2022 Year-End Planning Checklist

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While we entered 2022 planning for uncertainties around proposed legislative changes, only a minimal number of tax law changes were ultimately passed that would impact wealthy taxpayers. Many of the proposed tax law changes on the table at the start of 2022 were omitted from President Biden's Inflation Reduction Act including closing the tax loophole for carried interests and increasing or eliminating the limitation on the State and Local Tax (SALT) deduction.

As we head into the new year, now is the time to take stock and assess whether your wealth strategy utilizes the appropriate methods to address the current tax law, volatile market, inflationary pressures, and any changes to your goals or family circumstances.

While the deadline for implementing most strategies is December 31, 2022, due to the last-minute rush around the holidays, we anticipate a high volume of requests from clients, and you can expect your attorneys and accountants to be inundated with requests as well. If you require any year-end planning needs, please reach out to a member of your NewEdge team today to discuss your personal situation as soon as possible.

Investment and Income Tax Considerations

- Review your portfolio and rebalance if needed, aligning your investment objective with any changes to your wealth strategy goals.
- Determine your capital gains tax rate and whether adjusting the timing of recognizing capital gains makes sense. For example, if you have a highly concentrated position and are currently in a lower tax bracket, it may make sense to make additional sales in 2022. Current proposals do not call for increased capital gains rates from 2022 to 2023, however, the tax brackets are changing as they are adjusted for inflation. A zero percent capital gains rate applies for single taxpayers with income up to $40,000 (indexed for inflation and $44,625 for 2023) or married taxpayers filing jointly with income up to $80,000 (indexed for inflation and $89,250 in 2023). A 15 percent capital gains rate applies for income above this threshold up to $441,450 for single taxpayers (indexed for inflation and $492,300 in 2023) and $496,600 for married taxpayers filing jointly (indexed for inflation and $553,850 in 2023). The 20 percent capital gains rate applies above these thresholds.
- Manage income tax brackets and consider accelerating income into years when you expect taxes to be lower. Review plans to sell assets, other than publicly traded securities, on an installment basis. Installment sales could result in deferring gains into higher income tax brackets under proposed tax legislation.
- Tax-loss selling. Given the extent to which stocks and bonds have declined this year, tax loss harvesting may be a practical but meaningful planning opportunity for investors holding positions with unrealized losses in taxable accounts. If your capital losses exceed your capital gains, you may use up to $3,000 in additional capital losses to reduce other types of taxable income and carry forward the remainder indefinitely.
- Avoid wash sales. A wash sale occurs when you sell an asset for a loss and then repurchase a substantially similar asset within 30 days. In the case of a wash sale, the IRS prevents the taxpayer from taking the tax deduction for the security sold.
- SALT deduction cap workaround. The Tax Cuts and Jobs Act (TCJA) made significant changes to the federal income tax, including limiting the state and local taxes deduction (the SALT deduction) to

$10,000 for jointly filing taxpayers, unmarried taxpayers, and trusts. In response to the cap on the SALT deduction, many states began to allow qualifying entities required to file tax returns within the state to make an election to pay a pass-through entity tax (PTET), as opposed to the income tax being passed through to the individuals who own the entity. Owners of a pass-through entity can elect to pay tax at the entity level with a corresponding proportionate share of the PTET being claimed as a credit at the individual partner, member, or shareholder level for federal income tax purposes. The deadline to make this election differs by each state.

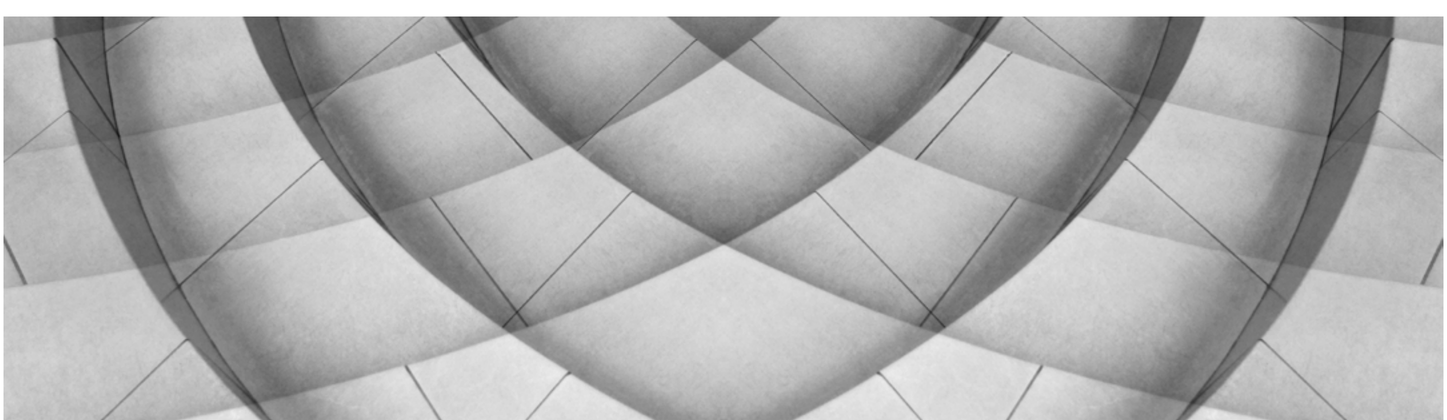
- Mitigate trust income tax and avoid the Medicare surtax with income tax planning. Non-grantor trusts should carefully evaluate beneficiaries' circumstances and tax situations when considering making income distributions to beneficiaries. Trust beneficiaries may be taxed at a lower rate, especially due to the compressed income tax brackets applicable to non-grantor trusts. Additionally, a complex, non-grantor trust with an undistributed annual income of more than $12,500 (adjusted for inflation) will be subject to the 3.8 percent Medicare surtax. However, some or all of the Medicare surtax may be avoided by distributing such income directly to beneficiaries who are below the individual net investment income threshold amount for the Medicare surtax ($200,000 for single taxpayers, $250,000 for married couples filing jointly, and $125,000 for married individuals filing separately).
- Consider state income tax deductions for contributions to 529 plans. However, be aware that this counts towards your $16,000 annual exclusion gift per recipient. Depending on your situation, it may make sense to gift other assets to the recipient and pay tuition to the institution directly.

Align Your Estate Plan With Your Goals and Aspirations

- Review and reconfirm that your foundational estate planning documents are executed and up to date, including a review of asset titling and beneficiary designations. It is important to revise these documents as your life and priorities change.
- Meet with the NewEdge Wealth team to revisit cash flow and projected growth of your taxable estate to reconfirm or implement a wealth transfer strategy for both your personal and business assets.
- Review insurance coverage and reevaluate whether it is owned properly and meets your family's survivorship and estate tax planning needs. Your NewEdge team and its partners can help perform a life insurance analysis and coordinate a review.
- Discuss developing a family education plan to communicate your implemented strategies to the next generation and prepare them for the wealth with your NewEdge team. Families tend to get together over the holidays, which creates an ideal time to start the conversation.
- Don't forget estate planning "freebies." The annual exclusion gift limit remains at $16,000 per donor in 2022. However, in 2023, the annual exclusion for gifts will increase to $17,000. In addition, the limitation on tax-free annual gifts made to noncitizen spouses will increase from $164,000 in 2022 to $175,000 in 2023. Please reach out to your NewEdge team early to avoid the year-end rush.
- Medical and education expenses can be paid without gift tax limitation as long as you pay the medical provider/institution directly. There is no cap on this amount.

Evaluate Advanced Estate Planning Techniques

- For 2022, the federal estate, gift, and generation-skipping transfer (GST) applicable exclusion amounts are $12.06 million per person ($24.12 million per married couple.) The maximum rate for federal estate, gift, and GST taxes is 40 percent, meaning an individual can gift up to $12.06 million in 2022 before triggering the 40 percent federal tax rate. For 2023, the federal estate, gift, and GST applicable exclusion amounts have increased to $12.92 million per person ($25.84 million per married couple.) Consider utilization of the increased federal estate, gift, and GST tax applicable exclusion amounts before they are reduced by the earlier proposed legislation or at the end of 2025 to historical norms.
- Gift assets that have a high likelihood to grow significantly to remove any future appreciation from your taxable estate but recognize the recipient will lose the current benefit of receiving a step-up in cost basis upon your death. You may want to consider retaining low cost basis assets, which would then be included in their taxable estates and receive a step-up in income tax basis while prioritizing high-income tax basis assets for potential lifetime gift transactions. In addition, if a trust beneficiary has unused federal estate tax exemption, it may make sense to consider including flexible language in the trust document that would allow the beneficiary to exercise a power of appointment, resulting in the low income tax basis assets being included in the beneficiary’s taxable estate. We are available to discuss this analysis with you in more detail.
- Assess advanced estate planning techniques such as intra-family loans and installment sales to intentionally defective grantor trusts (IDGTs), grantor retained annuity trusts (GRATs), irrevocable life insurance trusts (ILITs), and spousal lifetime access trusts (SLATs). With these grantor trusts, you may also swap or buy back appreciated low basis assets.
- Take advantage of the current rising interest rate environment by using strategies such as a Charitable Remainder Annuity Trust (CRAT) or a Qualified Personal Residence Trust (QPRT). With a CRAT, the value of the remainder, calculated using the §7520 rate at the time the grantor creates the trust, gives the grantor an income tax charitable deduction. The value of the remainder must reach a minimum threshold; the higher the §7520 rate, the higher the value of the charitable interest. With a QPRT, the higher the rate, the higher the value of the grantor’s right to use the residence as his or her own during the term of years and the lower the value of the gift of the future remainder interest. So as the §7520 rate increases, the taxable gift decreases, making the QPRT a more attractive strategy with higher interest rates.
- If you are holding promissory notes from prior estate planning transactions, from loans to family members, or otherwise, you may consider using some or all of the increased lifetime exemption amounts to forgive these notes.
- Given market volatility, if your existing estate plan utilizes trusts that are subject to GST tax (GST non-exempt trusts), consideration should be given to allocating some or all your increased GST exemption amount to such trusts.



- For married taxpayers, if the value of the assets owned by one spouse is greater than the increased federal exemption amounts and greater than the value of the assets owned by the other spouse, you may want to consider balancing or equalizing the estates. By transferring assets, both spouses would be able to tax advantage of the increased federal exemption amounts, especially the increased GST exemption, which is not portable to the surviving spouse upon the first spouse's death. Taxpayers should be mindful, however, that transfers to non-US citizen spouses are not eligible for the unlimited marital deduction for federal gift tax purposes, and such transfers should stay within the annual exclusion for such gifts ($164,000 in 2022) to avoid federal gift tax.

Charitable Giving Plan Considerations

The TCJA increases the percentage limitation on cash contributions to public charities from 50 percent of the donor's contribution base (generally, the donor's adjusted gross income) to 60 percent. This 60 percent limitation applies if only cash gifts are made to public charities. The deduction limitations remain the same for donations of other assets, such as stock, real estate, and tangible property.

- Donate long-term appreciated assets instead of cash when possible. If you donate long-term appreciated assets such as stocks, bonds, or real estate to charity, you generally do not have to pay capital gains. You can also take an income tax deduction up to the full fair-market value, subject to AGI limitations. The recipient charity receives the full value of the asset and will not be subject to taxes upon any subsequent sales.
- Consider utilizing a Donor Advised Fund (DAF) and evaluate "bunching" a few years of charitable contributions into the current year to increase your itemized deductions above the standard deduction threshold in 2022. You will receive a charitable deduction in the year of contribution but may defer distribution to a public charity to a later year.
- If over age 70 ½, evaluate the tax benefit of using a Qualified Charitable Distribution (QCD) to satisfy up to $100,000 of your required minimum distribution (RMD). The qualified charitable distribution (QCD) rule allows traditional IRA owners to satisfy a portion of their RMD, exclude up to $100,000 from income, and contribute funds directly to charities without itemizing.
  - *Note, you cannot make a QCD to donor-advised funds, private foundations, supporting organizations, or other grant-making organizations.*
- Give away the gain. If you expect to realize significant gains this year from investment transactions or a sale of a business or real estate, consider implementing a charitable strategy to reduce your tax bill on these gains.

Retirement Plans

- Maximize contributions to employer retirement accounts and Health Savings Accounts (HSAs). If contributing to your IRA, the deadline is April 15, 2023.
- Required Minimum Distributions (RMDs) must be taken by December 31, 2022.
- Consider Roth conversions or backdoor Roth IRA contributions. See our article on this subject.
- Review beneficiary designations for retirement plans given most non-spousal beneficiaries are now required to withdraw inherited IRA assets within 10 years of the date of death under the SECURE Act.

Let's talk.

For more information call 855-949-5855 or
visit www.newedgewealth.com.

Sources

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https://www.irs.gov/publications/p526

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