*

FLEXIBLE SPENDING ACCOUNTS

Employers have the flexibility to allow employees to carryover any unused flexible spending or dependent care account monies as of December 31, 2021 to use in 2022. Typically, these accounts are "use it or lose it" with no rollover provisions.

PROOF

EMPLOYEE BENEFIT PLANS

For businesses offering employee benefit plans, it's important to review those plans to ensure you're receiving the maximum tax benefits while providing benefits that will attract and retain qualified employees.

TAX CREDITS FOR SMALL BUSINESS RETIREMENT PLANS

Small business retirement plan tax credits can be as much as $5,000. This credit is designed to provide small business owners with an incentive to provide access to a retirement plan for their employees. Another $500 in tax credits is automatically available each year, for up to three years, for businesses that enroll new hires. The maximum auto-enrollment contribution for the first year of employment is 10% of compensation. Employees must have the choice to opt out of auto-enrollment. After the worker's first year, the SECURE Act allows safe harbor plans to automatically increase employee contributions up to a maximum of 15% of compensation. Again, employees must have the option of 'opting out.'

Additionally, you now have until the due date for your company's tax return filing, to establish a plan and claim the credit for the previous year. This also gives you more time to provide your employees with a profit-sharing contribution.

MULTIPLE EMPLOYER PLANS

The SECURE Act allows employers of all sizes to collaborate and open "pooled plans," or Multiple Employer Plans (MEPs) for plan years starting after December 31, 2020. Employers need not show a common interest to do so. Until now, employers were discouraged from entering MEP arrangements because of the "One Bad Apple" rule. Under this rule, if one-member employer had problems complying with ERISA requirements, the entire plan could be disqualified. The SECURE Act, passed in late 2019, reduces employer risk by allowing for the non-compliant plan to be separated from the MEP, leaving the remaining plans under the MEP intact.

STUDENT LOAN PAYMENTS

To help attract new employees, consider paying a portion of their student loans as part of your benefits package. Now, through 2025, employers can make payments of up to $5,250 a year in student loan payments for each employee and receive a tax deduction for the payment. The amount you pay is tax-free to the employee which means you won't include it on their Form W-2 as taxable income.

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COMPLIANCE PENALTIES INCREASED

Fines and penalties for non-compliance with ERISA requirements are generally $250 per day with a maximum penalty of $150,000 depending on the type of non-compliance.

QUALIFIED RETIREMENT PLAN OFFSET

Previously, employees with a defaulted plan loan who were no longer with their qualified plan's company, or had a terminated plan, had 60 days to roll over the loan plus, withholding taxes before penalties and interest accrued. Now, they have until the tax filing deadline (plus extensions) of the following year to make a rollover.

QUALIFIED PLAN LIMITS

The annual compensation limit for retirement accounts under Sections 401(a)(17), 404(l), 408(k)(3)(C) and 408(k)(6)(D)(ii) was $290,000 in 2021. In 2022, the limit increases to $305,000.

ESOPs

The dollar amount under Section 409(o)(1)(C)(ii) for determining the maximum account balance in an employee stock ownership plan subject to a five-year distribution period is $1,165,000 in 2021, and $1,230,000 in 2022. The dollar amount used to determine the lengthening of the five-year distribution period is $245,000 in 2022.

TRANSPORTATION BENEFITS

The corporate tax break for employer-paid transportation benefits was repealed. However, you can still provide this subsidy and the value will not appear on the employee's W-2.

EMPLOYER FMLA TAX CREDIT EXTENDED

The Employer Family Medical Leave Act credit, originally set to expire at the end of 2019, has been extended through 2025. This credit is equal to 12.5% to 25% of eligible wages paid to low-and moderate-income employees while they are on family or medical leave. If your employees have taken medical leave due to COVID-19, talk with your tax professional about COVID-19 sick leave tax credits you may be entitled to.

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BUSINESS TAX CONSIDERATIONS

Whether recovering from losses due to the pandemic and working to grow sales, business owners need to plan. Here's a checklist of practical considerations.

- ☐ Revisit how much you saved for estimated taxes.
- ☐ Understand that state and local tax jurisdictions may not recognize all federal tax law changes.
- ☐ Owners of most business structures, including freelancers, need to understand the term "qualified business income (QBI)." You may qualify for a "pass-through" tax benefit on a portion of income, which may lower your personal federal income tax rate.
- ☐ Be aware of new depreciation formulas, which may let you deduct 100% of the cost of eligible property in the year it is placed in service, through 2022.
- ☐ Section 179 expensing also sees some changes, with an expanded definition of real property. Find out if this applies to your business.
- ☐ You may switch from an accrual accounting method to a cash method of accounting if your average annual gross receipts were $26 million or less in the three previous tax years.
- ☐ You may deduct up to 80% of net operating losses and carry forward these losses indefinitely, so keep your documentation until you use up this tax benefit.
- ☐ Revisit your payroll and bookkeeping records to see if you need to hire employees or contractors to handle them.
- ☐ Check with your tax professional about filing amended payroll tax returns to claim the COVID-19 pandemic related Employee Retention Tax credits.
- ☐ Talk to your tax professional for a complete list of documents you'll need to bring to your next tax-planning meeting.

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WE CAN HELP

Tax regulations are ever-changing and always complex. It has never been more important to work with your tax and financial professionals to learn how to minimize taxes and leverage your savings to invest in your future. We urge you to call us to schedule an appointment.

Getting a head start on tax-planning can save you money, time and stress.

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ADVERTISING REGULATION DEPARTMENT REVIEW LETTER

January 03, 2022

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Link Reference : FR2021-0618-0052

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1. LTM Tax Booklet 2022

   Rule: FIN 2210

This review is based on the understanding that these communications will include disclosure of your firm's FINRA member name, pursuant to FINRA Rule 2210(d)(3). If our understanding is inaccurate, please notify the Department as additional comments are necessary.

The communication generally appears consistent with applicable standards. However, we have the following comments:

This review does not include the merits of any tax advice or analysis.

Reviewed by,

Jeffrey R. Salisbury
Principal Analyst

Please send any communications related to filing reviews to this Department through the Advertising Regulation Electronic Filing (AREF) system or by facsimile or hard copy mail service. We request that you do not send documents or other communications via email.

NOTE: *We assume that your filed communication doesn't omit or misstate any fact, nor does it offer an opinion without reasonable basis. While you may say that the communication was "reviewed by FINRA" or "FINRA reviewed," you may not say that we approved it.*

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