

A black and white photograph of two hands shaking in a firm grip, symbolizing agreement or partnership. The hands are wearing white dress shirt cuffs and dark suit sleeves.

# **GBQuarterly: Year-End Individual Tax Update**

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# Speakers



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# Note

1. This presentation is intended to make participants aware of tax issues that may apply to this audience.
2. Information presented herein is not intended to be tax advice.
3. Please consult with a qualified practitioner for tax advice related to specific transactions.



# Tax Changes for 2023 and Forward

- The interest rate environment is changing the game
- General tax updates
  - Bonus depreciation changes starting in 2023
  - Meal expenses
- Corporate Transparency Act (CTA)



# Legislative Environment



## Chaos in the House

9/30 - Congress passes a continuing resolution to fund the government for 45 days

10/3 - House votes to remove Kevin McCarthy as Speaker

10/7 - Israel-Hamas War begins

10/26 - Mike Johnson elected Speaker

11/17 - Government funding runs out

Bottomline: No tax changes are likely to be passed before the end of the year.

# What's New for 2023 – Interest Rates

- Underpayment penalties are going up
  - Penalties for underpayment of estimated taxes track interest rates
  - As interest rates rise, so do penalty rates
  - Penalty rate was 3% (lowest possible) in Q4 2021
  - Penalty rate is at 8% for Q4 2023
- For individual taxpayers, quarterly estimates are due if you expect to owe at least \$1k in tax and withholdings and credits do not exceed 90% of current year tax or 100%/110% of prior year tax (110% if AGI > 150k MFJ)

# What's New for 2023 – Interest Rates

- Section 7520 Rates Have Gone Up
  - January 2021 - .6%
  - July 2021 – 1.2%
  - January 2022 – 1.6%
  - July 2022 – 3.6%
  - January 2023 – 4.6%
  - July 2023 - 4.6%
  - November 2023 – 5.6%
- Given the increased "hurdle rate" GRATs, CRTs and certain other planning techniques might not be as attractive

# What's New for 2023

- Starting in 2023, a 100% bonus depreciation allowance is replaced with an 80% allowance
  - 100% expensing of certain assets under Section 179 is still available for qualified taxpayers
  - Section 179 deductions are subject to many limitations at both the taxpayer and partner/shareholder level
    - Trusts cannot take Section 179 deduction
  - Bonus depreciation allowance will continue to phase down



# What's New for 2023

## Meal Expenses

- Temporary exception to the 50% disallowance of meal expenses incurred in 2021 and 2022
- IRS issued two notices providing guidance on the application of this rule change
  - Notice 2021-25: Provides a definition of “restaurant” as a business that prepares and sells food and beverages
  - Notice 2021-63: Allows the meal portion of per-diem rate to qualify for 100% deduction
- **Back to 50% limitation for 2023**

# What's New for 2024 – BOI Disclosure

## Corporate Transparency Act – Beneficial Ownership Information (BOI) Disclosure

- Effective January 1, 2024, private companies will have until January 1, 2025, to disclose information regarding officers, directors, and beneficial owners who have direct or indirect control of 25% or more of a reporting company.
- Companies must report the following information: full name of the reporting company, any trade name or doing business as (DBA) name, business address, state or Tribal jurisdiction of formation, and an IRS taxpayer identification number (TIN).
- For trusts, this will include indirect ownership held across multiple trusts. Reporting for trustees if trust possess at least 25% ownership and trustee has authority to dispose of trust assets.

# What's New for 2024 – BOI Disclosure

- Estimated that 32.6MM businesses will be required to comply with this reporting requirement
- Domestic entities that are not created by the filing of a document with a secretary of state or similar office are not required to report
- This information must be updated any time there is a change within 90 days. This is not currently an annual filing.
- Entities created after January 1, 2024, that fall under this reporting have 90 days to report
- Steep penalties for noncompliance
- AICPA and other affiliated organizations have recommended pushing the effective date out a year

# IRS - E-signature Update

- The IRS initially allowed for the acceptance of digital signatures and the receipt and transmission of documents via email in March 2020
- Provisions were extended to October 31, 2023, and have been subsequently extended to October 31, 2025
- IRM Exhibit 10.10.1-2 has a full list of forms that allow digital signatures, which includes:
  - Form 706, U.S. Estate Tax Return.
  - Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return.
  - Form 3115, Application for Change in Accounting Method.
  - Form 3520, Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts.
  - Form 3520-A, Annual Return of Foreign Trust with a U.S. Owner.
  - Form 8283, Noncash Charitable Contributions.

# IRS - Paperless Processing Initiative

- Met the first goal of the Paperless Processing Initiative three months ahead of schedule
- Taxpayers are now able to digitally submit all correspondence and responses to notices via the Document Upload Tool
- As of Oct 27th, the IRS has received more than 35k responses to notices via the online tool
- Updated 'Where's My Refund?' responses
  - Current message "Your tax return is still being processed. A refund date will be provided when available. For more information about processing delays, please see our Refund Frequently Asked Questions"
  - Example of improved message "To protect you from identity theft, your tax return is currently being reviewed. To help us process your return more quickly, verify your identity and tax return information. If you recently received a letter from us, follow the instructions on the letter. Please have your tax return (Form 1040 series) available and read the website or letter before starting the verification process. If you already reviewed your identity and tax return information you may check the status of your refund in 2-3 weeks."

# IRS – 2024 Goals

- 85% level of service
- 5-minute call wait time on the agency's main taxpayer helpline
- 95% call back availability – offered if the projected wait time is longer than 15 minutes
- Increased in-person support at Taxpayer Assistance Centers
- Direct File pilot launching in filing season 2024
  - Interview-based service that will work as well on a mobile phone as it does on a laptop, tablet, or desktop computer
  - Eligible taxpayers are low to moderate-income working individuals, couples, and families who take the standard deduction
  - Supports W-2 wages, SS/RR benefits, unemployment, and interest income of \$1,500 or less. May claim EITC, CTC, and credit for other dependents. Deductions for educator expenses and student loan interest.
  - All other types of income, credits, and deductions are out of scope for the 2024 pilot
  - Invite only initially with a phased rollout

# Changes on Loss Deductions

## Excess Business Loss Limitation

- Limit is \$250k (\$500k for MFJ) adjusted for inflation for current-year business losses available to offset income from other sources
- Applies after the outside basis, at-risk, and passive activity loss limitations. Net losses that exceed the threshold are carried forward as a NOL
- 2023 limit is \$289k (\$578k for MFJ)
- Under the Inflation Reduction Act, excess business loss limitation rules now expire in 2028, instead of 2026

# State PTE Election

- 2017 Tax Reform introduced \$10,000 state and local tax limitation “SALT Cap” on Federal individual return
- More than 30 states have enacted or are considering legislation to allow Partnerships and S-Corporations (pass-through entities “PTE”) to elect to pay tax at the entity level for state income tax purposes
  - \*Ohio starting in 2022
- Basic mechanics of Ohio pass-through entity tax election:
  - Ohio tax paid by PTE and taken as a deduction on PTE’s Federal tax return (SALT Cap workaround)
  - The owners add back the Ohio tax on their individual Ohio return but then claim a credit against their personal tax liability and any excess is refunded to the individual



# Inflation Reduction Act

**The IRA is the largest-ever U.S. investment committed to combat climate change, allocating \$370 billion in tax incentives to energy security and clean energy programs over the next 10-years**

- Goal: Reduce greenhouse gas emissions by 40% in 10 years
- Introduces new credits and structures
  - New requirements to maximize certain green energy tax credits:
    - Prevailing wage requirements
    - Domestic content requirements
- Adds additional monetization options
- Provides tax-exempt entities the ability to claim credits
- Extends and enhances many of the current energy-related tax credits

# Inflation Reduction Act

- Major provisions
  - 15% corporate minimum tax on “book income” for companies with net income over \$1B
  - 1% excise tax on stock buybacks for publicly traded companies
  - Increased Funding for IRS – \$79.6B over the next 10 years:
    - \$45.7B to enforcement (69% increase)
    - \$25.3B to operations support (53% increase)
    - \$3.2B to taxpayer services (9% increase)
    - \$5.4B to business systems modernization (153% increase)

# Inflation Reduction Act

- Nonbusiness Energy Property Credit renamed Energy Efficient Home Improvement Credit and expanded starting in 2023
  - The credit will be generally equal to 30% of costs, with individual limits in place for different types of property
  - Credit will be limited to \$1,200 per year, up from a lifetime limit of \$500
- Residential Energy Efficient Property Credit renamed Residential Clean Energy Credit and expanded starting in 2023
  - Credit equal to 30% of the costs of equipment used to harness renewable energy like solar, wind, geothermal and biomass fuel
  - Credit will also include amounts paid for battery storage technology

# Inflation Reduction Act

- Extension and expansion of Clean Vehicle Credit for 2023 and beyond
- Credit is up to \$7,500 for qualifying new vehicles
- Used vehicles can now qualify for a 30% credit, with a limit of \$4,000 per vehicle
- For new vehicles, MSRP must be less than \$80,000 for vans, pickup trucks, and SUVs and less than \$55,000 for all other vehicles
- Used vehicles must have a sales price of less than \$25,000
- Per manufacturer limit has been replaced with “made in North America” sourcing and assembly requirements
- Credit phases out for taxpayers whose MAGI is greater than \$150,000 (single) or \$300,000 (MFJ).

# Practical Reminders for Estate Planning



No changes to the estate and gift tax regime are currently under serious consideration in Washington

## **Estate & Gift Tax Exemption “Sunset”**

- Federal estate and gift tax exemptions would decrease to \$5 million (adjusted for inflation – projected to be ~\$7MM).
- Effective January 1, 2026.

# Practical Reminders for Estate Planning

	2024	2023	2022	2021
Annual Exclusion	18,000	17,000	16,000	15,000
Lifetime Exclusion	13,610,000	12,920,000	12,060,000	11,700,000

- IRS Website: “Making Large Gifts Now Won’t Harm Estates After 2025”
  - 20.2010-1(c) regulations regarding the anti-clawback still stand. There will not be a clawback of the DSUE transfer or prior gifts over the exemption completed prior to the Sunset.
  - However, there has been discussion with proposed regs regarding a partial clawback for certain gifts not deemed as completed. This potentially includes gifts involving promissory notes, annuity trust transactions, retained interests, life estates, and gifts of preferred partnership interests that trigger "artificial" valuation rules.
  - Proposed reg 20.2010-1(c)(3) was issued in 2022 for these exceptions but has not been finalized.

# 2023 Tax Brackets

## Ordinary Income Tax Rates

Rate	Single	MFJ	Estate/Trust
10%	Up to \$11,000	Up to \$22,000	Up to \$2,900
12%	\$11,001 to \$44,725	\$22,001 to \$89,450	
22%	\$44,726 to \$95,375	\$89,451 to \$190,750	
24%	\$95,376 to \$182,100	\$190,751 to \$364,200	\$2,901 to \$10,550
32%	\$182,101 to \$231,250	\$364,201 to \$462,500	
35%	\$231,251 to \$578,125	\$462,501 to \$693,750	\$10,551 to \$14,450
37%	Over \$578,125	Over \$693,750	Over \$14,450

# 2023 Tax Brackets

## Capital Gains Tax Rates

Rate	Single	MFJ	Estate/Trust
0%	Up to \$44,625	Up to \$89,250	Up to \$3,000
15%	\$44,626 to \$492,300	\$89,251 to \$553,850	\$3,001 to \$14,650
20%	Above \$492,300	Above \$553,850	Above \$14,650

Don't forget about net investment income tax and when trusts are subject to it. Consider trustee changes to avoid NIIT on income of operating businesses.



# Gifting Strategies

## Med-Ed Exclusion

- Make payments directly to educational institutions or health care providers/insurance carriers on behalf of another person
- Does not count against annual or lifetime exclusions

## Superfund 529 Plans

- Make 5 years of gifts to 529 college savings plan (\$85k) in one year

# Year-End Charitable Giving Strategies

- Gifting Appreciated Securities
- Qualified Charitable Distributions (QCD)
  - Donations out of IRA Required Minimum Distribution (RMD)
  - Especially powerful if taxpayer can't itemize
  - Direct transfer of funds from IRA payable to qualified charity
- Use a Donor-Advised Fund (DAF)
- Timing of donations

Method of Charitable Giving	Effective Date of Contribution
Gifts by check	Date the check is mailed
Gifts by credit card	Date the charge is made to the card

# Year-End Charitable Giving Strategies

<b>AGI Limits</b>	<b>Ordinary Income and Property and Cash</b>	<b>Capital Gain Property to the Recipient</b>	<b>Capital Gain Property for the Use of the Recipient</b>
Public Charities, Private Operating and Distributing Foundations	60%	30%	20%
Non-operating Private Foundations	30%	20%	20%

# Gift of Appreciated Securities

- Limited to 30% of AGI
- Allows for more dollars to be contributed to a charity and avoids capital gains taxes
- Must be stock held for more than one year to deduct FMV (if held for less than one year, limited to tax basis)

Example if stock sold first:

- 1,000 Shares of ABC Company Stock worth \$100,000 (basis is \$50,000)
- If sold, capital gains taxes owed of 28.8% (including Ohio) on a \$50,000 gain or \$14,400, leaving the remaining \$85,600 to charity – a maximum tax savings of \$31,672 (37%), a net savings of \$17,272

Example if stock is donated to charity directly:

- 1,000 Shares of ABC Company Stock worth \$100,000 (basis is \$50,000)
- Income tax deduction of \$100,000 – a tax savings of \$37,000

# Qualified Charitable Distribution from IRA

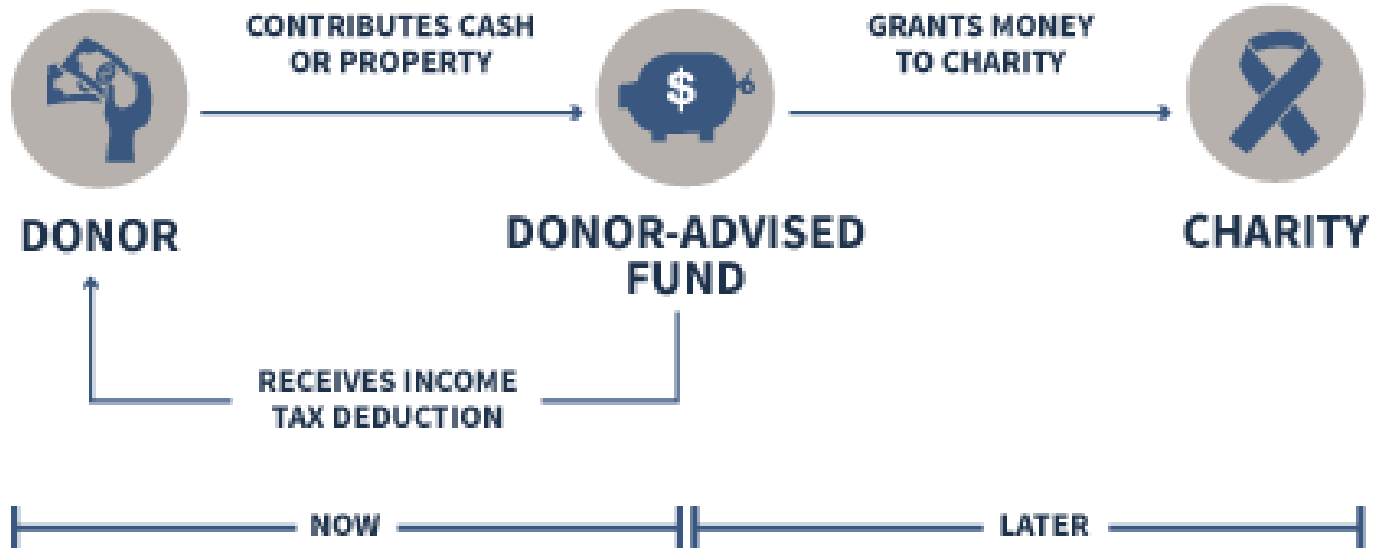
- Allows taxpayers over age 70½ to shift as much as \$100,000 of their required minimum distributions (RMDs) to qualified public charities
- Acts as an “above the line” deduction, by diverting otherwise taxable income directly to a qualified charity
- Generally not available for donor advised fund
- By excluding income, it may keep someone in a lower marginal tax bracket that also allows for Roth conversions, lower taxability of Social Security, etc.
- Provides state income tax benefit that would otherwise not be available for a charitable contribution

# Donor-Advised Funds (DAF)

- A separately identified fund or account that is maintained and operated by a 501(c)(3) organization (i.e. The Columbus Foundation, The Catholic Foundation, Fidelity, Schwab, etc.)
- Each DAF is composed of contributions made by separate donor
- Once the donor makes the contribution, the sponsoring organization has legal control over it
- The donor retains advisory privileges with respect to the distribution of funds and the investment of assets
- DAF provides a fairly affordable option to individuals to help them accomplish their charitable goals

# Donor-Advised Funds

## DONOR-ADVISED FUNDS



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# Other Gifting Strategies

- Purchase a charitable gift annuity from a foundation
- Set up and fund a charitable lead or charitable remainder trust
- Both options provide for an income stream as well as a charitable deduction



# Questions



# Join Us!



## Upcoming Events:

- [12/6/23 Year-End Business Tax Update](#)
- [12/7/23 Multistate Income Tax: Year in Review and 2024 Outlook](#)
- [12/12/23 The Power of Ancillary and Worksite Benefits](#)

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