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2023 YEAR-END TAX PLANNING NEWSLETTER

Dear Client:

2023 has been a relatively quiet year from both a tax standpoint, and an overall economic standpoint, for the United States. After 2022 saw historically high inflation as the economy rebounded from the impacts of the pandemic, inflation has cooled somewhat, and it appears that the chances of a recession have abated.

On the tax front, 2023 (as of now) has not seen any major legislation. The IRS has been busy issuing guidance implementing major pieces of 2022 tax legislation. However, much of this legislation, and the ensuing guidance, is very narrowly applicable, largely impacting green energy investment and retirement planning and saving.

What this means is stability, and a return to tried-and-true year-end tax strategies from years' past. While there are always new strategies to consider, and indeed there are some changes from recent legislation that are in effect for 2023, the simple tactics of deferring income and increasing current deductions will be the order of the day for 2023.

LEGISLATION

As mentioned earlier, there have been no major tax bills passed during 2023. With Democrats controlling the Senate and White House, and Republicans controlling the House with a very slim margin, this is hardly surprising. Indeed, very little legislation of any type has been passed by Congress.

As always, however, there is a potential for that to change before the end of 2023. At the end of September, Congress passed a continuing resolution to avoid a government shutdown, but only extended that government funding to November 17. While it is widely believed another continuing resolution will be passed before that date to kick the can a little farther down the road, there is always the potential for any continuing resolution, or any final legislation funding the government for the 2024 fiscal year, to include some sort of tax legislation as a way to get more lawmakers to agree to a deal.

As an example, in the waning days of 2022, Congress passed an appropriations bill that included the SECURE 2.0 Act of 2022. The Act built upon the provisions of the original SECURE Act from 2019 and further ensured that more Americans can save for retirement and increase the amount they are able to save. The Act did this by expanding upon automatic enrollment programs, helping to ensure that small employers can easily and efficiently sponsor plans for employees, and enhancing various credits to make saving for retirement beneficial to both plan participants and plan sponsors. The Act also improved various investment options for plan participants, streamlined plan administration for plan fiduciaries, and made important changes to required minimum distributions that will help retirees with plan selections and decisions that will enhance their ability to make better use of their retirement savings.

Many of the provisions of the SECURE 2.0 Act were not immediately applicable to 2022, or even 2023, and some changes are phased in over the course of several years. However, there are a couple changes that are now in effect, and they do present some opportunities that are discussed below.

MINIMIZING INDIVIDUAL TAXES

Income taxes

The key to any year-end planning strategy is to minimize taxes. This is generally done by either reducing the amount of income received or increasing the amount of deductions. In recent years, the possibility of increased rates on higher incomes due to proposed legislation, or changes in qualification for various stimulus proposals, made the decision of deferral or acceleration highly dependent upon individual circumstances. However, as the end of 2023 approaches, these factors are not really in play anymore.

The impact of inflation makes deferral of income a likely winner for almost all individuals. While the increase is much lower from 2023 to 2024 (approximately 5%) than it was from 2022 to 2023 (approximately 8%) due to easing inflation, it is still much higher than it was in many years prior to 2023. In September, Wolters Kluwer projected the tax brackets for 2024. As an example of the increase in the brackets, the rates for married taxpayers filing jointly in 2023 compared to 2024 (projected) are below:

Individuals may not necessarily see increases in earnings that keep up with that level of inflation, meaning that if deferral of income from 2023 into 2024 is possible, it would mean that more income would fall into a lower tax bracket. In the long run, that would mean a lower aggregate tax burden.

2023

If Taxable Income Is:

Over	But Not More Than	The Tax Is	Of the Amount Over
$0	$22,000	$0 + 10%	$0
22,000	89,450	2,200 + 12%	22,000
89,450	190,750	10,294 + 22%	89,450
190,750	364,200	32,580 + 24%	190,750
364,200	462,500	74,208 + 32%	364,200
462,500	693,750	105,664 + 35%	462,500
693,750		186,601.50 + 37%	693,750

2024 (Projected)

If Taxable Income Is:

Over	But Not More Than	The Tax Is	Of the Amount Over
$0	$23,200	$0 + 10%	$0
$23,200	$94,300	2,320.00 + 12%	23,200
$94,300	$201,050	10,852.00 + 22%	$94,300
$201,050	$383,900	34,337.00 + 24%	$201,050
$383,900	$487,450	78,221.00 + 32%	$383,900
$487,450	$731,200	111,357.00 + 35%	$487,450
$731,200		196,669.50 + 37%	$731,200

Delaying and reducing gains

Like taxes on ordinary income, taxes on capital gains also apply at different rates depending upon the amount of taxable income. For 2023, the rates are as follows:

	0%	15%	20%
MFJ/SS	$0 - $89,250	$89,251 - $553,850	over $553,850
MFS	$0 - $44,625	$44,626 - $276,900	over $276,900
HoH	$0 - $59,750	$59,751 - $523,050	over $523,050
Single	$0 - $44,625	$44,626 - $492,300	over $492,300
E&T	$0 - $3,000	$3,001 - $14,650	over $14,650

For taxpayers whose income tends to fluctuate from year to year, it would be wise to examine the impact of sales of investment items. For taxpayers who think they may have lower income in 2024, it would be smart to hold off on a sale of a capital item if their income is at or near a threshold for a higher capital gains bracket.

This type of consideration should not be limited to capital gain taxes, but also the net investment income (NII) tax. The 3.8% NII tax kicks in at $200,000 of modified adjusted gross income for single and head-of-household filers, $250,000 for joint filers, and $125,000 for married taxpayers filing separately.

Since the NII thresholds fall right in the middle of the 15% capital gains bracket, a taxpayer to whom the NII applies because of a sale of a capital item would likely not be able to reduce the tax to 0%. But, a taxpayer who is barely in the 20% bracket could defer a sale and get into the 15% bracket, meaning a sale of a capital item would only be taxed at 18.8% instead of 23.8%.

Maximizing deductions

For 2023, the inflation-adjusted standard deduction amounts are $27,700 for joint filers, $20,800 for heads of households, and $13,850 for all other filers. With standard deduction amounts so high, coupled with the $10,000 limitation on the deduction of state and local taxes, it is difficult for many taxpayers to claim enough deductions to make itemizing deductions beneficial. Thus, maximizing deductions may not be beneficial for all taxpayers.

One of the best ways to maximize the amount of deductions is to develop a bunching strategy. This involves accumulating charitable contributions, or even medical expenses (see below), from two or more years into one year. For example, a taxpayer may have not made any of his or her normal charitable contributions in 2022, and then made double the normal amount in 2023 in order to help surpass the standard deduction amount.

Again, the impact of inflation must be considered here, as the standard deductions are higher for 2024 as compared with 2023. Even with bunching, it might be difficult to achieve itemized deductions high enough in 2024 to surpass the standard deduction.

The same strategy can be employed for deductible medical expenses where the timing is somewhat flexible, such as for elective procedures (remember that purely cosmetic procedures are not deductible).

Bunching can be a very effective strategy, but it has to be effectively used, and potentially planned out two or three years in advance to maximize the benefit, while also taking into account shifts in tax policies as a result of political change.

Green energy

Some new or expanded provisions are in effect for the 2023 tax year as a result of the Inflation Reduction Act of 2022.

2023 is the first year that the new Energy Efficiency Home Improvement Credit is available. The credit is generally equal to 30% of the taxpayer's qualified expenses, which can include doors, windows, other qualifying

energy property, and even a home energy audit. Also available is the Residential Clean Energy Credit, which is also equal to 30% of qualified expenses. This credit is applicable to the installation of certain energy property like solar cells, small wind turbines, or battery storage. Restrictions and limitations do apply to both credits.

The much more broadly applicable credit for the purchase of electric vehicles was eliminated upon the passage of the Inflation Reduction Act of 2022. In its place are two new credits, one $7,500 credit for the purchase of a new clean vehicle (with much more stringent requirements as compared to the old credit) and a $4,000 credit for the purchase of a used clean vehicle.

Claiming any of these credits is not urgent. They are not scheduled to expire for many years. But there is no time like the present to claim a tax credit, and taxpayers looking to make these types of investments can realize immediate tax benefits for 2023 if they act before the end of the year. Additionally, these credits are not necessarily supported on a bipartisan basis, so any shift in control of Congress could lead to an accelerated expiration.

Retirement savings

Many of the changes made by the SECURE Act 2.0 are not applicable until 2024. However, there is one significant change applicable to 2023, and that is in the increase in the age at which required minimum distributions (RMDs) must begin. Starting in 2023, the age is increased to 73 for individuals who turn 72 after 2022 and age 73 before 2033.

Remember that taxpayers who are in their first RMD year have until April 15 of the following year to make that first RMD. So, while action isn't absolutely necessary before the end of the year, affected taxpayers should start to plan for those RMDs.

SALT deduction

The Tax Cuts and Jobs Act (TCJA) capped the amount of the deduction for state and local taxes (SALT) at $10,000. Many legislators from higher-tax states have been clamoring for years to repeal or increase that limitation. Additionally, during the recent Speaker of the House drama in Congress, talk has surfaced of providing such increases in exchange for support for various leadership positions. While none of these efforts have proven successful so far, there is a new strategy for taxpayers to claim this deduction that seems to have met with approval by the courts. Many states have enacted legislation that enables higher SALT deductions if paid by a passthrough entity. Requirements vary from state to state, so taxpayers looking to take advantage of this new strategy should speak with their tax professionals.

Other year-end strategies

A number of other traditional year-end strategies may apply. These include:

Maximizing Education Credits – Individuals can claim a credit for tuition paid in 2023 even if the academic period begins in 2024, as long as the period begins by the end of March.

Increasing 401(k) Contributions – Adjusted gross income (AGI) can be reduced if individuals increase the amount of their 401(k) contributions.

IRA Contributions – Individuals eligible for deductions for IRA contributions can claim deductions, and thus reduce AGI, for amounts contributed generally through April 15, 2024.

Teacher deductions – Educators can claim a deduction for up to $300 of classroom expenses (like books, supplies, and computer equipment, as well as personal protective equipment, disinfectant, and other supplies used to prevent the spread of COVID-19), and should maximize those expenses by year-end.

YEAR-END BUSINESS STRATEGIES

Retirement Plans

As discussed above, many of the provisions of the SECURE 2.0 Act do not take effect until after 2023. However, one change that applies to employers in 2023 is the expansion of the credit for smaller employers to start a retirement plan for employees. Effective for tax years beginning after 2022, the amount of the credit is increased to 100 percent of startup costs for employers with 50 or fewer employees, and an additional credit for contributions is added for the first five years of a plan's existence.

Employee Retention Credits

One of the last remaining provisions from the various pieces of COVID-19-related legislation in 2020 and 2021 is the employee retention credit (ERC). While the employment period for which the credit can be claimed has long since passed (wages paid after 2021 do not qualify for any form of the credit) the period for claiming the credit is still open. Employers who paid employees during the applicable period should speak with a tax professional to see if a credit claim can be made.

Taxpayers should be careful of advice received with regard to the ERC. Many tax promoters have been helping employers make dubious claims for the credit, which can result in penalties to the taxpayer. Recently, the IRS placed a moratorium on credit claims through the end of 2023 in order properly process claims and address a claim backlog. Additionally, the IRS has provided instructions for taxpayers to withdraw unprocessed claims if the taxpayer believes such claim was erroneously made.

Depreciation and expensing

The TCJA provided very generous depreciation and expensing limitations. Code Sec. 179 expensing has an investment limitation of $2,890,000 for 2023, with a dollar limitation of $1,160,000. Additionally, businesses may want to take advantage of 80-percent first-year depreciation on machinery and equipment purchased during 2023.

While the increased amounts for the Code Sec. 179 deduction will still be in effect for 2024, the bonus depreciation amount drops to 60% in 2024, so businesses should take advantage of the higher first-year allowances while they can.

Clean commercial vehicles

The Inflation Reduction Act of 2022 provides a new $7,500 credit for the purchase of clean commercial vehicles after 2022. The requirements for this credit are very similar to that available to individuals, so the same considerations made by individuals should be made by businesses thinking about purchasing environmentally friendly vehicles.

These are just some of the year-end steps that can be taken to save taxes. Again, by contacting us, we can tailor a particular plan that will work best for you.

Very truly yours,

Barto, Hoss & Company, P.C.

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