



Goldman Sachs Ayco












FOR TAX YEAR 2023

# Tax Matters

INSIGHTS TO HELP YOU NAVIGATE  
THE CURRENT TAX ENVIRONMENT

# In this Guide

The information in this guide is intended to provide you with insight into the current tax landscape and the potential impacts on your personal situation. As always, we encourage you to consult with your strategic advisors in advance of taking any action.

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# Relevant tax provisions

Here are some recent tax updates to keep an eye on for this year.

## 2023 STANDARD DEDUCTIONS

**\$13,850<sup>1</sup>**

For single taxpayers

**\$27,700<sup>1</sup>**

For married couples filing jointly

**\$1,850<sup>1</sup>**

Additional deduction for taxpayers who are at least 65 years old and filing Single or Head of Household

## CHILD & DEPENDENT CARE CREDITS

**\$2,000<sup>2</sup>**

Child Tax Credit (CTC) limit per child

**≤ \$3,000<sup>3</sup>**

Qualifying expenses covered under the Child & Dependent Care Credit (CDCC) per qualifying individual. Limits apply based on AGI.

**≤ \$6,000<sup>3</sup>**

Qualifying expenses covered under the Child & Dependent Care Credit (CDCC) for 2+ qualifying individuals. Limits apply based on AGI.

<sup>1</sup> Rev. Proc. 2022-38 at [www.irs.gov/pub/irs-drop/rp-22-38.pdf](https://www.irs.gov/pub/irs-drop/rp-22-38.pdf)

<sup>2</sup> 26 U.S.C. § 24(h). See also Instructions for Schedule 8812 (2022) available at [www.irs.gov/instructions/i1040s8](https://www.irs.gov/instructions/i1040s8)

<sup>3</sup> 26 U.S.C. § 21(c). See also IRS Pub. 503, p. 12 (2022) available at [www.irs.gov/pub/irs-pdf/p503.pdf](https://www.irs.gov/pub/irs-pdf/p503.pdf)





# Relevant tax provisions

Here are some recent tax updates to keep an eye on for this year.

## 37%<sup>1</sup>

The top income bracket tax rate, holding steady from 2020.

The upper income limits for each bracket have increased slightly, indexed for inflation.

## \$750,000<sup>3</sup>

The limit on mortgages qualifying for the home mortgage deduction, unless grandfathered.

See more on page 7 about [home equity loan interest](#).

## \$10,000<sup>2</sup>

The deduction for state/local property taxes and income or sales taxes (SALT)

## Suspended

Personal exemptions<sup>4</sup> and miscellaneous itemized deductions<sup>5</sup> (subject to the 2% of adjusted gross income [AGI] threshold)

See more on [page 11](#) for increases to the **Alternative Minimum Tax (AMT) exemption** that will mean fewer taxpayers taking advantage of the exemption.<sup>6</sup>

<sup>1</sup> 26 U.S.C. § 1(j). See also Rev. Proc. 2022-38 at [www.irs.gov/pub/irs-drop/rp-22-38.pdf](http://www.irs.gov/pub/irs-drop/rp-22-38.pdf)

<sup>2</sup> 26 U.S.C. § 164(b)(6). See also IRS Topic No. 503 at [www.irs.gov/taxtopics/tc503](http://www.irs.gov/taxtopics/tc503)

<sup>3</sup> 26 U.S.C. § 163(h)(3)(F). See also IRS Pub. 936, pg. 9 (2022) at [www.irs.gov/pub/irs-pdf/p936.pdf](http://www.irs.gov/pub/irs-pdf/p936.pdf)

<sup>4</sup> 26 U.S.C. § 151(d)(5). See also Tax Reform Provisions that Affect Individuals at [www.irs.gov/newsroom/individuals](http://www.irs.gov/newsroom/individuals)

<sup>5</sup> 26 U.S.C. § 67(g). See also Tax Reform Provisions that Affect Individuals at [www.irs.gov/newsroom/individuals](http://www.irs.gov/newsroom/individuals)

<sup>6</sup> [www.irs.gov/taxtopics/tc556](http://www.irs.gov/taxtopics/tc556)



# Year-end tax planning

Strategies from our tax specialists

## Bunching your deductions

As the standard deduction nearly doubled in the Tax Cuts and Jobs Act (TCJA), many taxpayers are finding that their itemized deductions may not exceed their standard deduction most years. See the previous page for 2023 standard deductions. These taxpayers may benefit by “bunching” itemized deductions in alternate tax years to get the maximum benefit from those deductions.

For instance, if it's possible you will exceed the standard deduction in 2023 but are uncertain about 2024, consider accelerating those deductions into the current year (subject to limitations and AMT). Conversely, if you won't itemize in 2023, think about delaying deductions into 2024.

**Keep in mind: When possible, “bunch” your deductions in the year during which you're in a higher tax bracket to provide a greater tax benefit.**

## State and local taxes

If your property tax payments have already exceeded the \$10,000 SALT limitation, any acceleration into the current year will have no impact on your deductions for this year. If this is the case, consider postponing such payments while being mindful of underpayment penalties.

Consult your advisor or tax specialist—this strategy depends on the timing of the property assessment by your local tax jurisdiction.

## New equipment/infrastructure

If you have a small business that needs new equipment, you can place the equipment in service in 2023 to qualify for depreciation (including, in most cases, 80% bonus depreciation).<sup>1</sup> Alternatively, if you expect to be in a higher tax bracket for 2023, you can delay the equipment purchase in order to offset income that would otherwise be taxed at a higher rate.

If you're considering purchasing any solar electric, solar water heating, fuel cell, small wind energy or geothermal heat pump property for a personal residence, there are timing considerations to keep in mind. See the [Clean Energy Tax Credits section](#) for more details.

## Tax loss realization

General tax doctrine allows for capital losses and capital gains to be aggregated. Realizing losses can be helpful in offsetting any realized gains. If your capital losses exceed your capital gains, you're entitled to offset ordinary income in a given year up to \$3,000 (\$1,500 for married taxpayers filing a separate return),<sup>2</sup> with the remainder being carried forward.

As usual, there are many planning considerations relative to holding capital assets versus selling. It's important to remember that the loss of investment value from a down market might provide more opportunities for tax loss harvesting. Speak with your tax or financial professional before making any decisions.

<sup>1</sup> 26 U.S.C. § 168(k)(6). See also IRS Pub. 946, p. 2 (2022) available at [www.irs.gov/pub/irs-pdf/p946.pdf](http://www.irs.gov/pub/irs-pdf/p946.pdf)

<sup>2</sup> 26 U.S.C. § 1211(b). See also IRS Pub. 550, p. 66 (2022) available at [www.irs.gov/pub/irs-pdf/p550.pdf](http://www.irs.gov/pub/irs-pdf/p550.pdf)



# Year-end tax planning

Strategies from our tax specialists

## Accelerating income and deductions

Depending on your financial situation, you may benefit from having more or less income in 2023—and you can achieve this through accelerated income or deductions. For both, you should consider the impact of your 2023 activities on your 2024 taxes. Always consult with your financial and tax professionals before making decisions.

### Accelerating income

Some options to consider for accelerating income may include:

- Exercising non-qualified stock options
- Making an 83(b) election upon receipt of restricted property from an employer
- To the extent possible, billing customers and clients early enough that payment can be received prior to year end
- Accelerating (to the extent possible) the timing of discharge of indebtedness income
- Selling appreciated investments in 2023. (Note that no wash sale rule applies for investments sold at a gain, so taxpayers can repurchase investments immediately after the sale if they wish to maintain the position.)

### Accelerating deductions

If you're thinking about accelerating deductions, understand the difference between itemized and "above-the-line" deductions. Benefiting from accelerating above-the-line deductions may not mean benefiting from accelerating itemized deductions.

**Itemizing.** Most taxpayers are wary of the high standard deduction and cap on itemizing deductions for state and local taxes, so it's important to determine if you'll actually benefit from itemizing. For those who will, some potential strategies may include:

- Bunching multiple years of charitable deductions into one by funding a donor-advised fund (DAF), if you are eligible and it is applicable to do so
- Deciding to settle a claim with your insurance company when you have deductible casualty losses

**"Above-the-line" deductions.** Taxpayers looking to accelerate their above-the-line deductions can consider:

- Placing business property in service to obtain bonus depreciation or 179 deductions in 2023
- Accelerating the payment of business-related expenses for the purpose of 2023 deductions

## Cryptocurrency

The IRS has included a question on Form 1040 in recent years which requires a taxpayer to indicate whether or not they engaged in certain transactions involving cryptocurrency.

For example, the 2022 Form 1040 includes the following question: "At any time during 2022, did you: (a) receive (as a reward, award, or compensation); or (b) sell, exchange, gift, or otherwise dispose of a digital asset (or a financial interest in a digital asset)?"

Taxpayers who have, among other things, sold or exchanged cryptocurrency for cash or another cryptocurrency, paid for goods or services with cryptocurrency, transferred cryptocurrency to others, or received new units of cryptocurrency in a hard fork or for performing a task or service will likely have to answer yes to this question. They may also have additional reporting obligations related to these cryptocurrency transactions on a tax return.



# SECURE Act 2.0

There are a number of SECURE Act 2.0 updates you should be aware of this year.

## If you were born in 1951 or after:

Your start date for required minimum distributions (RMDs) has been pushed out.

## Retirement plan catch-up contributions:

For employees whose FICA wages (from the plan sponsor) in the prior year exceed \$145,000 (indexed),<sup>1</sup> their catch-up contributions to 401(k), 403(b) and governmental 457(b) plans must be made on a Roth basis. This piece was recently delayed until 2026—the first taxable years begin after December 31, 2025.

## 401(k)s and student loans:

Employers have the option to make contributions to employees' 401(k)s matching "qualified student loan payments" made by the employee.

## 529 updates:

Beginning in 2024, certain assets in a 529 qualified tuition program can be distributed to a Roth IRA set up for the beneficiary of the 529 account in a direct trustee-to-trustee transfer.

- The 529 account must have been maintained for at least 15 years.
- Aggregate distributions from any 529 plan with respect to a designated beneficiary are subject to a lifetime limit of \$35,000.<sup>2</sup>

## 401(k), 403(b) or governmental 457(b) plans:

Can be amended to allow participants to designate all or a portion of employer matching or non-elective contributions as Roth contributions—provided that such contributions are vested when made.

## IRA catch-up contributions:

The catch-up limit on IRA contributions for individuals age 50+ will be indexed in the same manner as the regular IRA contribution limit beginning in 2024—the first taxable years begin after December 31, 2023.

<sup>1</sup> 26 U.S.C. § 414(v)(7); Notice 2023-62 available at [www.irs.gov/pub/irs-drop/n-23-62.pdf](https://www.irs.gov/pub/irs-drop/n-23-62.pdf)

<sup>2</sup> 26 U.S.C. § 529(c)(3)(E). See also [www.sec.gov/about/reports-publications/investor-publications/introduction-529-plans](https://www.sec.gov/about/reports-publications/investor-publications/introduction-529-plans)



# Home mortgages and home equity

The TCJA changed the rules on interest deductibility of debt on a person's primary residence and on one secondary home. Be aware of how these changes may impact you.

## Key changes to deductibility

Debt Type	Acquisition indebtedness	Home equity indebtedness
<b>Use</b>	Buy, build or substantially improve a residence	Any (debt consolidation, educational expenses, etc.)
<b>Secured by</b>	The qualified residence the loan was used to purchase, build or improve	Any qualified residence
<b>Prior to TCJA</b>	Indebtedness incurred on or before December 15, 2017: <b>\$1 million</b>	Prior to January 1, 2018: <b>\$100,000</b>
<b>Since TCJA</b>	Indebtedness incurred after December 15, 2017: <b>\$750,000<sup>1</sup></b>	As of January 1, 2018: <b>No longer deductible, unless used for some otherwise deductible purpose</b>

*The rules governing the deductibility of interest on home-related debt can be complex, so we suggest reviewing with a tax advisor for clarity on how these change your personal tax planning.*

<sup>1</sup> 26 U.S.C. § 163(h)(3)(F). See also IRS Pub. 936, pg. 9 (2022) at [www.irs.gov/pub/irs-pdf/p936.pdf](https://www.irs.gov/pub/irs-pdf/p936.pdf)

**Qualified residence:** A qualified residence is your primary residence plus one secondary home. You can elect different secondary homes each year (but generally not mid-year).

## What about existing loans?

The TCJA allows the interest on most acquisition indebtedness incurred on or before December 15, 2017, to continue to take advantage of the prior \$1 million limitation (\$500,000 for married taxpayers filing separately).

New loans incurred after December 15, 2017, may also qualify for the \$1 million limitation, but only to the extent they are used to refinance the remaining balance of loans incurred on or before December 15, 2017.

## Pitfalls

- If acquisition debt is refinanced and the principal of the new loan exceeds the principal outstanding on the mortgage at time of refinance, excess principal is not deemed acquisition debt and therefore is non-deductible interest (unless excess is used for improvements or some other deductible purpose, like purchasing taxable investments)
- The rules on deductibility for construction loans can be complex relative to the construction period, cash used and timing of lien





# Clean energy tax credits

As access to clean energy options becomes increasingly available across the U.S., there are a number of tax implications to keep in mind.

## New electric vehicles

Purchased in or after 2023

There are a number of requirements you'll need to meet in order to qualify for these credits.

### You must:

- Buy the vehicle for your own use (not for reselling)
- Use it primarily in the U.S.
- Have a modified AGI that doesn't exceed:
  - \$300,000 (married filing jointly)
  - \$225,000 (head of household)
  - \$150,000 (all other filers)

### Qualifying vehicles must:

- Have a battery capacity of at least 7 kilowatt hours
- Have a gross vehicle weight rating of less than 14,000 pounds
- Be made by a qualified manufacturer
- Undergo final assembly in North America
- Meet critical mineral and battery component requirements (as of April 18, 2023)
- Have a manufacturer's suggested retail price that does not exceed certain limits:
  - SUVs, trucks, and vans: \$80,000
  - All other vehicles: \$55,000

### If your vehicle was placed in service between January 1—April 17, 2023:

- \$2,500 base amount
- Plus \$417 for a vehicle with at least 7 kilowatt hours of battery capacity
- Plus \$417 for each kilowatt hour of battery capacity beyond 5 kilowatt hours
- Up to \$7,500 total

### If your vehicle was placed in service on or after April 18, 2023:

- \$3,750 if the vehicle meets the critical minerals requirement only
- \$3,750 if the vehicle meets the battery components requirement only
- \$7,500 if the vehicle meets both





# Clean energy tax credits

As access to clean energy options becomes increasingly available across the U.S., there are a number of tax implications to keep in mind.

## Used electric vehicles

The credit is capped at \$4,000 or 30% of the sales price of the vehicle, whichever is less.

### You must:

- Buy the vehicle for your own use (not for reselling)
- Use it primarily in the U.S.
- Have a modified AGI that doesn't exceed:
  - \$150,000 (married filing jointly)
  - \$112,500 (head of household)
  - \$75,000 (all other filers)

### Qualifying vehicles must:

- Have a battery capacity of at least 7 kilowatt hours
- Have a gross vehicle weight rating of less than 14,000 pounds
- Be made by a qualified manufacturer
- Be at least 2 model years older than the current model year
- Not have a sales price that exceeds \$25,000
- Have been purchased as the first resale of the vehicle after the initial purchase

## Homes

Homeowners can take advantage of energy-related tax credits for climate-friendly enhancements to their houses.

### The Energy Efficient Home Improvement Credit

For qualified energy-efficient improvements made after January 1, 2023:

- You may qualify for a tax credit up to \$3,200. The credit equals 30% of certain qualified expenses, including qualified energy efficiency improvements installed during the year, residential energy property expenses, home energy audits
- This credit can be claimed for improvements made through 2032
- The credit is nonrefundable, but has no lifetime dollar limit
- Annual limits on specific items do apply. [See the IRS website](#) for more details

For improvements made in 2022 or earlier, use previous versions of [Form 5695](#).

### The Residential Clean Energy Credit

This credit equals 30% (through 2032) of the cost of qualifying solar electric, solar water heating, fuel cell, small wind energy, geothermal heat pump and qualified battery storage expenditures. In 2022, this credit covered 26% of qualifying purchases, but has been retroactively increased to 30% for any qualifying purchase, going back to the beginning of 2022.

Visit the [IRS website](#) for more information on this credit.



# Alternative Minimum Tax (AMT)

Far fewer taxpayers will be included in the AMT system for tax years 2018–2025, due to changes made under the TCJA.

## Who falls into the 2023 AMT system?<sup>1</sup>

Taxpayer	AMT exemption amount	Exemption phase-out
Single	\$81,300	\$578,150
Married, filing jointly	\$126,500	\$1,156,300

For 2023, the AMT tax rate is generally triggered when income exceeds the relevant exemption amount. This means you must calculate your tax liability under both the regular income tax system and the AMT system and then pay the higher of the two.

For specific questions on calculations and tax liability, connect with your advisor or tax professional.

## Changes under the TCJA

Under the TCJA, the AMT exemption amount and phase-out thresholds for tax years 2018–2025 have been increased significantly. They are being adjusted annually for inflation for tax years after 2018.

The increased AMT exemption amount and phase-out thresholds are currently scheduled to sunset after 2025.

## AMT payable

AMT is only payable to the extent the tentative minimum tax calculated under AMT rules exceeds the tax calculated under the regular tax rules.

For example, if the regular tax is \$40,000 and the tentative minimum tax is \$45,000, the taxpayer pays the \$40,000 of regular tax and \$5,000 of AMT, for a total of \$45,000.

## Suspended deductions

Because these deductions have been suspended under the TCJA for tax years 2018–2025 for regular tax purposes, there is no difference between regular tax and AMT for:

- Regular tax personal exemptions (however, a separate AMT exemption applies)
- Interest on a home equity line that is not used to purchase, build or substantially improve the home
- Miscellaneous itemized deductions

## Tax rate

- For 2023, the AMT tax rate is 26% of the AMT tax base up to \$220,700 (\$110,350 for married taxpayers filing separately) and 28% of the AMT tax base in excess of \$220,700<sup>1</sup>
- Capital gains rates of 0%, 15%, or 20% apply for AMT to the extent they apply for regular tax
- Qualified dividends are taxed at the same rate that applies to net capital gain

## Credits

- The AMT Foreign Tax Credit is available to offset the AMT
- Individual taxpayers can offset their entire regular tax liability and AMT liability by their nonrefundable personal tax credits

## Capital gains and qualified dividends

AMT may be an issue if you have large capital gains and qualified dividends relative to other income—both are taxed at a 20% rate for AMT and regular tax purposes. When rates that apply for regular tax versus AMT are the same for a significant portion of income, the taxpayer may find they are in AMT, even with relatively few AMT add-backs. This is especially true for taxpayers in states with high tax rates.

## State tax refund

Generally, a state income tax refund is taxable if itemized deductions were taken in the prior year. However, if you were in the AMT that year, it's possible you didn't benefit from the deductions (since state taxes are nondeductible under the AMT system). This could make some or all of the refund untaxable.

## The AMT Credit

The AMT tax credit is available to reduce a taxpayer's regular tax liability in future years only if they are placed in the AMT by a timing difference. Timing differences occur when an item is taxable, or deductible, for both AMT purposes and regular tax purposes, but AMT rules require that the income be recognized sooner—or the deduction be delayed longer—than is required for regular tax purposes.

The purpose of the credit is to avoid double taxation of an income item. The AMT credit can only be used in future years when the regular tax liability exceeds the AMT tax liability. Any portion of the credit that is not allowed in a given year may be carried forward indefinitely. The exercise of incentive stock options (ISOs) is a common example of a timing difference that triggers the AMT and, in turn, generates an AMT credit.

<sup>1</sup> Rev. Proc. 2022-38 at [www.irs.gov/pub/irs-drop/rp-22-38.pdf](https://www.irs.gov/pub/irs-drop/rp-22-38.pdf)



# Charitable contributions

In this section, we explore a number of ways to help you maximize the tax benefit of your charitable contributions.

## Bunching

If you have the ability to control the timing of charitable donations, bunching can help maximize your tax benefit by spreading contributions over alternating years. By delaying a year's worth of charitable giving from one year to the next, and giving double in the second year, the total amount of giving stays the same and the tax benefit over multiple years could be increased. Make sure you're still under the percentage-of-AGI contribution limits for the particular year in the applicable charitable contribution category (i.e., 60%/50%/30%/20%).

### The benefit arises from:

- Making charitable gifts when you're in a higher tax bracket
- Avoiding charitable gifts in a year you won't itemize

## Using donor-advised funds (DAFs)

One problem with the bunching strategy is that it leaves charities short on funding in off years. A solution to this problem (as well as a potential for even greater tax savings) is to contribute to a DAF.

A DAF allows you to make tax-deductible contributions to the fund in the year of the gift, but then keep the funds in the account until you decide to make distributions to a particular charity. You can realize an upfront tax deduction in the current year, while retaining the ability to spread your grant making over several years.

A potential additional benefit to keeping funds in the DAF is that they can be invested to grow tax free, providing even more funds to transfer to charity in the future.



Funding a DAF with appreciated securities held for more than one year can yield an even greater tax benefit. There is no recognition of capital gains upon the transfer and you get a full tax deduction at the fair market value of the security.

## Qualified charitable distribution

If you're 70.5 years or older, you can transfer up to \$100,000<sup>1</sup> directly from an IRA to a qualifying charity on a tax-free basis. If you file a joint return, your spouse can also have a qualified charitable distribution and exclude up to \$100,000. The \$100k limit will be indexed each year going forward.

The IRA charitable distribution provision has also been expanded by the SECURE Act 2.0 of 2022 to allow for direct distributions to split interest entities (such as charitable gift annuities, charitable remainder unitrusts, and charitable remainder annuity trusts), subject to a limit of \$50k (indexed).

This is a one-time election for a taxable year, up to the limit in aggregate for direct distributions during such year. Once made, no future year elections will be allowed, regardless of the amount utilized. To qualify, the split interest entity must be funded exclusively with the QCD (no amounts from other sources will be allowed).

The IRA owner can exclude otherwise taxable IRA distributions from income. Although no corresponding charitable itemized deduction is allowed for such excluded income, this can be used to satisfy the annual required minimum distribution (RMD) from the IRA.

## Substantiation

The IRS is placing increased emphasis on having the necessary documentation to substantiate charitable deductions. Any donation of cash or property valued \$250 or more requires a letter of acknowledgement from the receiving charity. Be aware that donations to a donor-advised fund should include language that states that the sponsoring charity has exclusive legal control over the donations. Larger deductions—especially property—may require additional substantiation, such as an appraisal. There's also a deadline for such substantiation. Check with your tax advisor before December 31, 2023.

<sup>1</sup> 26 U.S.C. § 408(d)(8). See also IRS Pub. 590-B, p. 14-15 (2022) available at [www.irs.gov/pub/irs-pdf/p590b.pdf](https://www.irs.gov/pub/irs-pdf/p590b.pdf)



# Nonresident state income taxation

If you work in one state, but also travel to work or work from “home” in other states—even for one day—you may be liable for income tax to those nonresident states. Adding further complication, each state has its own definition of what constitutes income sourced to the state.

## Key terms

### Domicile vs. resident state

Domicile is the place you consider “home” even though you may not be there frequently. It is the place to which you eventually intend to return. Even if you aren’t domiciled in a state, you can still be considered a resident of the state based on that state’s rules for determining residency. You only have one domicile, but you can be a resident of more than one state

### Nonresident state

A state in which you work or earn income, but do not reside. If you live in one state, yet you’ve earned money in another state, you may have to file a nonresident state tax return depending on the state’s minimum filing requirements

### Reciprocity

A reciprocal agreement between usually neighboring states where workers from another state are only required to pay state and local taxes in their resident state

### Board income

Self-employment income earned by serving on a corporate board

### Nonresident state tax credit

Generally, if you pay income tax to a nonresident state, you are entitled to a credit against resident state taxes. There are limitations—ask your tax advisor



Domicile can be complicated. Reach out to your legal and tax advisors for more information about your personal situation.





# Nonresident state income taxation

## How telecommuting from a different state could impact your taxes

If you're working from home, you may face some unanticipated tax consequences as a telecommuter. That's especially true if you live in a state that's different from where your employer is located.

**You primarily work in New York State (NYS), but don't live there. You've been telecommuting from your home in a different state. Will NYS still tax you for those days?**

It's likely NYS will tax you based on the state's convenience of the employer rule, which permits NYS to tax all your work-related income when you work from home (WFH). This even applies to income such as bonuses or equity compensation generated in 2023 but received in 2024.

**You're telecommuting frequently from your second home, but you're not domiciled in that state. Could you be considered a statutory resident?**

Yes, it's possible. Each state has its own statutory resident standards. You should be aware of the criteria used by the state and record the number of working and non-working days spent there. Make sure to be accurate because state auditors may monitor your activity through your cell phone or credit card records.

**You typically work in Manhattan. But you live in another state and have been strictly working from home. Should you make estimated payments or switch withholding to your home state?**

In regard to estimated payments, all your income will be taxed by your resident state. This also applies to New York State's

convenience of the employer rule, which authorizes it to tax nonresident employees for work-related services they perform at home.

However, you may be able to receive a credit from your home state for the WFH taxes paid to NYS, which may negate the need to make estimated payments to your resident state. Either way, you should continue to have your employer withhold to NYS.

**You work and live in one state. However, you have a second home in another state and occasionally telecommute from there (but not enough to be considered a statutory resident). Should you be concerned about any tax implications from the second state?**

Yes. You'll typically face the normal home-state taxation on all your income. But the second state may also tax you on any WFH days spent within its borders. Some, but not all, resident states provide you with a tax credit to avoid this double-taxation scenario.

**You live in Connecticut and usually work in Manhattan. Recently, you've been working from home. Are there any tax implications to consider?**

Yes. Connecticut will continue to tax all your work income as normal. Additionally, NYS will tax any telecommuting days performed in Connecticut. However, you should be able to receive a credit from Connecticut for the WFH taxes paid to NYS.



# Nonresident state income taxation

## Changing your domicile

The rise of remote work means many can do their jobs from any state they call home. Be sure to consider income taxes when choosing a new state to establish domicile.

Many states, including New York, have a statutory resident rule. This rule defines a resident as a person who maintains a permanent place of abode and spends more than 183 days in a state during the year—but this test does not apply to someone if they are already domiciled in the state. For example, if you are domiciled in New York, you will still be a New York resident even if you spend less than 183 days in New York in 2023.

### To establish a new domicile, you must:

- Abandon your old domicile
- Have no intent to return to the old domicile
- Establish a physical presence in a new state
- Have the intent to make the new state your domicile

While your intent is subjective, it is not enough to just say that you have the intent to change your domicile. State auditors will require you to prove your intent through a combination of facts and circumstances.

This is particularly relevant for those who've maintained a domicile in New York. There is a long list of factors that states consider when determining whether you've changed your domicile, but New York, in particular, relies heavily on the following five factors:

- The location of your near and dear items (often referred to as the “teddy bear test”)
- The size and features of the home you live in compared to other homes you may own
- The location of your business ties
- Time spent in New York compared to the new domicile state
- Family connections (the location of your immediate family)

While it is often understood that you should change your driver's license to your new state of domicile, this action alone is NOT

enough to change your domicile. Spending less than 183 days (six months, plus one day) is also often not enough to change your domicile.

Importantly, domicile audits do not occur immediately and often occur a few years after you changed your domicile. The analysis of auditors will take into account where you have been spending your time from the date you changed your domicile, up to when the audit occurs. What you did in 2023 would not be the only deciding factor.

If you are looking to change your domicile, continuing to own or rent a home in your former state can cause challenges when trying to prove your intent. Many of the difficult domicile audits that we have seen stem from individuals continuing to own or rent a home in New York after moving out.

Keep in mind, even if you have legitimate intent to change your domicile and take proper steps to do so, you may still owe taxes to your former state. It is possible to end up in a situation where you will have to pay tax to your new domicile state and to the state where your employer resides, with no credit for the double tax.

**Many of these considerations apply not just to changing domicile out of New York to another state, but rather a similar analysis applies to a domicile change to or from any state.**



Please reach out to your tax advisor if you are considering changing your domicile and would like more guidance about this process.



# Nonresident state income taxation

## Tax planning considerations

### Allocating income to a nonresident state

Each state has its own rules for how sourced income should be allocated to the nonresident state. In many instances, it will depend on the type of income being allocated. A common approach is by using a days in/days out allocation over the calendar year.

### Nonresident retirement income excluded

Although the general rule is that a nonresident state can tax income that was earned for working in that state, there is a federal law that prohibits a nonresident state from taxing certain retirement income.

### Severance payments

In most instances, severance payments are taxable to a nonresident state if the individual ever worked in that state. However, each state has its own rules.

### Long-term awards, equity grants

When allocating income to a nonresident state, it's natural to assume that you would start with W-2 wages. However, for the portion of W-2 earnings that were effectively earned over more than one year (e.g., three-year restricted stock vesting or stock option exercises during a 10-year grant), prior-year work days count into the nonresident state calculation.

### Nonresident state withholding

Each state imposes its own withholding rules on an employer. These rules may be different from your resident state. It is always important to check the specific rules for each state.

### Place of abode

If an individual maintains an abode in the nonresident state, they could be considered a statutory resident, depending on state law.



### Keep a calendar

It is crucial to keep a detailed calendar substantiating where the work is being performed for nonresident allocation purposes and for possible relief from double taxation.



# State-specific updates

As state laws change, they can have an impact on your tax filing. If you live in one of the following states, there are some extra considerations to keep in mind this year.

[California](#) • [Washington](#) • [New Jersey](#) • [Massachusetts](#) • [New Hampshire](#)

## California trust changes<sup>1</sup>

On July 10, 2023, California's Anti-ING (incomplete nongrantor trust) provision (S.B.131) was signed into law.

### Key takeaways:

- Effective for tax years on or after January 1, 2023
- The income from an ING trust is included in the gross income of the grantor as though the trust was a wholly grantor trust
- The law mirrors the New York law enacted in 2014
- Income recognized on or after January 1, 2023 by an ING trust will be included in the grantor's income, regardless of when the trust was created

## Washington capital gains tax<sup>2</sup>

After some deliberation, the Washington State capital gains tax was ruled constitutional and became law in early 2023.

### Key takeaways:

- Effective date of January 1, 2022
- 7% tax on long-term capital gains from the sale or exchange of certain types of property
- Applies only to individuals
- Only applies to the sale or exchange of assets that are held for more than one year

[Read more highlights](#) from our Tax Policy & Research team.

## New Jersey convenience of the employer rule<sup>3</sup>

On July 21, 2023, New Jersey's convenience of employer rule (A4694) was signed into law.

### Key takeaways:

- Effective for tax years beginning on or after January 1, 2023
- Creates a convenience of the employer rule
- Includes tax incentives to encourage New Jersey residents to challenge New York's convenience rule
- Includes employee and employer tax incentives to move employee work locations to within the State of New Jersey
- Enacted a statute of limitations for the time to claim a refund when another state changes or corrects the amount of reportable income

[Read more highlights](#) from our Tax Policy & Research team.

<sup>1</sup> [leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=20232024OSB131](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=20232024OSB131)

<sup>2</sup> [dor.wa.gov/taxes-rates/other-taxes/capital-gains-tax](https://dor.wa.gov/taxes-rates/other-taxes/capital-gains-tax)

<sup>3</sup> [www.nj.gov/treasury/taxation/conveniencerule.shtml](https://www.nj.gov/treasury/taxation/conveniencerule.shtml)



# State-specific updates

As state laws change, they can have an impact on your tax filing. If you live in one of the following states, there are some extra considerations to keep in mind this year.

[California](#) • [Washington](#) • [New Jersey](#) • [Massachusetts](#) • [New Hampshire](#)

## Massachusetts charitable deduction<sup>1</sup>

Massachusetts state income tax deduction for charitable contributions has been reinstated.

### Key takeaways:

- Effective January 1, 2023
- The charitable deduction is permitted as long as the tax rate for Part B income remains 5%
- The amount of charitable contribution deduction is the amount allowed or allowable to the taxpayer under section 170 or the Internal Revenue Code
- No deduction is permitted for contributions of household goods or used clothing
- MA taxpayers are not required to itemize their deductions on their federal income tax returns to be eligible for the MA charitable deduction
- Those clients with annual income in excess of \$1 million and subject to MA's Millionaire tax (the 4% surtax) may want to consider making charitable contributions to help reduce their MA income.

## New Hampshire interest and dividends tax sunset accelerated<sup>2</sup>

New Hampshire passed a law that accelerates the repeal date on the interest and dividends tax to December 31, 2024.

### Key takeaways:

- New Hampshire has no income tax, but does impose an interest and dividends tax
- The interest and dividends tax was scheduled to phase-out over several years with total repeal scheduled for December 31, 2026
- The law passed accelerates total repeal to December 31, 2024

### Current phase out schedule:

- Interest and dividends tax rate is 4% for 2023
- 3% for 2024, with total repeal for 2025 and beyond

<sup>1</sup> [www.mass.gov/technical-information-release/tir-22-5-tax-provisions-in-recent-massachusetts-legislation#\\_ftn17](https://www.mass.gov/technical-information-release/tir-22-5-tax-provisions-in-recent-massachusetts-legislation#_ftn17)

<sup>2</sup> [www.revenue.nh.gov/faq/interest-dividend.htm](https://www.revenue.nh.gov/faq/interest-dividend.htm)



# Other tax planning considerations

Talk with your tax advisor about how you may benefit from these and other planning considerations, regardless of your expected 2024 tax bracket.

- Discuss ways to avoid **underpayment penalties** if you are under-withheld
- Account for all necessary **state nonresident filings**
- Consider selling **essentially worthless stocks** prior to year end to ensure the capital loss is available
- Evaluate tax deductions for a **new business** established in 2023

## Your withholdings under the TCJA

The IRS released withholding tables beginning with tax year 2018 reflecting the new tax rates and adjusted brackets.

- The withholding tables could impact any expected refund or balance due
- A bonus or lump-sum payment will likely be withheld at a flat rate of 22%
- When supplemental wages exceed \$1 million, the flat withholding rate is at the top marginal rate of 37% (or possibly 39.6% if legislative proposals are enacted)
- Withholdings could be impacted by the ability to correctly file and use the new W-4, W-4P and W-4R forms

### Withholding is important to:

- Avoid incurring any underpayment penalties
- Avoid being surprised with an unexpected tax bill in April
- Mitigate large tax refunds and enjoy better cash flow during the year



To ensure you're withholding the right amount, contact your tax advisor.

# Other tax planning considerations

## Disaster relief

### Key personal casualty loss provisions

As per the TCJA, for tax years 2018-2025, claims for casualty and theft loss on personal use property can't be itemized as deductions unless they are caused by a federally declared disaster.

Impacted taxpayers in a federally declared disaster are allowed to claim disaster-related casualty losses that are in excess of insurance or other reimbursements on their federal income tax return for either the year in which the event occurred, or the prior year.

## State-level pass-through entity (PTE) deductions

While the TCJA limits the deduction of state and local taxes (SALT) to \$10,000 for individuals, trusts and estates, 36 states (as of August 2023) have passed legislation that provides relief to those who qualify.

These pass-through provisions allow owners of electing entities (S corporations, partnerships and LLCs taxed as partnerships) to bypass the SALT cap and receive the equivalent of a federal tax deduction for state taxes paid at the entity level.

**Speak with your tax advisor if you own an interest in an entity that qualifies, or may qualify, for a pass-through entity deduction in any of these states:**

Alabama	Illinois	Minnesota	Ohio
Arizona	Indiana	Mississippi	Oklahoma
Arkansas	Iowa	Missouri	Oregon
California	Kansas	Montana	Rhode Island
Colorado	Kentucky	Nebraska	South Carolina
Connecticut	Louisiana	New Jersey	Utah
Georgia	Maryland	New Mexico	Virginia
Hawaii	Massachusetts	New York	West Virginia
Idaho	Michigan	North Carolina	Wisconsin

*Maine, Pennsylvania and Vermont are considering passing PTE tax legislation.*



# Foreign financial assets

If you have an interest in a foreign financial asset, you may need to file special informational forms, in addition to your federal and state tax returns. These forms have significant potential penalties for noncompliance. If you hold any foreign financial assets, you should discuss with your tax advisor the potential filing obligations associated with your foreign financial assets.

## Common assets/scenarios that can trigger informational form filings

Scenario	Example	Filing obligation	Penalties for failing to report include, but are not limited to:
<b>Financial interest in or signature authority over “foreign financial accounts” exceeding—in the aggregate—\$10,000</b>	Foreign bank accounts, foreign brokerage accounts and cash value foreign insurance policies	Report of Foreign Bank and Financial Accounts (FBAR)	<b>Non-willful violation:</b> \$10,000 adjusted annually for inflation <b>Willful violation:</b> \$100,000 or 50% of the account balance at the time of the violation
<b>Interest in “specified foreign financial assets” exceeding—in the aggregate—the applicable filing threshold</b>	Foreign bank accounts, foreign brokerage accounts, foreign pension and other retirement accounts, and an interest in any foreign corporation, partnership, trust or estate	Form 8938	\$10,000 penalty per year of noncompliance
<b>Investing over \$100,000 in a foreign entity within a 12-month period</b>		<b>Foreign partnership:</b> Form 8865 <b>Foreign corporation:</b> Form 926	10% of the FMV of the amount transferred—capped at \$100,000, unless the failure was due to intentional disregard
<b>Holding 10%+ interest in a foreign entity</b>		<b>Foreign partnership:</b> Form 8865 <b>Foreign corporation:</b> Form 5471	\$10,000 per year of noncompliance
<b>Receiving a gift or bequest from a nonresident alien individual or foreign estate in excess of \$100,000 per calendar year</b>		Form 3520	5% of the fair market value of the gift/bequest each month for which the failure to report continues (not to exceed a total of 25%)
<b>Various interactions with a “foreign trust”</b>	Creating a foreign trust, making transfers to or receiving distributions from a foreign trust, and being considered the owner of a foreign trust under the U.S. grantor trust income tax rules	Form 3520 and/or 3520-A	Generally, range from \$10,000 to 35% of gross trust assets

*Examples provided for illustration purposes only; results may vary. These scenarios are not all inclusive and there may be others. Discuss your specific situation with a tax professional.*

## Tax Matters for Tax Year 2023

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## Tax Matters for Tax Year 2023

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