



Tax Considerations for 2023

Ongoing Inflation and Retirement Reforms

Many expected the biggest news of the year would be the inflationary impact on 2023 tax charts, with some numbers increasing as much as 7%. However, with a few days left in 2022 the outgoing Congress was able to pass sweeping retirement reforms, some of which take effect in 2023, with more changes in the coming years. The mid-term elections left us with a Republican House and a Democratic Senate for 2023, and traditionally, divided governments provide little changes, especially in the tax world. Accordingly, while additional tax changes are not expected this year, diligence in monitoring your ongoing tax situation can help lead to a better financial outcome.

2023 Income Tax Rules

Tax rates remain unchanged for 2023, but the inflation adjustments have moved each threshold higher. For example, the standard deduction has ballooned to \$13,850 for individual filers, while married taxpayers* climb to \$27,700. That’s a \$900/\$1,800 increase respectively from last year!

The top income tax bracket stays at 37%, applying to individuals with more than \$578,125 in income, \$693,750 for married taxpayers. For those “in the middle”, the middle tax bracket calls for a 24% rate. That rate begins at \$95,375 single/\$190,750 married. You need more than \$182,100 single/\$364,200 married to climb into the next bracket.

Of the three long-term capital gain tax rates, 0%, 15% and 20%, the most common and largest tax grouping is the 15% rate. While the 15% rate is the most common, the 20% rate is still historically low. That said, even if you fall into the 20% rate, this is still well below the 37% top marginal rate on ordinary income.

2022 LT Capital Gain Tax Rates	Single	Married, Filing Jointly
0%	< \$44,625	< \$89,250
15%	\$44,626 - \$492,300	\$89,251 - \$553,850
20%	> \$492,301	> \$553,851

SECURE 2.0 Retirement Reforms

In the waning days of 2022, sweeping retirement reforms were signed into law. Collectively, the 90 new retirement account provisions are referred to as SECURE 2.0 because they build on retirement changes that were made in 2019 in the original SECURE Act. Over the next several years, these new provisions are designed to expand coverage, increase retirement savings, provide additional access to retirement savings, and simplify several retirement account rules.

Many of the most widely publicized provisions of SECURE 2.0 will not take effect until 2024 or later. This includes such things as increased catch-up

*Note: All references to “married taxpayers” will be defined as married filing jointly.



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contributions, employer matching contributions for student loan repayments, plan-linked emergency savings accounts, automatic enrollment and escalation for new employees in retirement plans, a government funded saver's match for low-income savers, and the retirement plan lost and found database to help connect individuals and plan administrators.

Below are highlights of a few of the changes that are effective in or for the 2023 tax year*:

RMDs Start at Age 73 Beginning in 2023; Increase to Age 75 in 2033

RMDs will now be required to begin at age 73 and will remain at age 73 for 10 years. The change to age 75 will come in 2033.

50% Missed RMD Excise Tax Reduced to 25% (10% In Certain Situations)

The excise tax penalty for missed RMDs has been reduced to 25% beginning with the 2023 tax year. If an RMD is corrected within a "correction window", the 25% penalty is reduced to 10%. The "correction window" is the earlier of: (1) a notice of deficiency from the IRS, (2) an assessment of the penalty tax, or (3) Dec 31 of the 2nd taxable year following the year of the missed RMD.

SEPs, SIMPLEs, Employer Match and Non-Elective Contributions Can Be Designated as Roth Contributions

Beginning in 2023, an employer may designate a SEP or SIMPLE IRA as a Roth. Employer match and non-elective contributions made to retirement plans can be designated as Roth contributions beginning with contributions made after the date of enactment.

QCDs Expanded to Include One-Time Gift to Split-Interest Entities; Amounts Indexed for Inflation

Beginning in 2023, a qualified charitable distribution (QCD) includes a one-time direct gift to a split-interest entity of up to \$50,000. Split interest entities include charitable remainder annuity trusts, charitable remainder unitrusts, and charitable gift annuities if exclusively funded by QCDs and in the case of charitable gift annuities, payments of 5% or more begin within one year of funding. The \$50,000 one-time gift and the \$100,000 normal QCD limit will also be indexed for inflation after 2023. The IRA owner or beneficiary must be age 70 ½ or older at the time of the gift.

QLACs No Longer Subject to 25% Limitation; Amount Increased to \$200,000

Effective immediately, qualified longevity annuity contracts (QLACs) can be purchased or exchanged in amounts up to \$200,000 and are no longer subject to the limitation of 25% of total retirement account assets. In addition, the \$200,000 will be indexed for inflation after 2024. Amounts invested in a QLAC, a deferred income annuity, are excluded from RMD calculations and defer receipt of income until no later than age 85.

Net Income Attributable from Excess Contributions No Longer Subject to 10% Early Withdrawal Penalty

The 10% early withdrawal penalty no longer applies to net income attributable (also referred to as NIA or earnings) when removed in combination with excess contributions.



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Penalty-Free Early Withdrawal Changes

- Employer-sponsored qualified retirement plans can now provide penalty-free distributions to employees with a terminal illness. Terminal illness distributions can also be repaid within three years.
- Public safety employees can now receive penalty-free withdrawals at age 50 or upon 25 years of service, if sooner. The definition of public safety employee has also been expanded to include corrections officers and private sector firefighters.

Expanded Tax Credits for Small Business Retirement Plans for 2023

- For employers with 50 or fewer employees, the tax credit for start-up costs in the first three years is increased from 50% to 100% (\$5,000 cap)
- An additional tax credit (\$1,000 cap) is available for employers with 50 or fewer employees (phased out for employers with 51 – 100 employees) for a percentage of contributions made to the plan in the first 5 years. Contributions for employees with wages in excess of \$100,000 are excluded.
- A “military spouse eligibility credit” of up to \$500 per military spouse is available to employers with less than 100 employees. Military spouses must be allowed to participate in the plan no later than two months after employment to use the credit. Highly compensated military spouses are excluded. The tax credit is available only for the first three years of employment.

Although the above items take effect right away, guidance from the IRS and the Department of Labor will be needed before some of the new provisions can be put into operation.

Ongoing Considerations

With change comes new opportunities. Discuss with your tax advisor whether one or more of the following actions could be beneficial for your specific situation:

Itemize or Not?

Should you itemize or use the standard deduction this year? With the higher standard deduction, coupled with limited itemized deductions, you may need to review planning opportunities for 2023. Ideas like bunching or delaying expenses or gifts, like medical expenses or charitable gifts, along with taking or deferring gains or losses where possible, may benefit you more in one year than another.

Review Your Gift and/or Estate Planning Situation

With the larger exclusions (\$12.92 million per person for 2023), you want to make sure your existing plan meets your legacy goals as many plans divide assets based on the applicable exclusion amount.

Moreover, you may consider accelerating any gifts to take advantage of the larger exclusions. The current law stipulates that January 1, 2026, the exclusion shall revert to \$5 million (indexed for inflation). In other words, the exclusion will roughly be cut in half in 2026. Accordingly, you may want to consider working with your tax and legal advisors to see if there are any actions you should consider now.

Another update for 2023, the annual gift tax exclusion amount, increases from \$16,000 to \$17,000 per person per year. This means a married couple could gift up to \$34,000 per person without any transfer tax consequence. The increase in the gift limit also impacts the funding of 529 Education Savings Plans. For individuals looking to use the 5-year advance gifting available for 529 plans, that’s \$85,000 per student (\$170,000 for a married couple).



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Explore Retirement Planning Opportunities

Consider fully funding employer-sponsored plans and/or tax-deductible IRAs. Maximizing these contributions may lower your tax bracket. Contribution limits for 401(k)s, 403(b)s and other salary deferral plans increased to \$22,500 (\$15,500 for SIMPLE IRAs). Catch-up contributions for those age 50 or older increased to \$7,500 (SIMPLE IRAs remain at \$3,500). Traditional IRA contributions increased to \$6,500 (plus an additional \$1,000 for individuals age 50 or older). Age no longer impacts the ability to make IRA contributions. Individuals can continue to contribute to a traditional IRA if they (or their spouse, if married) still have earned income.

If you are age 70½ or older and are charitably inclined, tax-free qualified charitable distributions (QCDs) can be a great way to satisfy your gifting from your IRA without increasing your taxable income. You can gift up to \$100,000 a year from your IRA after age 70 ½ (6 months past your 70th birthday) even if your RMD start age is later. As long as your distribution is made directly to a qualified charity from the IRA, the distribution will be income tax free – even if you are using the standard deduction and do not itemize. QCDs can also satisfy your required minimum distributions (RMDs) but are not limited to the amount of the RMD. Beginning in 2023, a one-time QCD can be made to a split-interest entity of up to \$50,000. Keep in mind that if you are also making deductible IRA contributions in the same year you are taking a QCD, you must adjust the amount of the tax-free QCD by the amount of the deductible IRA contribution.

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Roth retirement planning options are also a strategy to consider. Converting existing pre-tax retirement assets to a Roth IRA may provide more after-tax cash flow during retirement. Roths also may be a more beneficial way to transfer wealth now that distributions for most non-spouse beneficiaries are limited to 10 years. A conversion cannot be undone, so consider the tax consequences carefully before acting. Alternatively, funding a Roth IRA, Roth 401(k) plan, or beginning in 2023, a Roth SEP or SIMPLE IRA, is another way to build Roth balances for tax diversification during retirement.

If you have a large traditional IRA or 401(k) and you are concerned about the taxes your heirs will have to pay after your death, adding permanent life insurance as part of your legacy plan may also be a strategy to consider. Upon the death of an insured person, life insurance provides a leveraged income tax-death benefit as a lump-sum for beneficiaries. In addition, some policies offer an option to pay out the death benefit over time for any long-term care expenses, income tax-free. Keep in mind, that to purchase life insurance you must be able to qualify via medical underwriting with an insurance company.

Talk with Your Financial Advisor

Though we don't expect many additional tax law changes this year you still need to stay on top of your specific tax situation. Talk with your financial advisor, in partnership with your tax and legal advisors, and you can be better prepared to make sure your investments, saving strategies, and retirement income goals are aligned with your tax strategies. ■