2023 Tax Outlook –

Challenges, Opportunities & Updates

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Kreischer Miller
Center for Private Company Excellence

Agenda

1. Employee Retention Credit update
2. Research & Experimental Amortization impact for 2022 tax returns
3. Key tax provisions in the Secure 2.0 Act
4. Tax provisions set to expire under TCJA
5. New reporting requirements for companies – Beneficial Ownership
6. A look ahead at year-end tax planning

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Employee Retention Credit
What's New

- IRS has released updated FAQs on July 27, 2023
    - **Q1. Is every business eligible for the Employee Retention Credit?**
        - A1. No.
- Qualifications – Not New but….
    - Decline in Gross Receipts
    - Government Order / Fully or Partially suspended
        - Supply chain disruptions
- IRS Office of Chief Counsel released a **GLAM** to clarify their position on the intersection of supply chain disruptions and full or partial suspension of business

Employee Retention Credit
What's New

- Qualifying Orders
  - Government Order – local, state, federal
    - Order from the city's mayor stating that all non-essential businesses must close
    - State's emergency proclamation that residents must shelter in place
    - Order from a local official imposing a curfew on residents that impacts the operating hours of your trade or business
  - Fully or Partially Suspended doesn't qualify if:
    - Employees were able to telework and business continued to operate,
    - Customers were affected by a stay-at-home order, but no orders applied to your business operations
    - Voluntarily closed your business or reduced hours of operation
  - Supply Chain Issue
    - By itself does not qualify for ERC
    - Limited exception
    - Applicable only when the employer absolutely could not operate without the supplier's product and the supplier was fully or partially suspended themselves

Employee Retention Credit What's New

- Be wary of solicitations
  - 9 Warning Signs of Aggressive ERC Marketing
  - NJ tax preparer claimed $124 million in fraudulent credits
- 2020 credit - the deadline is April 15, 2024
- 2021 credit - the deadline is April 15, 2025
- Penalty/interest after statute of limitations (SOL)
  - 2021 claims 5 year SOL
  - 2021 business/personal tax return – 3 year SOL

Click here to read this recent article on 9 Warning Signs for Employee Retention Credit Scams

Polling Question

Research & Experimental Amortization Update

- Starting in 2022, Companies can no longer deduct R&E costs immediately
- Required capitalization of R&E expenditures beginning for 2022 tax years spreads those expenses over time
- Law change part of delayed implementation of TCJA passed in 2017
- Amortized over **5** years for US expenditures or over **15** years for foreign based research
- Legislative action pending in Congress, to no avail

Research & Experimental Amortization Update

Five-Year Amortization Schedule (mid-year convention)
R&D Capitalizable Expenses = $1,000,000

Year	Amortization	Deductible Amount	Remaining Amount
0 (Current Year)	10%	$100,000	$900,000
1	20%	$200,000	$700,000
2	20%	$200,000	$500,000
3	20%	$200,000	$300,000
4	20%	$200,000	$100,000
5	10%	$100,000	$0

Research & Experimental Amortization Update

- 2022 tax returns (12/31) due to be filed by September 15th and/or October 15th
- Although there is bipartisan support, it appears increasingly unlikely that there will be a repeal of the R&E capitation requirement prior to September 15th
- 2023 estimated tax payments??
- What would a repeal look like?

Polling Question

Key Provisions from SECURE 2.0

- July 14, 2023 – IRS released Notice 2023-54 to provide guidance regarding Required Minimum Distributions (RMD) pursuant to SECURE ACT 2.0 of 2022
- Provides transition relief for plan administrators, payors, plan participants, IRA owners, and beneficiaries relating to the RMD changes, for 2023
- Final regulations (once issued) regarding RMDs will apply for calendar years beginning no earlier than 2024.

Required Minimum Distributions Update

- SECURE Act of 2019 – increased the RMD from 70 ½ to 72 years
- SECURE 2.0 Act of 2022
  - Enacted December 29, 2022
  - Increased the RMD from 72 to 73 years for those born between 1951 and 1959
  - 75 for those born in 1960 or later
- July 14, 2023 Notice
  - Extension to September 30, 2023 to roll distributions between January 1, 2023 and July 31, 2023.
- Example: You turn 72 years old in 2023 (born in 1951)
  - First RMD will be for 2024 (the year you turn 73)
  - Can be taken as late as April 1, 2025 but then the 2nd payment must be taken by December 31, 2025.

Inherited IRAs - Update

- SECURE Act of 2019
    - Changed to 10-year payout requirement
    - How does the 10-year rule work?
- February 2022 Proposed Regulations
    - Rule differs based on whether the original IRA owner dies before or after the first beginning date for taking RMDs
    - Before - take annual distributions, they can wait until year 10 to take out all the money, or they can skip years,
    - After - annual RMDs must be paid to the beneficiary in years 1 through 9, with the rest of the account fully depleted by year 10
    - Requiring distributions from inherited plans to begin immediately in the year after the participant's death

Inherited IRAs - Update

- October 2022 Notice
  - Relief to beneficiaries who failed to take RMDs in 2021 or 2022 under the 10 yr. rule

- July 2023 Notice
  - Relief to beneficiaries who failed to take RMDs in 2023 under the 10 yr. rule

Catching Up with 401(k)

- Catch-up Contributions into 401(k) will be designated as Roth contributions
    - *Will not receive pre-tax treatment*
- Effective January 1, 2024
- Earning more than $145,000 and 50 years old
- Mandatory and requires plans to be amended
- 2023 - $7,500 catch-up
- 2024 – adjusted for inflation
- Possible delay
- Doesn’t apply to IRAs

$7,500 Catch-Up Contribution
37% bracket - $2,775 deduction
35% bracket - $2,625 deduction
22% bracket - $1,650 deduction

TCJA Sunsets

- Tax Cuts and Jobs Act of 2017
- Many provisions scheduled to sunset after December 31, 2025

TCJA Sunsets

Tax Provision	Current Law	Post-2025
Highest marginal tax bracket	37%	39.6%
Qualified Business Income "QBI" Pass-through Deduction (Section 199A)	Eligible Taxpayers receive up to 20% deduction of business income	20% deduction eliminated
Alternative Minimum Tax (AMT)	Applies to relatively few taxpayers given high exemption amounts	AMT would apply to more taxpayers due to lower exemption and income phaseout amounts
Child Tax Credit	$2,000 per qualifying child (under Age 17); $500 for other dependents; Phaseout begins at $200,000/$400,000	$1,000 per qualifying child with income phaseouts beginning at $75,000/$110,000

TCJA Sunsets

Tax Provision	Current Law	Post-2025
Standard deduction	$13,850 individuals; $27,700 married	Reduced roughly in half; was previously $6,350 individuals; $12,700 married
State and Local Income Tax Deduction	Limited to $10,000 Cap	No limit
Mortgage interest deduction	Up to $750,000 indebtedness	Up to $1M indebtedness
Interest on home equity debt	Not available*, unless used for purchase/construction/improvement of home*	Available up to $100K of HELOC
Limitation on Itemized Deductions "Pease Limitation"	Repealed 2018 through 2025	Reinstated; Cap on total allowable itemized deductions
Limitation on cash charitable contributions	Limited to 60% of AGI	Limited to 50% of AGI
Miscellaneous itemized deductions	Not available	Available in excess of 2% of AGI, including investment fees, un-reimbursed work-related expenses

TCJA Sunsets

Year	Bonus Depreciation Percentage
2022	100%
2023	80%
2024	60%
2025	40%
2026	20%
2027	0%

Some small businesses may still be able to maintain immediate expensing using Section 179 rules,

- Subject to net income limitations; and
- Subject to caps on equipment purchases

Looking Ahead – TCJA Sunsets

- Carefully consider timing of deductions – immediate or over time?
- Equipment/property additions-- management of “placed in service” dates
- “Reverse” tax planning in a rising tax rate environment
    - Accelerate Income
    - Defer Deductions
- Re-evaluation of entity structure (LLC v. S Corporation v. C Corporation)

Estate and Gift Tax

Tax Provision	Current Law (2023)	Post-2025
Lifetime Gift and Estate Tax Exemption	$12.92 million	Estimated $6.4 million*

** Figure estimated as of August 2023; Based on estimate of $5 million exemption in 2020 indexed for inflation through 2025*

Polling Question

Beneficial Ownership, new compliance requirements

- Established by the Corporate Transparency Act "CTA"
- Requires business entities to identify to the Treasury Department individuals who own 25%* or greater interest
- New informational filings required in 2024
- Entities formed **before** 2024 have **until Jan 1, 2025** to file
- Entities formed **after** 2023 will be required to file **within 30 days of registration**

* *Directly or indirectly*

Beneficial Ownership, new compliance requirements (cont.)

- Filing requirement will generally apply to every entity with $5 million or less in annual US revenues or 20 or less full-time US employees.
- Changes in information must be promptly reported (within 30 days)
- Penalties could accrue at $500 per day, up to a maximum of $10,000

- Beneficial Ownership Information Reporting | FinCEN.gov - Frequently Asked Questions

Looking Ahead – 2023 Planning

- Traditional tax planning approach
- Defer income and accelerate deductions
- Manage income tax brackets
- Maximize retirement contributions where possible
- Consider state tax planning opportunities (529 plans, etc.)

- *Reference supplemental materials for 2023 tax rates*

2023 Year-End Tax Seminar & Client Appreciation

When: November 16, 2023

Where: Alloy Hotel – King of Prussia

Time: 2:00pm – 6:30pm

Polling Question

Supplement - 2023 Federal Income Brackets

Tax Rate	Joint/Surviving Spouse	Single	Head of Household	Married Filing Separately
10%	$0 – $22,000	$0 – $11,000	$0 – $15,700	$0 – $11,000
12%	$22,001 – $89,450	$11,001 – $44,725	$15,701 – $59,850	$11,001 – $44,725
22%	$89,451 – $190,750	$44,726 – $95,375	$59,851 – $95,350	$44,726 – $95,375
24%	$190,751 – $364,200	$95,376 – $182,100	$95,351 – $182,100	$95,376 – $182,100
32%	$364,201 – $462,500	$182,101 – $231,250	$182,101 – $231,250	$182,101 – $231,250
35%	$462,501 – $693,750	$231,251 – $578,125	$231,251 – $578,100	$231,251 – $346,875
37%	Over $693,750	Over $578,125	Over $578,100	Over $346,875

Supplement - 2023 Federal Long Term Capital Gains Brackets

Long-Term Capital Gains Tax Rate	Joint/Surviving Spouse	Single	Head of Household	Married Filing Separately	Estates & Trusts
0%	$0 – $89,250	$0 – $44,625	$0 – $59,750	$0 – $44,625	$0 – $3,000
15%	$89,251 – $553,850	$44,626 – $492,300	$59,751 – $523,050	$44,626 – $276,900	$3,001 – $14,650
20%	Over $553,850	Over $492,300	Over $523,050	Over $276,900	Over $14,650

Planning Observation – Capital Gains are still subject to the 3.8% Net Investment Income Tax

Supplement - 2023 Retirement and Medical Savings Plans

401(k) Plans

- $22,500/year
- $30,000/year for age 50 or older with catch-up of $7,500
- Maximum eligible compensation base is $330,000

IRA Contributions

- Deductible contributions up to $6,500 ($7,500 for age > 50)
- AGI max phase-outs for deductible contributions
  - Single: $83,000
  - MFJ: $136,000 if covered by workplace plan
  - MFJ: $228,000 if spouse covered by workplace plan

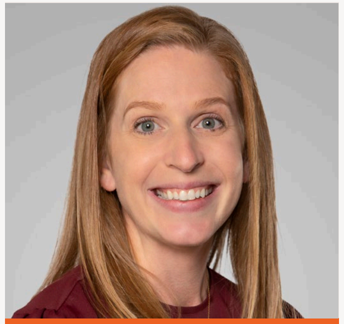
ROTH IRA Contributions

- $6,500 contribution ($7,500 for age > 50)
- AGI max phase-outs for contributions
  - Single: $153,000
  - MFJ: $228,000
- Back-door ROTH still viable for non-deductible contributions

FSA and HSA Contributions

- FSA Max Deferral: $3,050
- FSA Rollover to 2024: maximum of $610
- HSA Max Deferral
  - Single: $3,850
  - Family: $7,750
  - HSA Catch-up contributions $1,000

Contact the Presenter



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Katrina is a Director in Kreischer Miller's Tax Strategies group. Katrina serves as a proactive and responsive tax advisor to her clients' needs including tax compliance, tax planning, and tax research for corporations, partnerships, trusts, and high-net-worth individuals. She is forward-looking to keep her clients compliant and well informed on the changing tax landscape.

Katrina works with a broad range of privately-held businesses including those in the manufacturing, distribution, construction, real estate, and service industries.

Contact the Presenter

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Kate is a Director in Kreischer Miller's Tax Strategies group. Kate has experience providing tax and business advisory services to various industries. She enjoys working with business owners and key personnel to assist with various tax matters including tax planning, tax compliance, cost segregation studies, research and development tax credits, business growth, and succession planning.

Kate works with an extensive range of industries, including construction, real estate, distribution, and manufacturing.

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