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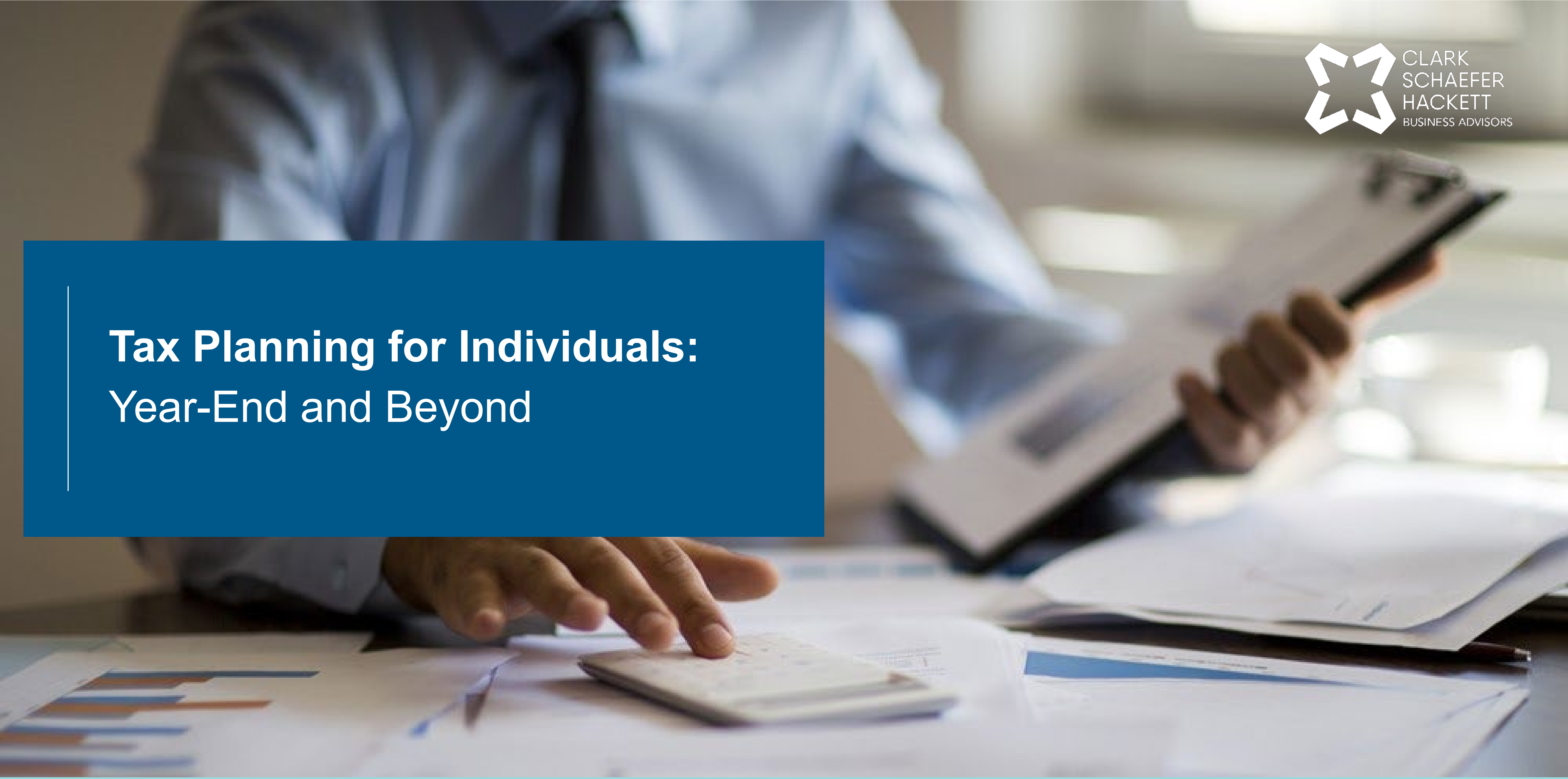

# Tax Planning for Individuals:
## Year-End and Beyond

# Today’s Presenters

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# Tax Planning for Individuals – Year-End and Beyond

## Agenda

- The SECURE 2.0 Act
- Pass-Through Entity Taxes
- Residency and Domicile
- IRS 2023 Dirty Dozen List
- Digital Asset
- Year-End Tax Planning Strategies

# 2023 Individual Income Tax Brackets

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## 2023 Federal Income Tax Brackets and Rates

| Tax Rate | Single Filers | Married Individuals Filing Joint Returns (MFJ) | For Heads of Households |
|---|---|---|---|
| 10% | $0 to $11,000 | $0 to $22,000 | $0 to $15,700 |
| 12% | $11,000 to $44,725 | $22,000 to $89,450 | $15,700 to $59,850 |
| 22% | $44,725 to $95,375 | $89,450 to $190,750 | $59,850 to $95,350 |
| 24% | $95,375 to $182,100 | $190,750 to $364,200 | $95,350 to $182,100 |
| 32% | $182,100 to $231,250 | $364,200 to $462,500 | $182,100 to $231,250 |
| 35% | $231,250 to $578,125 | $462,500 to $693,750 | $231,250 to $578,100 |
| 37% | $578,125 or more | $693,750 or more | $578,100 or more |

Source: Internal Revenue Service

# 2023 Tax Information

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- Capital Gains Rates

| Rates | MFJ | Single |
|---|---|---|
| 0% | $0 - $89,250 | $0 - $44,625 |
| 15% | $89,251 - $553,850 | $44,626 - $492,300 |
| 20% | $553,851 or more | $492,301 or more |

- Standard deduction
  MFJ – $27,700 Single – $13,850
- Additional standard deduction for elderly and blind
  MFJ – $1,500 Single – $1,850

- Qualified Business Income Deduction
  MFJ – phase-out between $364,200 and $464,200
  Single – phase-out between $182,100 and $232,100

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# The SECURE 2.0 Act

# The SECURE 2.0 Act

Signed into law on December 29, 2022, by President Biden

Further expansion of SECURE 1.0 that was enacted in 2019

Includes over 100 retirement-related provisions

# The SECURE 2.0 Act

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## Increase in age for Required Minimum Distributions (RMDs)

Secure 1.0 increased age from 70 ½ to 72 starting in 2022

Secure 2.0 increases age to 73 for tax years starting in 2023
Secure 2.0 increases age to 75 for tax years starting in 2033

- Taxpayers can postpone RMD as long as they continue to work full or part-time for an employer offering the retirement plan.

- IRS Notice 2023-23, issued on March 7, 2023, provides exception for IRA owners who attain age 72 in 2023. No RMD required for 2023.

# The SECURE 2.0 Act

- IRA Charitable Rollovers – $100,000 limit for taxpayers over age 70 ½ will be indexed for inflation starting in 2024

- Roth Plan Distribution Rules
  - Required minimum distributions do not apply to Roth IRAs during the IRA owner's lifetime
  - Prior to SECURE 2.0, pre-death distributions were required for Roth accounts of 401(k) plans.
  - For tax years after 2023, pre-death distribution requirement for 401(k) Roth accounts is eliminated.

# The SECURE 2.0 Act

Beginning in 2025, higher catch-up limit for individuals aged 60, 61, 62 and 63

Current law – individuals aged 50+ can make a catch-up contribution of $7,500 to a defined contribution plan.

Secure 2.0 – increases limit for individuals aged 60, 61, 62 and 63 to greater than $10,000 or 50% more than the regular catch-up amount (starting in 2025)

For taxpayers with wages over $145,000, catch-up contributions must be made as Roth contributions starting in tax year 2026. IRS Notice 2023-62 provided a two-year transition rule.

# The SECURE 2.0 Act

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Student loan payments as elective deferrals for purposes of matching contributions.

- Secure 2.0 permits employees to receive matching contributions by reason of repaying their student loans.
- Employees must certify annually to the employer making the matching contribution that that payment has been made on the loan.

Special rules for certain distributions from long-term qualified tuition programs to Roth IRAs.

- Over their lifetime, 529 plan beneficiaries can rollover up to $35,000 from their 529 account to their Roth IRA.
  - Subject to Roth IRA annual contribution limits
  - 529 account must have been open for more than 15 years

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# Pass-Through Entity Taxes

# Pass-Through Entity Taxes (PTET)

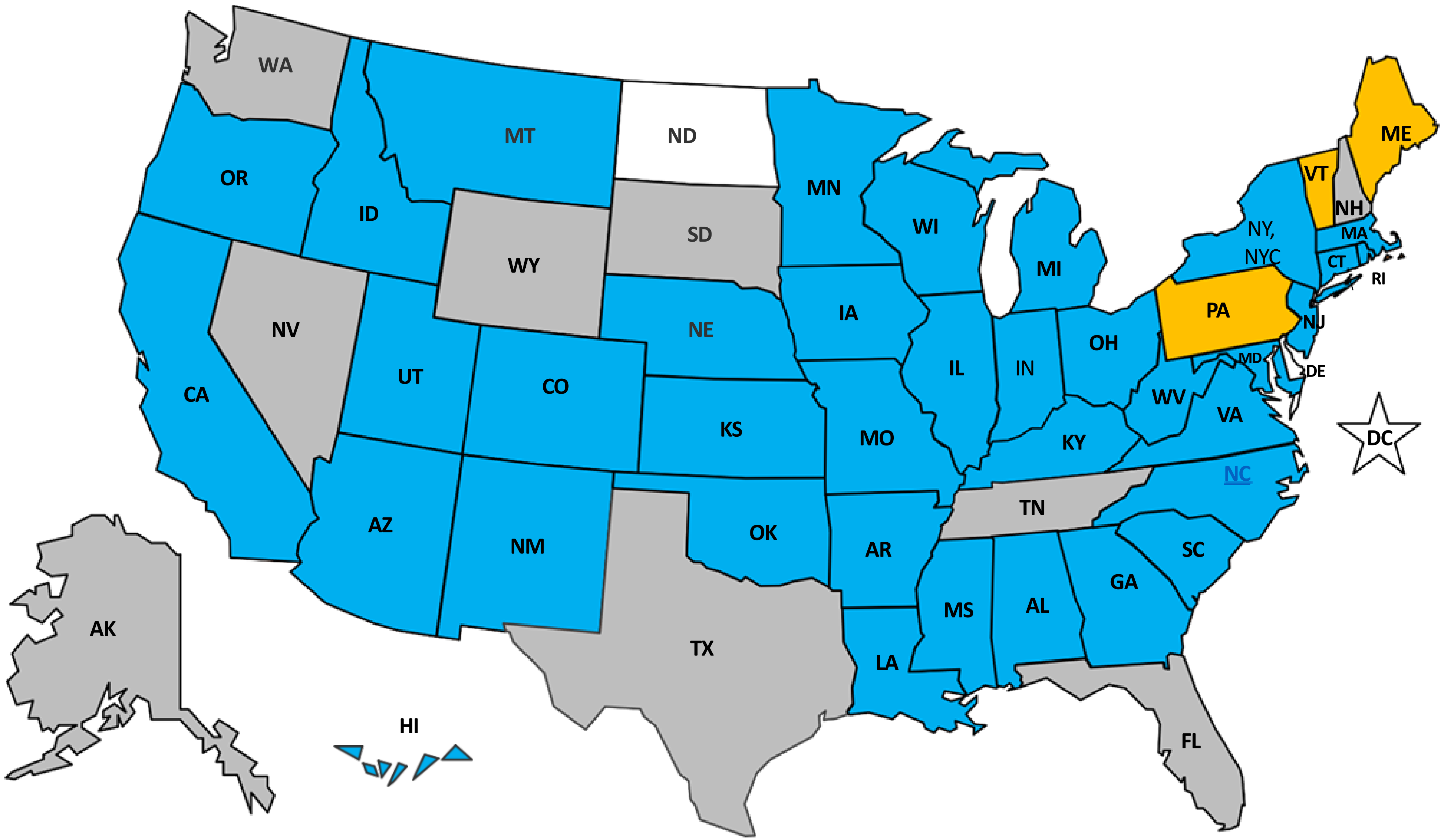
SALT cap limit of $10,000 at the individual level

IRS Notice 2020-75 affirms that state laws meant to shift SALT tax from the individual to business would withstand IRS review if done properly, aka SALT cap workaround

As of August 10, 2023, 36 states have enacted PTET legislation. Three additional states have pending legislation.

Analysis required, as not all legislation is consistent by state

# States with Enacted or Proposed Pass-Through Entity (PTE) Level Tax (as of August 10, 2023)




36 states (& 1 locality) that enacted a PTE tax since TCJA SALT deduction limitation, effective for 2021 (or earlier) unless noted:

AL, AR[1], AZ[1], CA, CO[3], CT[4], HI[2], GA[1], IA[1], ID, IL, IN[1], KS[1], KY[1] (& KY) ,LA, MA, MI, MD, MN, MO[1], MS[1], MT[2], NC[1], NE[3], NJ, NM[1], NY, OH[1], OK, OR[1], RI, SC, UT[1], VA, WI, WV[1], and NYC[1]

[1] Effective in 2022
[2] Effective in 2023 or later
[3] Retroactive to 2018
[4] Mandatory 2018-2023, elective starting 2024

3 states with proposed PTE tax bills:
ME - LD 1891 introduced (session ended)
PA – SB 659 and HB 1584 introduced

VT – SB45 passed Senate, in House (session ended)

9 states with no owner-level personal income tax on PTE income:
AK, FL, NH, NV, SD, TN, TX, WA, WY

3 states with an owner-level personal income tax on PTE income that have not yet proposed or enacted PTE taxes:
DC, DE, and ND

AICPA

# Current PTET workarounds (36 states and 1 locality)

| State | Effective Year |
|---|---|
| Alabama | **2021** |
| Arizona | **2022** |
| Arkansas | **2022** |
| California | **2021** |
| Colorado | **2018 (retroactive)** |
| Connecticut | **2018 (mandatory 2018-2023, elective starting 2024)** |
| Georgia | **2022** |
| Hawaii | **2023** |
| Idaho | **2021** |
| Illinois | **2021** |
| Indiana | **2022 (retroactive)** |
| Iowa | **2022 (retroactive)** |
| Kansas | **2022** |
| Kentucky | **2022 (retroactive)** |
| Louisiana | **2019** |
| Maryland | **2020** |
| Massachusetts | **2021** |
| Michigan | **2021** |

| State | Effective Year |
|---|---|
| Minnesota | **2021** |
| Mississippi | **2022** |
| Missouri | **2022** |
| Montana | **2023** |
| Nebraska | **2018 (retroactive)** |
| New Jersey | **2020** |
| New Mexico | **2022** |
| New York | **2021** |
| New York City | **2022** |
| North Carolina | **2022** |
| Ohio | **2022** |
| Oklahoma | **2019** |
| Oregon | **2022** |
| Rhode Island | **2019** |
| South Carolina | **2021** |
| Utah | **2022** |
| Virginia | **2021** |
| West Virginia | **2022** |
| Wisconsin | **2018** |

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# Residency and Domicile

# Residency and Domicile

## Currently eight states with no personal income tax

1. Alaska
2. Florida
3. Nevada
4. South Dakota
5. Tennessee
6. Texas
7. Washington
8. Wyoming

# Residency and Domicile

Residency and domicile are critical factors in determining the state taxation of individual taxpayers.

- **Domicile** – where an individual maintains his or her permanent abode and where that person intends to return from any absence. An individual can only have one domicile at any given time.
- **Statutory residency** – besides domicile, several states will tax individuals if they are statutory residents. A state statute will consider an individual a statutory resident solely based on the amount of time spent in the state.

- Individuals that are domiciled in a state or who are statutory residents of that state, are subject to that state's personal income tax on all their income. This applies, regardless where the income was earned.
- If individuals are not domiciled or a statutory resident of a state, the individual would only owe tax to the nonresident state for the income that is sourced to the nonresident state.

# Residency and Domicile

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- Residency audits generally occur when taxpayers maintain permanent abodes in different states.
- Two factors are generally looked at during a residency audit

Which state does the taxpayer intend to be his or her domicile?

Where does the taxpayer have the greatest connections?

- For an individual to change their domicile, they must show intention to abandon their previous domicile.

## Some key steps an individual can take to establish a new domicile include the following:

- Obtain a driver's license in the new state
- Register to vote in the new state
- File state income tax return in the new state
- Register all vehicles in the new state
- Update all insurance information indicating change in state of domicile
- Apply for homestead exemption on residence in new state and revoke any previous homestead exemptions in prior state
- Update all billing and mailing addresses to new address in state of domicile

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# IRS 2023 Dirty Dozen List

# IRS 2023 Dirty Dozen List

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## Annual list released by the Internal Revenue Service of tax scams and schemes

| Employee Retention Credit claims (ERC) | Phishing and smishing | Online account help from third-party scammers | False Fuel Tax Credit claims |
|---|---|---|---|
| Attempts by promoters to file ineligible claims | Attempts to lure victims to provide personal and financial information that can lead to identity theft.<br>IRS will never initiate contact with taxpayers by email, text, or social media regarding a bill or refund amount | Third-party assistance with taxpayer's IRS Online Account at IRS.gov | Filing of fraudulent Form 4136, Credit for Federal Tax Paid on Fuels. Generally limited to off-highway business and farming use |

# IRS 2023 Dirty Dozen List

Annual list released by the Internal Revenue Service of tax scams and schemes

| Fake charities | Unscrupulous tax return preparers | Social media: Fraudulent form filing and bad advice | Spearfishing and cybersecurity for tax professionals | Offer in Compromise mills |
|---|---|---|---|---|
| Scammers set up fake organizations to seek money and personal information for taxpayers | Watchout for prepares who refuse to sign return and include their IRS PTIN (Preparer Tax Identification Number) | Scheme encouraging people to file false, inaccurate information in hopes of getting a refund | Data breaches that allowing thieves to file fraudulent returns | Aggressively promoting Offers in Compromise for ineligible taxpayers |

# IRS 2023 Dirty Dozen List

## Schemes aimed at high-income filers

- **Charitable Remainder Annuity Trust**
  Misuse to try and eliminate ordinary income and/or capital gain on the sale of property

- **Monetized Installment Sales**
  Promoters targeting taxpayers looking to defer the recognition of gain upon the sale of appreciated property

## Bogus tax avoidance strategies

- **Micro-captive insurance arrangements**
  Structures that include implausible risks, failure to match genuine business needs, and unnecessary duplication of the taxpayer’s commercial coverages

- **Syndicated conservation easements**
  Promoters targeting taxpayers to take grossly inflated tax deductions

# IRS 2023 Dirty Dozen List – Schemes with international elements

- **Offshore accounts and digital assets** –
  - Attempts to hide assets in offshore accounts and accounts holding digital assets, such as cryptocurrency.

- **Maltese individual retirement arrangements misusing treaty** –
  - Taxpayers attempt to avoid U.S tax by contributing to foreign individual retirement arrangements in Malta.
  - Taxpayer asserts the foreign arrangement as a "pension fund" for U.S. tax treaty purposes and improperly claims exemption from U.S. income tax.

- **Puerto Rican and foreign captive insurance** –
  - U.S. business owners participating in purported insurance arrangement with a Puerto Rican corporation in which they have a financial interest.
  - Arrangements generally lack many of the attributes of legitimate insurance.

# Digital Asset

# Digital Asset – IRS Target

- Per the IRS, unpaid digital-asset taxes are a major contributor to the tax gap of more than $500 billion per year.
- Digital Asset transactions have gone unreported for years until the question appeared on page 1 of the 1040:
  - Digital Assets: At any time during 2022, did you:

    (a) receive (as a reward, award, or payment for property or services); or

    (b) sell, exchange, gift, or otherwise dispose of a digital asset (or a financial interest in a digital asset)?

    ☐ Yes ☐ No

  - Question first appeared in 2019 on Schedule 1 of 1040

# Digital Asset – IRS Target

Per IRS Form 1040 instructions, virtual currency transactions include, but are not limited to:

- Receipt of virtual currency as payment for goods or services provided;
- Receipt or transfer of virtual currency for free that does not qualify as a bona fide gift;
- Receipt of new virtual as a result of mining and staking activities;
- Receipt of virtual currency as a result of a hard fork;
- Exchange of virtual currency for property, goods, or services;
- Exchange and/or trade of virtual currency for another virtual currency;
- Sale of virtual currency; and
- Any other disposition of a financial interest in virtual currency.

# Digital Asset – IRS Target

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- Digital assets are any digital representations of value that are recorded on a cryptographically secured distributed ledger or any similar technology.
- Digital assets include non-fungible tokens (NFTs) and virtual currencies, such as cryptocurrencies and stablecoins.
    - Bitcoin is the first and most well-known cryptocurrency
- If a particular asset has the characteristics of a digital asset, it will be treated as a digital asset for federal income tax purposes.

# What is a Digital Asset – Crypto?

- Cryptocurrency (“crypto”) is a digital currency used as an alternative payment method or as an investment.
- Cryptocurrencies enable people to buy, sell, or trade securely without the need for an authority, such as a government or financial institutions

There are thousands of cryptocurrencies created for specific purposes, but generally, they're used to pay for services or as speculative investments.

Cryptocurrencies are powered by a technology known as blockchain.

Crypto prices are extremely volatile, and the industry is filled with uncertainty.

There are tax consequences to buying and selling cryptocurrencies.

# Types of Cryptocurrencies

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There are more than 1.8 million different cryptocurrencies in existence.

Some of the most common/widely circulated cryptocurrencies:

- ✓ **Bitcoin** is the first and most valuable cryptocurrency.
- ✓ **Ethereum** is commonly used to carry out financial transactions more complex than those supported by Bitcoin.
- ✓ **Cardano** is a competitor to Ethereum led by one of its co-founders.
- ✓ **Litecoin** is an adaptation of Bitcoin intended to make payments easier.
- ✓ **Solana** is another competitor to Ethereum that emphasizes speed and cost-effectiveness.
- ✓ **Dogecoin** has grown to be among the most valuable cryptocurrencies.
- ✓ **Shiba Inu** is another dog-themed token with more complex mechanics.
- ✓ **Stablecoins** are a class of cryptocurrencies whose values are designed to stay stable relative to real-world assets such as the dollar.

# Non-fungible Tokens (NFTs)

- NFTs are digital assets that convey ownership of what could be considered an original copy of a digital file.
- NFTs share many similarities with cryptocurrencies, and they can be bought and sold in many of the same marketplaces.
- However, NFTs are different from cryptocurrencies due to that unwieldy word in their name: non-fungible.
- Cryptocurrencies are fungible, so any unit of a specific cryptocurrency is basically the same as any other.
    - *Example*: My one Bitcoin has the same value as your one Bitcoin.

# NFT – Bored Ape

# IRS Notice 2014-21

- Issued in March 2014 as a FAQ document for taxpayers
- IRS determined that virtual/cryptocurrency is considered property for federal tax purposes
  - Not treated as currency that could generate foreign currency gain or loss
- Taxpayer that receives virtual currency as payment for goods or services must include in gross income the fair market value of the virtual currency
- Virtual currency is treated as property, rather than currency. Therefore, taxpayers must track the basis of each unit of cryptocurrency in order to calculate any potential gain or loss triggered upon sale or transfer.

# Digital Asset – IRS Target

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**Previously, Digital Asset Brokers were not consistent (or compliant) in reporting transactions (i.e., 1099s)**

**There are more than twenty types of 1099 forms, but the 3 most common issued by cryptocurrency platforms are:**

Form 1099-MISC, Form 1099-B, and Form 1099-K.

**This is about to change.**

# Form 1099-Misc for Digital Assets?

- Form 1099-MISC is designed to report 'miscellaneous' income. This form is typically used by cryptocurrency exchanges to report interest, referral, and staking income to the IRS.
- In most cases, exchanges send Form 1099-MISC when a customer has earned at least $600 of income.
- Form 1099-MISC does not contain information about crypto capital gains and losses.
- The exchanges that send Form 1099-MISC to customers:
    - Binance.US
    - BlockFi
    - Coinbase
    - Gemini
    - Kraken
    - Uphold

# Form 1099-B for Digital Assets?

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- Form 1099-B is to report capital gains and losses.
- Form 1099-B contains cost basis and gross proceeds for disposals of property, purchase/sale date.
- Exchanges were not required to issue Form 1099-B (this changed due to the passage of The Infrastructure Investment and Jobs Act passed in 2021).
- Which exchanges send Form 1099-B:
    - BlockFi
    - Cash App
    - eToro USA
    - Robinhood
    - Uphold

**Note:**
Cryptocurrencies are designed to be transferable; 1099-B forms issued may contain incomplete/inaccurate information.

# Form 1099-K for Digital Assets?

- Form 1099-K
  - A form designed to help payment settlement networks report customer transactions to the IRS.
  - Shows the gross volume of all your transactions with a given exchange — whether they are taxable.
- Recently exchanges like Gemini and Coinbase have stopped issuing Form 1099-K because of the confusion they cause.
- Prior to 2022, certain cryptocurrency exchanges issued Form 1099-K to customers with at least $20,000 in transaction volume and at least 200 transactions.
- However, starting in the 2022 tax year, the threshold for 1099-K is $600 in transaction volume and any number of transactions.
- Which exchanges send Form 1099-K to customers:
  - Crypto.com, eToro USA, Venmo

# IRS Regulation - Proposed



- On August 29, 2023, the Department of Treasury and IRS issued nearly 300 pages of proposed regulations.
    - IRS 26 CFR Parts 1, 31, and 301 [REG-122793-19]
- The new **IRS Form 1099-DA** for cryptocurrency, NFTs, and other digital assets was first announced back in 2021, very few details had previously been published.
- The IRS has released details of:
    - Who should be considered a digital asset broker (and therefore required to submit Form 1099-DA),
    - What should be reported on this form, and
    - When regulations start.

**The draft proposal covers:**

- 1099-DA reporting requirements, amount realized and basis, and backup withholding for certain digital asset sales and exchanges.
- Requirement for real estate reporting persons (brokers) to report real estate transactions; to include the fair-market value of digital assets received by sellers in real estate transactions.
- Requirement to file information returns and furnish payee statements for real estate purchasers who use digital assets to acquire real estate.
- Reporting requirements for brokers, including digital asset trading platforms, digital asset payment processors, and certain digital asset hosted wallets on dispositions of digital assets in sale or exchange transactions.

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# Year-End Tax Planning Strategies

# Year-End Tax Planning Strategies

- **Postpone income into 2024 and accelerate deductions into 2023**
- **Required minimum distributions**
  - Required for most taxpayers in 2023, watchout for transition rules
  - Source of additional federal and state withholding
- **Capital loss harvesting**
  - Watchout for wash sale rules
  - Not limited to year-end tax planning
- **Roth IRA conversions, including back door Roth technique**
  - Roth conversions can no longer be reversed if the market value decreases after conversion
  - Tax bracket planning with Roth conversions

# Year-End Tax Planning Strategies

- **Charitable Planning**
  - Gift appreciated stock
  - Watchout for AGI limitations on type of property and charity contributions made
  - Qualified charitable distribution for taxpayers aged 70 ½ or older – up to $100,000
  - Consider bunching strategy for contributions – possible use of Donor Advised Fund

- **Increase 401(k) or HSA deductions for 2023**
  - 401(k) limit for 2023 – $22,500
    - Catchup provision for taxpayers aged 50 or older – additional $7,500
  - HSA limits for 2023
    - Self-only coverage – $3,850
    - Family coverage – $7,750
    - Catchup provision for taxpayers aged 55 or older – additional $1,000

# Year-End Tax Planning Strategies

- **Review tax payments and year-to-date withholding**
  - Evaluate need for 2023 Q4 estimated tax payment – Due 1/15/24
  - Increase tax withholding on wages or retirement distributions
  - Safe harbor provision – must pay lower of 90% of current tax liability or 110% of prior year tax liability (AGI exceeds $150,000 MFJ)
  - Increase in underpayment interest rate charged by IRS

| Year | Q1 | Q2 | Q3 | Q4 |
|---|---|---|---|---|
| 2022 | 3% | 4% | 5% | 6% |
| 2023 | 7% | 7% | 7% | 8% |

# Year-End Tax Planning Strategies

## Estate & Gift Planning
**+2023 & 2024 Inflation Adjustments**

| Tax Year | 2022 | 2023 | Increase | 2024 | Increase |
|---|---|---|---|---|---|
| Lifetime Gift | $12,060,000 | $12,920,000 | $860,000 | $13,610,000 | $690,000 |
| GSTT | $12,060,000 | $12,920,000 | $860,000 | $13,610,000 | $690,000 |
| Annual Exclusion | $16,000 | $17,000 | $1,000 | $18,000 | $1,000 |
| Non-US Citizen Spouse | $164,000 | $175,000 | $11,000 | $185,000 | $10,000 |

- Married couples who split gifts have an additional $1,720,000 in gift & GST exemption in 2023
- Additional $1,000 in annual exclusion gifts for 2023

- Married couples with split gifts have an additional $1,380,000 in gift & GST exemption in 2024
- Additional $1,000 in annual exclusion gifts for 2024

# Thank you!

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