



TAX AND TRUSTS & ESTATES UPDATE

If You Want to Make Gifts to Charities or Others in 2022, Be Sure Those Gifts Are “Completed” This Year for Tax Purposes

As the year end approaches, many of you may want to make charitable gifts that can be deducted this year, or gifts to family or friends to use the 2022 annual gift giving exclusion (\$16,000 per recipient).

If you’re a “last minute” gift giver, how can you ensure that your gift will conclusively be “made” in 2022?

In all events, you must unconditionally deliver the gift to the recipient (or an agent of the recipient) in 2022.

- A charge to a credit or debit card in favor of the recipient in 2022 is a completed gift.
- Delivery of an endorsed stock certificate to the recipient or an agent of the recipient in 2022 is a completed gift. Delivery of an endorsed stock certificate to anyone else (e.g., your stockbroker, or the corporation’s transfer agent) is not good enough, unless the transfer is actually recorded on the corporate books in 2022.
- A check mailed to a charity in 2022 is good enough. But if you are making a gift to an individual, the check should be paid, certified or accepted by the bank for payment, or negotiated to a third party for value before the end of 2022. The IRS may (but don’t rely on this when you make your 2022 gifts) view the gifts as consummated in 2022 if the check was unconditionally delivered in 2022 (and intended to be a gift), presented at the bank for payment within a reasonable period of time after delivery, and honored while the donor was alive (IRS Revenue Ruling 96-56).

Remember that just dating a check in 2022 will not in and of itself be enough under any circumstances.

And if you are considering gifts with any complications (e.g., through trusts, etc.), you need to get started immediately if you want to consummate those gifts by year end.

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Finally, you should consult your tax advisor before you make your year-end charitable gifts. It may make sense to accelerate 2023 gifts in 2022, or to defer 2022 gifts into 2023, depending upon which year is expected to have larger itemized deductions for you.

2023 Inflation Adjustments Provide Significant Planning Opportunities

With the new year will come new inflation adjustments for a number of tax-related items. As families and businesses are feeling the pinch of high inflation, the substantial inflation-adjusted tax changes coming in 2023 can provide meaningful benefits and planning opportunities. Some of the more significant changes that will take effect on January 1, 2023, are listed below.

Estate and Gift Adjustments

Unified Credit Against Estate, Gift, and Generation-Skipping Transfer (GST) Taxes: The basic exclusion amount is now \$12,920,000 (up from \$12,060,000) for a single person and \$25,840,000 for a married couple (up from \$24,120,000).

The New York exemption from state estate tax has increased to \$6,580,000 in 2023, up from \$6,110,000 in 2022.

New Jersey continues to have no estate tax for residents who passed away after December 31, 2017, but the New Jersey inheritance tax remains in place.

Annual Gift Tax Exclusion: The first \$17,000 (up from \$16,000) to any person, other than gifts of future interests in property, is not included in the total amount of taxable gifts made during the year by a single person.

Annual Exclusion for Gifts to a Non-Citizen Spouse: The first \$175,000 (up from \$164,000) of gifts to a spouse who is not a citizen of the United States, other than gifts of future interests in property, is not included in the total amount of taxable gifts made during the year.

The \$100,000 threshold for reporting gifts or bequests from a nonresident alien or foreign estate did not increase in 2023; accordingly, gifts in excess of \$100,000 during the year 2023 from a nonresident alien or foreign estate must be reported.

Personal Income Tax Adjustments

Application of the Highest Tax Rate: The tax rate of 37% affects single filers whose income exceeds \$578,125 (up from \$539,900) and \$693,750 for married joint filers (up from \$647,850).

Standard Deduction: The 2023 standard deduction rises to \$13,850 for single filers (up from \$13,050) and to \$27,700 for married couples filing jointly (up from \$25,900).

Exemption Amounts for Alternative Minimum Tax: The 2023 Alternative Minimum Tax exemption amount is \$81,300 for single filers (up from \$75,900) and \$126,500 for joint filers (up from \$118,100).

Retirement Saving Adjustments

Retirement Plan Contribution Limits: The contribution limit for 401(k), 403(b) and 457 plans is \$22,500 in 2023 (up from \$20,500), with the additional catch-up contribution limit for these plans for taxpayers who are age 50 or older has increased to \$7,500 (up from \$6,500). The maximum contribution to IRAs is \$6,500 (up from \$6,000), with the additional catch-up contribution limit for taxpayers who are age 50 or older remaining at \$1,000.

Deduction for Traditional IRA Contributions: The deduction for a traditional IRA for single people and heads of household covered by a workplace retirement plan will phase out at adjusted gross income between \$73,000 and \$83,000 (up from between \$68,000 and \$78,000). For married couples filing jointly, the income phase-out will be between \$116,000 and \$136,000 when the IRA contributor is covered by a workplace retirement plan (up from between \$109,000 and \$129,000), and between \$218,000 and \$228,000 (up from between \$204,000 and \$214,000) when the IRA contributor is not covered at work but is married to someone who is.

Maximum Roth IRA Contributions. For Roth IRAs, the income phase-out range is between \$218,000 and \$228,000 for married couples filing jointly (up from between \$204,000 and \$214,000). For singles and heads of household, the income phase-out range is between \$138,000 and \$153,000 (up from between \$129,000 and \$144,000).

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