FLSV | FRANKEL LOUGHRAN STARR & VALLONE LLP

2023 YEAR-END TAX PLANNING MEMO

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Effective tax planning can maximize the amount of funds you will have available for retirement, reduce eventual estate taxes, reduce the cost of financing your children's education, and assist you in managing your cash flow to help you meet your financial objectives, in addition to saving income taxes for the current and future years.

As the year-end approaches, individuals and business owners should be reviewing their situation to identify any opportunities for reducing, deferring, or accelerating tax obligations. Areas that should be looked at include tax reform provisions that remain in effect as a result of the Tax Cuts & Jobs Act (the "TJCA"), opportunities and relief granted in 2020 under the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"), provisions of the CARES Act that were extended through the and Consolidated Appropriations Act of 2021 (the "CAA"), and the Consolidated Appropriations Act. Of 2023, and credits & deductions that were enhanced for families through The American Rescue Plan Act of 2021 (the "ARP" Act).

On December 22, 2017, Public Law No. 115-97, best known as the **TCJA**, was signed into law. The TJCA was the most comprehensive overall change in our tax law since the Tax Reform Act of 1986. The TJCA was instituted on January 1, 2018 and impacts your tax returns through 2025, unless the law is repealed at an earlier date. The tax law changes have been further clarified with additional IRS provisions and guidance in certain matters which include, but are not limited to, I.R.C. § 199A income reporting, rental properties having the potential to be considered tax preferential non-SSTB (Specified Service Trade or Business) activity, and the elimination of claw-backs for estate exemption purposes. Some of the laws that changed in 2018 remain consistent for your 2023 return filings, subject to inflation adjustments.

The Inflation Reduction Act (the "IRA") was signed into law on August 16, 2022 and includes provisions that expand the Affordable Care Act healthcare premium assistance program through 2025, imposes an excise tax on stock buybacks, provides increased funding for IRS tax enforcement, expands energy incentives, and imposes a corporate minimum tax.

The Consolidated Appropriations Act, 2023 was signed into law on December 29, 2022, and includes provisions under the SECURE 2.0 Act of 2022. The act includes provisions that further ensure more taxpayers can save for retirement and gradually increases the age at which Required Minimum Distributions (RMD) must be made and it provides increased flexibility with respect to RMD's.

The 2023 top Federal tax rate remains unchanged at 37% on ordinary income for taxpayers with taxable income in excess of the following amount:

Married Joint & Surviving Spouse $693,750
Married Separate $346,875
Single $578,125
Head of Household $578,100
Estates and Trusts $ 14,450

The 2023 long term capital gains and qualified dividends will be as follows:

A 0% rate will apply up to $89,250 for taxpayers filing Married Jointly, $44,625 for Single taxpayers and married separate; and $59,750 for those filing as Head of Household.

The 15% rate will apply up to $553,850 for taxpayers filing Married Jointly, $492,300 for Single taxpayers, $276,900 for Married separate filers; and $523,050 for those filing as Head of Household.

20% will apply to those with income above these levels.

The Pease Rule which reduced itemized deductions of certain taxpayers by three percent of their AGI remains suspended.

For Federal estate and gift tax, the exclusion amount is $12,920,000 in 2023 and $13,610,000 in 2024 and the top tax rate continues to be 40%. The annual gift exclusion increases from $17,000 in 2023 to $18,000 in 2024. As detailed later, unless Congress passes legislation to make the higher gift and estate tax exemptions permanent, these exemptions will "sunset" on January 1, 2026, and the exemptions will revert to 2017 levels, adjusted for inflation – (about half of what they are now) making short-term planning important for many high net worth taxpayers.

Higher-income taxpayers currently pay an additional 3.8% Medicare tax on Net Investment Income when Modified Adjusted Gross Income ("MAGI") exceeds the thresholds of $250,000 for married taxpayers filing jointly, $125,000 for married filing separately and $200,000 for single or head of household filers. Net Investment Income ("NII") is unearned income comprised of gross income from interest, dividends, royalties, rents, passive activities, gross income from the trade or business of trading in financial instruments or commodities, net gain (to extent taken into account in computing taxable income) attributable to the disposition of property (e.g., capital gain), less properly allocable deductions. Certain types of income are excluded from NII such as wages, self-employment income, active trade or business income, retirement plan distributions (from IRA, Roth IRA conversions, and other qualified plans), unemployment compensation, Social Security benefits, alimony, and interest from tax-free bonds (such as municipal bonds).

As a result, the effective Federal maximum rate for many higher-income taxpayers in 2023 is 23.8% for long-term gains and qualified dividends, and 40.8% for short-term capital gains and ordinary dividends (as they are taxed at the ordinary rate). An additional 0.9% Medicare surtax continues to be imposed on wages and self-employment income for higher-income taxpayers. Payment of the additional tax is determined by the combined wages or self-employment income of both the taxpayer and spouse over $250,000 for joint filers, and $200,000 of wages for a single filer.

It is important to continue to evaluate not only the amount of income but also the types of income you anticipate generating, if your business income can be separated between SSTB and non-SSTB, your marginal tax bracket, net investment income, wages and self-employment earnings, and capital gains and losses. Taxpayers who are decision makers for their businesses may have influence over the timing of income and of expense payments. It is possible to use ordinary losses from business activities to offset income from other sources and thus reduce your overall tax burden. Additionally, determining whether you are subject to the AMT in any given year continues to be a critical planning component.

With that in mind, we have compiled a checklist of actions that may help you save tax dollars if you act before year-end. Not all actions may apply to your particular facts and circumstances, but you will likely benefit from many of them. We can narrow down the specific actions you can take and help you develop a detailed plan tailored to your own unique situation.

In the meantime, please review the ideas outlined on the following pages and contact us at your earliest convenience so that we can advise you on which tax-saving moves to make.

TAX PLANNING IDEAS FOR INDIVIDUALS

1. Take required minimum distributions ("RMDs") from your IRA or 401(k) plan or other employer sponsored retirement plans if you have reached age 72 (73 if you reach age 72 after December 31, 2022).

2. Under the SECURE 2.0 Act, the penalty for an RMD that has been missed or not fully taken has been reduced from 50% to 25%. Also, there's an additional reduction to 10% for taxpayers meeting additional requirements. You should contact your custodian to calculate your RMDs for you before taking the distribution, if you are at least age 72. (The IRA Uniform Lifetime RMD distribution tables were recently updated). You may also want to consider making a qualified charitable distribution ("QCD") from your IRA. A QCD is an otherwise taxable distribution of up to $100,000 per year that is paid directly from the IRA to a qualified charity that can satisfy your RMD, and the distribution is nontaxable to you. Please note distributions to donor advised funds & support organizations do not qualify.

3. Review unrealized loss positions within investment accounts and consider realizing the losses.

4. Consider triggering capital gains to offset capital loss carryovers from 2022 and earlier. Current-year capital losses will first be applied to offset capital gains that are in the same category as the losses. Any additional loss will then be applied to gains in the other category. Therefore, you might consider a strategy that ensures that your carryover losses offset short-term capital gains when possible, regardless of whether those losses resulted from short-or long-term transactions.

5. Rebalance your investment portfolio by incorporating additional tax-efficient investments to help reduce taxes, such as municipal bond investments, growth-oriented stocks that pay out lower dividends, Qualified Opportunity Zone ("QOZ") Funds which defer tax payments on capital gains and give a step-up in basis on the QOZ Fund investment if held for 5 or 7 years, and investments (such as in real estate, energy, and natural resources) that produce income sheltered by depreciation or depletion. See #36 for more on QOZs.

6. Both worthless securities and bad debts could give rise to capital losses. Since no specific transaction generally alerts you to this deduction, you should review your portfolio carefully. If you own securities that have become worthless or made loans that have become uncollectible, ensure that the losses are deductible in the current year by obtaining substantive documentation to support the deduction.

7. Wash sales occur when you realize a capital loss and acquire a substantially identical security within the 61-day period beginning 30 days before the sale and ending 30 days after the sale. While this rule makes it difficult to claim a loss on a stock that you want to keep in your portfolio, it is possible to manage around the time requirements.

8. To realize losses in your bond portfolio, it may be possible to sell a bond at a loss and repurchase a very similar bond without running afoul of the wash sale rule. Bonds with different interest rates or maturity dates, even from the same issuer, are generally not considered substantially identical.

9. When weighing your options with regards to diversifying your portfolio and selling marketable securities to harvest gains or losses, consider using margin debt for replacement securities. The interest on the debt will be deductible, subject to the investment interest limitation, which could reduce your NII for purposes of the NII tax.

10. For securities bought on margin, any interest accrued as of December 31, 2023, will be deductible this year only if you pay the interest by December 31st.

11. Consider converting your eligible retirement account to a Roth IRA.

    Benefits of converting your eligible retirement account – 401(k), Traditional IRA, or other non-Roth account – to a Roth IRA can include tax-free distributions for you and your heirs and the elimination of RMDs during your lifetime and those of your spouse (if treated as his/her own Roth IRA).

    An additional benefit is that the amount that is converted to a Roth IRA can be taken tax-free and with no 10% additional tax for early (before age 59 ½) distributions after a five-year waiting period has been met. The potential for higher ordinary income tax rates in the near future increases the value of the benefits previously mentioned. It is important to understand your tax situation and ability to pay for the conversion because once you convert, you can no longer recharacterize or undo the conversion. Conversion is not an all-or-nothing proposition, as you can convert a portion or all of your eligible retirement accounts. Note that a Roth IRA conversion will trigger ordinary income in the year of conversion.

12. Sell qualified assets on the installment method to spread out gains when applicable.

13. Consider investing in oil and gas investments, taking into consideration recent fluctuations in the oil and gas market. Intangible drilling costs (IDC) provide a large immediate income tax deduction (up to 85% of the initial investment). Losses, if any, created as a result of IDCs will be ordinary and will lower adjusted gross income. Depletion and other depreciation provide for additional deductions during the term of the investment. However, the new Excess Business Loss rules along with AMT considerations may limit the amount of deductions allowed for tax years after 2020.

14. Consider reviewing your employee stock options prior to year-end to determine whether they should be exercised this year. Exercising most employee stock options will result in ordinary income which may be advantageous if you expect to be in a higher bracket in 2024. A secondary benefit is that future stock appreciation after exercise may qualify for capital gain treatment which is taxed at the lower capital gain rate if held for more than one year after the date of exercise.

- If you hold incentive stock options, a poorly planned exercise can be very costly because the spread between the fair market value of the stock and the exercise price is a tax preference item for AMT purposes. While the AMT exemption has increased under the TCJ Act, ISO spreads continue to be a preference item for AMT purposes.

15. If you anticipate a net loss from business activities in which you do not materially participate, consider disposing of the loss activity by December 31st. If sufficient basis exists, all suspended losses become deductible when you dispose of the activity. If you are limited by your tax basis or the "at risk" rules, consider contributing capital to the entity or, in some cases, making a loan to the entity prior to December 31st to secure your deduction this year. Even if there is a gain on the disposition, you may still benefit from having the long-term capital gain taxed at 23.8% (inclusive of the NII tax) with the previously suspended losses offsetting other ordinary income.

16. If you enter the 2024 tax year with passive-activity loss carryforwards you should consider pursuing investment strategies that generate passive income, since that would allow use of the passive-activity losses carried over from prior years.

17. There are ways to become active in a trade or business to reduce the NII tax, such as increasing the amount of time devoted to a specific activity or restructuring entities. Increasing your material participation in the activity can reduce the amount of income subject to the NII tax. Proceed with caution, though, because a change in participation level may impact other short and long-term tax obligations.

18. If you own shares of a U.S. corporation that has announced plans to convert to public ownership, but has not yet obtained shareholder approval, there are two suggested courses of action to consider. First, you may wish to gift shares of stock to family members who pay capital gains tax at a lower rate than you do. State tax rates must be considered since they can make this gap wider or narrower. Second, you may wish to donate the stock to charity, thereby obtaining the charitable deduction for the fair market value of the shares (assuming you have held them for over a year) and avoiding recognition of the capital gain altogether.

19. If you are near the applicable threshold for NII tax liability, consider revising the timing of distributions from retirement plans to manage your net investment income. While the distributions themselves are not NII, the distributions increase your MAGI, which could subject more of your investment income to the NII tax.

20. Tax planning within the hedge fund and private equity fund space to consider and discuss with your tax advisor:

    - Tax treatment of management fees considering 2% miscellaneous deductions being previously repealed through 2025, investment interest expense subject to limitation rules, etc. Are the deductions taken as an adjustment to gross income or as an itemized deduction? Investment management fees treated as miscellaneous itemized deductions are no longer deductible.
    - Do you anticipate receiving a tax benefit and how does that factor into your calculation of the return on investment over the life of the investment?
    - Additional non-resident state filing requirements (generally more common in the private equity fund space)
    - Will you have an opportunity to participate in state composite tax filings and minimize overall cost?

- State tax issues regarding treatment of expenses, especially in states that either phase out deductions for high-income taxpayers or assess a tax on gross income, without accounting for deductions.
- More frequent review of tax basis within an investment to address any issues arising from current-year losses, distributions, etc.
- Is the fund foreign or domestic, and does the investment create additional regulatory disclosure at the individual level or add an additional level of complexity in terms of informational reporting required to be submitted with your individual income tax return?

- Are these investments more opportune when developing gift-planning strategies given the statistically greater chance of higher average returns (while measuring risk) versus stock, bonds, etc.?

21. If a child has earned income, there are various strategies he or she can use to contribute to a traditional or Roth IRA. Consider employing children in the business to generate earned income. Those earnings can be contributed, or funds could be gifted, into the IRA accounts up to the lesser of their earned income or the maximum allowable contribution.

22. Employees should consider making the maximum contribution into their company retirement plan, since these contributions lower your current year taxable income, and the earnings grow tax free. Such contributions will allow you to defer taxable income until retirement while saving for the future. The maximum contribution into such plans for 2023 is $22,500 ($30,000 for taxpayers age 50 or older).

23. Self-employed individuals should consider taking advantage of the $66,000 maximum tax-deductible limit for contributions provided under defined contribution plans (or $73,500 for those age 50 or older). Making such a contribution will offset the ordinary income earned in 2023, lessening the tax burden. The deadline for setting up and funding a plan is as late as the due date of your 2023 individual tax return.

24. The annual charitable deduction limitations range from 20% to 60% of a taxpayer's AGI, depending on the assets donated and the charitable recipient. The limitation acts as a cap on the amount that can be deducted against income that year. Any charitable contribution in excess of that cap is not lost, rather it carries forward for up to five subsequent years, subject to the same limitations that are then in effect. Individuals who itemized deductions are subject to the following limitations:

    - Public charities (includes donor-advised funds)
        - Cash: 60% of AGI
        - Long-term capital gain property (publicly traded): 30% of AGI

    - Private nonoperating foundations (includes family foundations)
        - Cash: 30% of AGI
        - Long-term capital gain property (publicly traded): 20% of AGI

    If you donate short-term property or assets that generate ordinary income, the noncash charitable deduction is limited to the cost basis of the property contributed.

25. Sell depreciated stocks to realize the benefit from deducting capital losses in current year. Then gift the net proceeds to charity and take a charitable deduction.

26. If a large charitable deduction is desirable for 2023 but you haven't decided on a charity (or charities) to receive the gift, consider making a charitable contribution by year-end to a donor-advised fund. This will allow you to receive the large charitable deduction in the current year, but you can give the money to charities over time.

27. Make gifts sheltered by the annual gift tax exclusion before the end of the year to individuals and/or an Irrevocable Life Insurance Trust. You can give up to $17,000 in 2023 (increased to $18,000 in 2024) to each of an unlimited number of individuals but you can't carry over unused exclusions from one year to the next. Spouses together may gift up to $34,000 per recipient in 2023, without incurring any Federal gift tax. The transfers also may save family income taxes where income-earning property is given to family members in lower income tax brackets who are not subject to kiddie tax. By making these gifts annually, taxpayers can transfer significant wealth out of their estate without using any of their lifetime exclusion.

28. Contributions to an I.R.C. § 529 College Savings Plan can also help reduce income and future estate taxes. By taking advantage of a special provision in the tax code that allows you to take five years' worth of gift tax exclusions in a single year, you can make an accelerated gift through a 529 plan. You can gift up to $85,000 ($170,000 for couples) per beneficiary – which effectively removes the assets from your taxable estate yet does not force you to give up control. You can still spend up to $10,000 per year from a 529 Plan for tuition at elementary or secondary public, private or parochial schools without regard to the already allowed distributions available for college education expenses (subject to certain state tax rules).

    Effective in 2024, up to $35,000 of funds in 529 plans can be rolled over into a Roth IRA as long as the contribution amounts in the 529 plan were in the account for over 5 years, the plan was open for at least 15 years, and the Roth IRA is in the name of the beneficiary of the 529 plan.

29. For tax years beginning after 12/31/19, the unearned income of a child is no longer taxed at the same rates as estates and trusts. Instead, the unearned income for a child is taxed at the parents' tax rates. The Kiddie Tax applies to a child's investment income above $2,500 and applies until a child turns 19. If the child is a full-time student who provides less than half of his or her support, the Kiddie Tax applies until the year the child turns 24.

30. Certain assets may have declined in value. If you currently hold assets, you believe might rebound in value, it might be advantageous to consider making a lifetime gift to – or a lifetime sale for – your beneficiaries.

31. Under the TCJA, the Excess Business Loss ("EBL") provision limits trade or business losses to $578,000 for couples and $289,000 for other filers. Any excess losses will be carried forward and treated as part of the taxpayer's net operating loss in the subsequent year. This limitation applies *after* the application of the current basis, at-risk and passive-activity loss rules. The NOL carryforward which is created under this rule is limited to 80% of taxable income of such year without regard to the NOL carryforward. The elimination of the NOL carryback provisions (except for farming losses) and the provision that NOLs can be carried forward indefinitely remains in effect. This rule applies to NOLs incurred in taxable years ending after 12/31/17. This change did not apply to NOLs arising in taxable years ending prior to January 1, 2018. This may require calendar year taxpayers to separately track pre-2018 NOLs. The CARES Act retroactively eliminated the EBL provision for tax years 2018, 2019, and 2020. The EBL

provision remains in effect for taxable years beginning after 12/31/2020.

32. Certain tax planning should be considered under the new EBL/NOL rules. Taxpayers planning a large capital asset acquisition eligible for immediate expensing under the new rules, should evaluate the benefits of purchasing that property in years with higher income, so that the expensing can be 100% absorbed without the EBL limitation and subsequent NOL.

33. If you are in an overall loss position for the year after all your items of income and loss have been calculated, you may be entitled to a deduction for a net operating loss. Significant planning opportunities become available with net operating losses because you have the option to offset future income with the losses generated in current year.

34. The deduction available for qualified business income under I.R.C. § 199A, commonly known as the QBI deduction, remains in effect. Taxpayers can receive a deduction against Federal income for up to 20% of their Qualified Business Income received from partnerships, LLCs, S-corporations, sole proprietorships, trusts, estates, and rental activities for tax years beginning after 12/31/17 and before 1/1/26. The provision is a significant tax benefit for many noncorporate businesses and was passed in part to provide a corollary tax benefit to non-C corporation business, as the C corporation rate was decreased from 35% to a flat 21% rate. The QBI deduction is taken at the partner, S corporation shareholder, estate and trust or sole proprietor level. There are several limitations and thresholds that apply to this deduction and the calculation involves a multistep process that may phase out some or all of the deduction. Please contact us for further details related to your specific situation with respect to the QBI deduction.

35. The IRS gave further guidance about rental real estate being classified as a trade or business for 199A purposes. To qualify as a trade or business, and therefore to be considered a non-SSTB for 199A purposes, you would need to have a minimum of 250 hours' worth of work done on your rental property, even if it was not done by yourself. The rental services can be performed by owners, employees, or independent contractors. It is advised to keep contemporaneous records of how much time is being spent on the property. However, some activities that rental services exclude consist of the following: financial or investment management activities (e.g., arranging financing, procuring property), studying or reviewing financial statements or reports on operations, planning, managing, or constructing long-term capital improvements, or hours spent traveling to and from the real estate.

36. Businesses should continue to consider making expenditures that qualify for an I.R.C. § 179 deduction. For 2023, you can expense up to $1,160,000 of eligible property. However, if you spend more than $2,890,000 on qualifying property, the deduction is reduced on a dollar-for-dollar basis, up to $4,050,000. Your I.R.C. § 179 deduction is also limited to your business income for the year – you can't deduct more than you made. The CARES Act expanded bonus depreciation on qualified improvement property ("QIP") placed in service after 12/31/2017. Business can now treat QIP as 15-year property. QIP is eligible for bonus depreciation allowing taxpayer to deduct up to 80% of the cost of assets being over 15 years using straight line depreciation under the TCJA. QIP is any improvement made to an interior portion of a building which is nonresidential real property if the property was placed in service after the date the building was originally placed in service.

37. Preferential tax treatment is given for investments in property in QOZs. The Fund must hold at least 90% of the assets in qualified zones. Upon capital gain realization, you must reinvest the amount of the gain into another QOZ property within 180 days in order to defer the gain until the

earlier of the date on which this investment in the QOZ is sold or exchanged or December 31, 2026. If the QOZ property is held longer than 5 years, there is a 10% exclusion of the deferred gain. If held for more than 7 years, the 10% becomes 15%. The tax on 85% of the deferred gain will be reported in 2026 if the QOZ property is still held regardless of the investor continues to hold the QOZ property after 2026. If the investor holds the QOZ property for at least 10 years, the tax basis will increase to its fair market value on the date the QOZ property is sold or exchanged resulting in no tax on the QOZ appreciation.

38. Many U.S. investors include foreign direct investments in their overall investment portfolio. One benefit to including foreign assets in your portfolio is to participate in the upside of a global economy. These investments are permitted under US tax law but require additional reporting and compliance. It is important to factor this requirement into your investment and tax planning.

39. The lifetime Federal gift tax exclusion for each individual is $12,920,000 for 2023. If you have not yet taken advantage of this monumental tax-free gifting opportunity, consider outright gifts or gifts in a trust, including trusts for your children's and grandchildren's education. Gifts can be made with real estate, stock, or other assets.

40. Keep in mind, the gift tax rate for gifts greater than the lifetime exclusion is 40%. This rate is a permanent tax law change and isn't set to expire or change.

41. Consider state inheritance tax issues as part of your estate and gift planning process. Many states have their own gift and estate tax, and in many cases the exemption amounts are lower than the Federal amounts.

42. The IRS recently released additional guidance which stated that there will be no claw-back if the law changes in 2026 and the pre-existing estate exemption comes back into place. Essentially, if you take advantage of the higher exemption amount now, no matter how much the exemption amount changes with the new laws there will be no tax consequences for you, and you will be grandfathered in if you take advantage of this exemption limitation as long as it is done so before 2026.

43. Portability, or the ability to use a deceased spouse's unused Federal estate tax exemption, remains a viable planning technique and should be considered in your planning.

44. If you are a business who is planning to sell your business to a new owner in the next five to ten years, make sure your estate plan is closely aligned with your business and personal goals. A smooth transition of ownership interests will also help protect your wealth after the sale of your business.

45. Taxpayers who use their home for business (self-employed as opposed to working for an employer in which case the tax reform repealed the deduction) are allowed to continue to compute their deduction using a simplified method. In lieu of actual expenses such as electricity, depreciation, etc., they may compute their qualifying home office deduction at $5 per square foot for up to 300 of square feet of office space, up to $1,500 annually.

46. Increase the amount you set aside for next year in your employer's health flexible spending account (FSA) if you set aside too little for this year. Don't forget that you cannot set aside amounts to get tax-free reimbursements for over-the-counter drugs, such as aspirin and antacids.

47. The deduction for personal casualties continues to be disallowed for losses incurred between 2018 through 2025 with the exception for Presidentially Declared Disaster Areas.

48. Increasing your final estimated tax deposit due January 15, 2024, may reduce the amount of the penalty for under-payment of estimated taxes but is unlikely to eliminate it entirely. Withholding, even if done on the last day of the tax year, is deemed withheld ratably throughout the tax year.

49. Special rules apply to estates and trusts, which are subject to the NII tax on the *lesser* of undistributed NII of the excess of adjusted gross income over the dollar amount at which the highest tax bracket begins. For 2023, the top bracket which is subject to NII tax begins at $14,450.

50. Estates and trusts should consider whether net investment income left in the trust will be subject to the NII tax and, if so, whether it would be beneficial to distribute income to beneficiaries who may have MAGI below the applicable threshold such that they will not be subject to the NII tax.

51. Trustees of complex trusts should consider making income distributions to trust beneficiaries who are in lower income tax brackets. Trustees may also be able to take advantage of the "65-day rule" that enables a trustee to elect to treat a distribution made during the first 65 days of 2024 as though it was made on the last day of 2023. Election must be made by the due date of the tax return.

52. Taxpayers who acquire qualified small business stock and hold the stock for at least six months may elect to defer realized gain upon the sale by reinvesting such proceeds into new qualified business stock within sixty days. The taxpayer's basis in the replacement stock is reduced by the amount of the gain deferred.

53. Home Mortgage Interest is still deductible for Acquisition Indebtedness.; however, the threshold has changed from $1,000,000 to $750,000. For loans established on or before 12/15/2017 and closed on or before 4/1/2018, the $1,000,000 threshold still applies. Additionally, the interest on home equity indebtedness is no longer deductible, unless they meet the definition of acquisition indebtedness.

54. Miscellaneous Deductions subject to 2% AGI floor have been repealed. These deductions include employee business expenses, investment advisory fees, hobby expenses (while hobby income still must be reported), estate planning fees, tax preparation fees, home office expense for the benefit of an employer as opposed to self-employed home office expense. Taxpayers may consider allocating certain expenses to their businesses, where allowable, to enable a portion of these deductions.

55. State and local taxes and real estate tax total deductions are still limited to $10,000. This includes state & city income taxes, sales taxes, and property taxes. For taxpayers with high state and local income taxes, it may cost substantially more to live in high-income tax states. This analysis depends on your prior year AMT situation since much of your tax deduction may have been disallowed by virtue of the AMT.

56. Alimony deduction for divorce agreements entered into after 2018 can no longer be deducted.

57. Many changes to the Child Tax Credit ("CTC") implemented by ARP were not extended. The initial credit amount of the CTC is $2,000 for each qualifying child. The amount of CTC that can be claimed as a refundable credit is limited as it was in 2020, except the maximum additional child tax credit (ACTC) amount has increased to $1,500 for each qualifying child.

58. The most important tax planning strategy in any year is to minimize taxes with proper documentation for deductions and other tax-reducing items. Keep accurate records for vacation home rental and personal use, and for business days worked outside your state of residency. In addition, your charitable receipts must state whether any goods or services were provided to you for your donations. Without this clause, your gift is statutorily not deductible. It is therefore important that you check your letters before including them with your tax information.

59. State Residency - Be sure to tell us if you own homes in states other than your domicile state. Many states have statutory residency rules which could prove to be very costly if you spend over a certain amount of time in that state and own or maintain a home.

60. State Pass-through Entity Tax ("PTE Tax") - Several states have enacted a PTE Tax whereby passthrough entity taxpayers, such as partnerships and S-corporations can elect to pay state income taxes at the entity-level rather than on the personal income tax returns. This creates a benefit for a state tax deduction that could otherwise have been limited to $10,000 at the individual level. The rules for electing into the PTE Tax vary by state and should be considered as a potential planning strategy to reduce taxes.

61. Cryptocurrency (virtual currency) - The IRS classifies cryptocurrency as digital property rather than a marketable security. Therefore, section 1091 wash sale rules do not apply to the sale of cryptocurrency. This classification could be valuable to cryptocurrency holders with positions that present unrealized losses. An investor may sell their virtual currency, presenting a realized capital loss, and subsequently purchase the same virtual currency without being exposed to market risk which wash sale rules present. Realizing capital losses may aid in lowering one's tax liability in years when they realize large capital gain events.

62. **Ask us to prepare a 2023 Year-End Income Tax projection on your behalf so that we can advise you on the strategies that suit your specific situation.** Be sure to keep us abreast of any major life changes such as marriage or divorce, birth of a child, purchase of a new primary residence or second home, starting a new business, etc., so we can provide you with the most effective tax planning.

Please refer to the attached appendices for further reference:

1. **Appendix #1: Maximum 2023 married filing jointly Federal individual income tax rates by type of income.**
2. **Appendix #2: Maximum marginal Federal and state personal tax rates.**
3. **Appendix #3: Current statutory tax filing deadlines.**

ESTATE AND GIFT TAXES

Please refer to Appendix #4 which details the changes in the tax rates and exclusion amounts.

Unless Congress passes legislation to make the higher gift and estate tax exemptions permanent, these exemptions will "sunset" on January 1, 2026, and the exemptions will revert to 2017 levels, adjusted for inflation – about half of what they are now.

Taxpayers who are willing to gift the entirety of their exemption now, or at least the majority of it, because these exemptions may be decreased later, may wish to gift enough now to use what might be taken away. For example, if you have $12,920,000 in exemption (the 2023 exemption amount) and you have currently made $4,000,000 of lifetime gifts, and the exemption is later reduced to $5,000,000, will only have $1,000,000 of exemption left after the reduction. The $4,000,000 you use in gifts now will be applied against whatever exemption is left after the reduction. In other words, the gift will not be taken "off the top" of the higher exemption amount; it will simply be applied to whatever lower exemption exists later. That means making large gifts now is the only way to capture or "lock in" the difference between the historically large exemption amount, and whatever reduced exemption may be in place.

ESTATE AND GIFT TAX PLANNING IDEAS

1. Consider utilizing your lifetime gift tax exemption if you have not already done so - The Estate and Generation Skipping Transfer (GST) tax exemption for 2023 is $12.92 million and the inflation-indexed amount for 2024 is $13.61 million. Be sure to utilize the current estate tax rates and gift tax exemptions to their full potential.

2. When making gifting decisions, remember to consider capital gains and state tax implications. For example, under current law, gifting can result in a trade-off of capital gains tax savings versus estate and gift tax savings because the gifted assets retain the donor's cost basis and would not qualify for a stepped-up tax basis at death.

3. Use wealth-transfer techniques that might be limited in the future - An individual who is considering implementing a grantor retained annuity trust (GRAT) or a transaction involving a valuation

discount issue may want to consider doing so as soon as possible, at a time when the gift tax rate is 40%.

4. Multi-generational trusts - Wealthy families often take advantage of the GST exemption by creating long-term multi-generational trusts, often referred to as "dynasty trusts." This type of trust avoids gift and estate tax at each generation and can continue for the benefit of multiple generations. Several states permit trusts to last for hundreds of years, and some even permit perpetual trusts that can theoretically last forever.

5. Insurance Trust - One of the easiest and most effective estate planning techniques is establishing an irrevocable insurance trust. Annual exclusion gifts can be made to a life insurance trust, for the purchase of life insurance on the grantor's life for the benefit of children or other individuals. By establishing a life insurance trust, an individual can meet the requirements for excluding the life insurance proceeds from his or her estate. Generally, an individual must fund the trust with an insurance policy and give up all rights of ownership including the right to borrow from the policy and to designate beneficiaries.

6. Charitable Remainder Trust ("CRT") - A CRT allows an investor to diversify out of a large position in an appreciated security without incurring a capital gains tax, while retaining an income interest for a period of time (e.g., life of the donor). Under the terms of a CRT, an investor makes an irrevocable contribution of an appreciated security to the trust, which sells the security and uses the cash proceeds to purchase a diversified investment portfolio. The investor will receive an income tax deduction for the remainder value of the charitable contribution. The value of the security transferred to the CRT will escape estate taxes. The value of the charity's remainder interest must be at least 10% of the fair market value of the contributed property. With higher capital gains rates currently in effect, this strategy may have additional appeal.

7. Private Foundations - Private foundations allow an individual or families to contribute funds to a foundation, receive a current charitable deduction, and direct the distribution of monies to charities at a later date. For appreciated publicly traded securities the deduction is for the full fair market value of the security if the taxpayer's holding period is greater than one year.

8. Family Limited Partnerships ("FLP") - To maximize estate and gift tax savings, consider establishing a FLP to take advantage of both minority interest discount and a lack of marketability discounts which are otherwise not available on an outright gift of marketable securities. Recent court cases have held that the value of property transferred by a decedent to a FLP in certain instances was includible in the decedent's gross estate under I.R.C. § 2036(a). These court decisions have established a new, controversial framework under which FLP's will need to operate in the future. It should be noted that FLP's more than ever must administer the partnership with the proper formalities of a business entity, hold regular meetings, should not commingle personal assets, maintain proper accounting records, and separate accounts in the FLP's name. FLPs should be established while you are in good health. You may also need to consider reducing or giving up control over the assets in the partnership to avoid the risk of an estate tax inclusion. Please contact us if you would like to discuss the consequences of the recent tax court cases.

9. Defective Grantor Trusts - This type of trust is extremely effective for estate planning purposes. This represents making a transfer to an irrevocable trust representing a completed gift for gift and estate tax purposes. By making it "defective" for income tax purposes the person establishing the trust continues to pay the income tax on trust income ultimately representing a tax-free gift to the

trust's beneficiaries.

10. Making a Charity your Retirement Plan Beneficiary - High-net-worth individuals with plans to leave money to charity in their estate should consider naming a charity as beneficiary of their qualified retirement plan. If a charity is named beneficiary, no income tax will be due on the retirement assets in the individual's estate. Additionally, the decedent would be able to obtain a charitable estate tax deduction. The individual's heirs might then be able to receive assets from the decedent's estate with no inherent income tax liability, which might instead have been left to the charity; this is more valuable to them than receiving retirement plan assets with inherent tax obligations. Your Private Foundation or CRT can be named the charitable beneficiary for these assets to remain under your family's direction.

11. Grantor Retained Annuity Trusts - You can give appreciating assets to GRAT, incur no gift or estate tax and, if the assets appreciate, transfer the future appreciation estate and gift tax free to your beneficiary.

12. Review your Wills, Health-Care Proxy, Power of Attorney Forms and Beneficiary Designations - Year-end is a good time to update your will and your beneficiary designations. Make sure you are pleased with your choice of executor and guardian. If you have not finalized your estate planning, do so now.

    State Tax Considerations - New York does not have a gift tax but does have an estate tax with an exemption of $6,580,000 in 2023. This means a New York resident who has not used any federal gift tax exemption in the past can gift up to $12,920,000 during 2023 and pay no gift tax at all, while the same transfer at death would incur roughly $1,534,000 of New York estate tax. (However, note that gifts made within three years of death are brought back into a New York resident's taxable estate for calculating New York estate taxes.)

    Connecticut has a separate gift tax and the Connecticut gift and estate tax exemption now matches the federal exemption of $12,920,000 in 2023. This means that if a Connecticut resident who has not used gift tax exemption in the past makes a $12,920,000 gift to take full advantage of the federal gift exemption available in 2023, no Connecticut gift tax will be due. The Connecticut exemption will continue to match the federal exemption, whether it increases or decreases, going forward. Remember that gifts of real property and tangible personal property located outside of Connecticut are not subject to Connecticut gift tax and do not use Connecticut gift tax exemption. Conversely, gifts by non-Connecticut residents of real property and tangible personal property located in Connecticut are subject to Connecticut's gift tax.

    New Jersey has no separate state gift or estate tax. The state does impose an inheritance tax on decedent estates at the time of their death.

    Florida has no separate state gift or estate tax.

A purposeful, informed year end plan will help taxpayers reap significant benefits. Not all actions will apply in every taxpayer's situation, but individuals will likely benefit from many of them. For those individuals who utilize our Firm's personal tax services, please let us know

how we can best support you in building and implementing your plan for 2023 and beyond. Upon your request, we will prepare a year-end income tax projection incorporating the strategies applicable to your own specific situation.

INFLATION REDUCTION ACT (IRA)

On August 16, 2022, Congress passed the Inflation Reduction Act (the "IRA") as part of efforts to lower the cost of living for American families and confront the climate crisis. Along with the passage of this act came a number of credits and rebates designed to promote clean energy.

- The clean vehicles credit was enhanced, and the rules related to the purchase of electric vehicles changed. For vehicles purchased and possession taken after August 16, 2022, the final assembly of the vehicles must occur in North America. For years beginning in 2023 and 2024 additional restrictions are implemented.
- The Nonbusiness Energy Property Credit was renewed and upgraded, allowing consumers to get 30% back for energy-saving renovations, up to $1,200 per year (up from the previous $500 lifetime maximum). This change applies to projects completed between January 1, 2022 and December 31, 2032.
- The Home Owner Managing Energy Savings ("HOMES") rebate program offers rebates up to $8,000 and the "High-Efficiency Electric Home" rebate program offers rebates of up to $14,000 to qualified taxpayers. These rebates begin in 2023 and run until September 30, 2031.
- Imposes a 15% Alternative Minimum Tax ("AMT") on corporations with average annual adjusted financial statement income ("AFSI") that exceeds $1 billion over the preceding three consecutive taxable years. A corporation's AFSI is its financial statement income subject to certain adjustments. The provision is effective for tax years beginning after December 31, 2022
- Imposes an excise tax on domestic publicly traded corporations that repurchase their stock directly (or through a more than 50% owned subsidiary corporation or partnership). The tax is equal to 1% of the fair market value of the repurchased stock and is not deductible. The tax applies to repurchases of stock of certain foreign corporations. The provision is effective for repurchases that occur after December 31, 2022.
- Increases the amount of research tax credit that can be applied by a qualified small business under I.R.C. § 41(h) against payroll tax liability from $250,000 to $500,000 for tax years beginning after December 31, 2022. The first $250,000 of the credit limitation is applied against the employer portion of the FICA payroll tax liability and the second $250,000 is applied against the employer portion of the Medicare payroll tax liability.
- Extends the limitation on the deductibility of excess business losses by non-corporate taxpayers under I.R.C. § 461(l) for another two years (until 2028).

Approximately $80 billion of additional IRS funding over the next nine years is allocated for the following:

- Taxpayer service (filing and account services, taxpayer education, and taxpayer advocacy services)
- Enforcement (legal and litigation support, conducting criminal investigations, digital asset monitoring and compliance and financial crimes)
- Operations support (rent payments, facilities costs and vehicles, information technology development, maintenance, and security)
- Business systems modernization (development of callback technology and other technology to enhance customer service)

Student Loan Forgiveness Not Taxable

Pursuant to the one-time Student Debt Relief plan announced on August 24, 2022, student loan debt cancelled by the U.S. Department of Education is not taxable for Federal income tax purposes. The plan provides up to $20,000 in debt cancellation to eligible Pell Grant recipients and up to $10,000 in debt cancellation to eligible non–Pell Grant recipients. While most states have conformed to the Federal income tax treatment of student loan forgiveness, some states have not conformed or are still reviewing whether the student loan forgiveness will be taxable at the state level. This cancellation of student loan debt has seen several legal challenges and as of the writing of this memo a final determination has not been made.

Disclaimer:

FLSV produces this guide for our clients and others who are concerned about planning and managing their personal financial affairs. Each individual's financial situation is unique, and the information provided in this guide is not intended to constitute specific accounting, tax, investment, or legal advice. This memo contains general information only and FLSV is not, by means of this distribution, rendering accounting, business, financial, investment, legal, tax or other professional advice or services.

APPENDIX #I

2023 FEDERAL INCOME TAX RATES

- MARRIED FILING JOINTLY*

Income Category	Income Tax Rate - 2023		Medicare Taxes on Income - 2023			Total Tax Rates -2023
	Top Rate	Taxable Income Threshold	Base Tax Rate	Add'l Tax Rate	AGI Threshold	Total Rate
Wages	**37.0%**	693,750	1.45%	**0.9%**	250,000	39.35%
Self-Employment Income	**37.0%**	693,750	2.9%	**0.9%**	250,000	40.80%
LT Capital Gains & Qualified Dividends	**20%**	553,850	-	**3.8%**	250,000	23.80%
Other Income - Investment (interest, rents, royalties, etc.)	**37.0%**	693,750	-	**3.8%**	250,000	40.80%

Active Business Income (Not subject to Self-Employ. Tax)	**37.0%**	693,750	-	**-**	-	37.0%
Passive Income from Businesses	**37.0%**	693,750	-	**3.8%**	250,000	40.8%

*The thresholds are lower for each of these taxes for non-married taxpayers.

APPENDIX #2

2023 MAXIMUM TAX RATES*

New York State/City Resident:

Ordinary Income	51.776%
Qualified Dividends/LTCG	38.576%
Other Investment Income	55.576%

New York State Resident:

Ordinary Income	47.90%
Qualified Dividends/LTCG	34.70%
Other Investment Income	51.70%

New Jersey Resident:

Ordinary Income	47.75%
Qualified Dividends/LTCG	34.55%
Other Investment Income	51.55%

Connecticut Resident:

Ordinary Income	43.99%
Qualified Dividends/LTCG	30.79%
Other Investment Income	47.79%

*Includes maximum Federal income tax rate (37% on ordinary income, and 20% on qualified dividend and net long-term capital gains), and the 3.8% Obama Healthcare tax that took effect in 2013.

NOTE: The above taxes do not reflect the maximum Medicare tax of 2.35% imposed on employees, and of 3.8% imposed on self-employed individuals.

APPENDIX #3

2023 STATUTORY TAX FILING DEADLINES*

RETURN TYPE:	**CURRENT LAW:** original and extended due dates (dates changed by law in **bold)**	
Partnership (calendar year) Form 1065	March 15 September 16	
S corporation (calendar year) Form 1120-S	March 15 September 16	
Trust and estate (calendar year) Form 1041	April 15 September 30	
C corporation (calendar year) Form 1120	April 15 October 15	
C corporation (Fiscal year end other than Dec.31 or June 30) Form 1120	15th day of month 4 after year end 15th day of month 10 after year end	
C corporation (June 30 Fiscal year) Form 1120	Before Jan 1, 2026: September 16 April 15	After Dec 31, 2025: October 15 April 15
Individual Form 1040	April 15 October 15	
Exempt organization (calendar year) Forms 990	May 15 November 15	
Foreign trusts with a U.S. owner Form 3520-A	March 15 September 16	
FinCen Report 114	April 15 October 15	

APPENDIX #4

ESTATE AND GIFT TAXES

	Top Estate and Gift Tax Rate	Gift Tax Exemption Equivalent	Estate Tax Exemption Equivalent	GST Tax Exemption Equivalent
2010	Gift Tax = 35% Estate and GST Taxes Repealed	$1 million	Estate Tax Repealed	GST Repealed
2011	35%	$5 million	$5 million	$5 million
2012	35%	$5.12 million	$5.12 million	$5.12 million
2013	40%	$5.25 million	$5.25 million	$5.25 million
2014	40%	$5.34 million	$5.34 million	$5.34 million
2015	40%	$5.43 million	$5.43 million	$5.43 million
2016	40%	$5.45 million	$5.45 million	$5.45 million
2017	40%	$5.49 million	$5.49 million	$5.49 million
2018	40%	$11.18 million	$11.18 million	$11.18 million
2019	40%	$11.4 million	$11.4 million	$11.4 million
2020	40%	$11.58 million	$11.58 million	$11.58 million
2021	40%	$11.70 million	$11.70 million	$11.70 million
2022	40%	$12.06 million	$12.06 million	$12.06 million
2023	40%	$12.92 million	$12.92 million	$12.92 million
2024	40%	$13.61 million	$13.61 million	$13.61 million
2025	40%	$13.61 million**	$13.61 million**	$13.61 million**
2026	40%	$5.49 million**	$5.49 million**	$5.49 million**

**As Adjusted for Inflation"