New in TY2022 and TY2023: For Our U.S. Taxes

The filing of Tax Year 2021, while different than 2020, was difficult in its own ways. Because the new tax laws effecting 2020 came into effect, the IRS was overwhelmed, there was so much confusion, and because the IRS was difficult to reach, it became an even tougher year for tax preparers and taxpayers. We tend to forget that the IRS is made up of people – so they were sick or had died and so the IRS was understaffed and underfunded. The funding has been addressed, but the backlogs continue as the IRS slowly whittles them down.

The EIP 1,2 & 3 (Economic Impact Payments) required special reconciliation and so this bogged down processing especially for those who claimed they had not received them. If you are among those who did not receive them, but the IRS thinks you did and so denied your claim of unpaid EIP's with the 2020 and 2021 returns, you can still make your claim for them, but no longer through a tax return. You will need to make the claim with Form 3911 (lost/stolen refund). This can be a very frustrating process, because they will first have to verify that your refund was never cashed or not cashed by you and send a paper check which can also go missing or take weeks to come through the mail.

The Taxpayer Advocate Service (TAS) has made recommendations for improving things in 2022, but it is not known yet whether the IRS is going to be able to implement any such suggestions in time to make a difference. However, they have hired new personnel to answer the phones, which would be a huge relief. They have also set up at least some of the call systems for call backs, instead of waiting on hold, as that has helped. Of course, if you can't even get into a queue, then it's moot. They are also making more information available on-line to taxpayers, so that you may not need to call, but can simply check your own IRS account.

Those of us living abroad continue to be under attack with tax policies which have become more difficult to understand and follow. As has been the case for many years, I understand that there is a bill being proposed which would reduce some of this living abroad reporting burden, make policies fairer, and perhaps establish taxation based on residency, but it is not known when it will appear for debate and a vote. Although Republicans would normally be the ones for tax simplification such as this, their recent xenophobic bent has somehow managed to push this issue into the hands of the Democrats who have taken up the cause. Now that Congress is in bipartisan hands perhaps some bipartisan legislation can make it past cloture. Make your voice heard with your Representative and Senator.

Although the proponents of the TCJA promised that more taxes would be collected because of economic growth, we now know for certain that this has not been the case and so the law was not ever sustainable, even before Covid-19 and with the proposed tax increases in future years. This accounts for the debt which continues to rise. You can be sure that the increasing debt will be stressed by Republican candidates in the years ahead, but be sure to hold them to the fact that the tax law made under Trump cannot ever collect enough taxes to cover expenditures, and so we are doomed to have debt rise as long as nothing changes. Common sense requires that taxes be raised among those with the very highest incomes (none of my clients nor anyone you probably know) – tinkering with deductions will not be enough. New laws will be needed to address this law's shortcomings and our increasing debt. So, this could be addressed by the new administration - perhaps in 2022 or 2023. One would think it could be a bipartisan effort, given that no party wishes to be the party that increases taxes.

Although the IRS continues to fight tax fraud, they are placing more and more of the burden on tax preparers and taxpayers, which as some of you found in the last two years, resulted in a verification process which delayed refunds by weeks and months, and which I was unable to help you with because the IRS would not allow it. I expect this will continue in 2023 although I understand it is now easier to do the verification on-line rather than by phone only. This is one of the benefits of the pandemic – that the IRS was forced to shift to on-line access.

Fortunately for those of us living abroad, they also realized the necessity of using mailing addresses so that correspondence (and checks) don't go into the wrong hands or get returned to the IRS. For all these reasons, it is even more important to use a mailing address that is safe and reliable, so that you receive all correspondence from the IRS and let me know about any IRS communications as soon as possible.

This year, the IRS has opened up the ID Protection PINs program to all taxpayers to tackle fraud. You must make a request to receive the PIN. If you take the IRS up on this offer, please be sure to include that PIN information to me for e-filing.

Tax Changes for 2022:

Most major changes: 1) child tax credits reduced from pandemic period increases, 2) charitable donations must be itemized (no longer direct deduction on Form 1040 as during pandemic), and 3) IRA RMD initial age changes.

The law also was to reset the Form 1099-K income threshold, but this has been delayed to 1 Jan 2023 (i.e. it's in effect this current year (2023), so be aware of your transactions that would trigger the 1099-K issued at the $600 threshold. There is a bill pending that would raise that limit to $5000, so it's possible the limit amount will change again. Third party payers impacted are Vendo, PayPal, etc., although Zelle seems not to be affected at this point (subject to change at any time). Please note that all income whether reported on a 1099-K or not is still reportable. However, transfer between family members or friends for gifts and the like, nor rent, should not be on a 1099-K, but how the issuer is going to determine that is not clear. However, it will be up to you to ensure the 1099-K information is correct.

This is a progressive tax system, so that different rates will apply differently to different households and types of income. Each level of income is taxed at a progressively higher rate. **However, l**ong-term (LT) capital gains and qualified dividends are taxed at lower rates than ordinary income (see the capital gains tax rates), which are dependent on the level of income overall. These tax brackets do not match up perfectly with the ordinary income brackets above, so be aware of how your other income will affect the tax rate applied to LT capital gains.

2022 Tax Rates									
Tax Rate		**Single**		**Head of Household**		**Married Filing Separately**		**Married Filing Jointly / Qualifying Widow or Widower**	
Ordinary Income	*Long Term Capital Gains and Qualified Dividends*	*Taxable Income over*	*to*	*Taxable Income over*	*to*	*Taxable Income over*	*to*	*Taxable Income over*	*to*
10%	0%	$0	$10,275	$0	$14,650	$0	$10,275	$0	$20,550
12%	0%	10,276	41,675	14,651	55,800	10,276	41,675	20,551	83,350
12%	15%	41,676	41,775	55,801	55,900	41,676	40,775	83,351	83,550
22%	15%	41,776	89,075	55,901	89,050	40,776	89,075	83,551	178,150
24%	15%	89,076	170,050	89,051	170,050	80,076	170,050	178,151	340,100
32%	15%	170,051	215,950	170,051	215,950	170,051	215,950	340,101	431,900
35%	15%	215,951	459,750	215,951	488,500	215,951	258,600	431,901	517,200
35%	20%	459,751	539,900	488,501	539,900	258,601	323,925	517,201	647,850
37%	20%	539,901	--	539,901	--	323,926	--	647,851	--

This is not an exhaustive list of all changes but it gives the highlights, especially for those filing from abroad. Items affected by inflation or cost of living adjustments, of course, have adjusted.

- **Standard Deductions:** Increase slightly from 2021 to Single & Married Filing separately $12,950; Head of Household $19,400; and Married Filing Jointly $25,900. Additional for age or blindness is $1400 for MFJ and $1750 for Single & HOH.

- **Child Tax Credit: Age limit reverts to 13 years old and younger and amounts also revert to 2019 levels.** A child must have an SSN to qualify for the Child Tax Credit (an ITIN is not sufficient), but they can qualify for the Additional Child Tax Credit with an SSN or ITIN, however foreign children with an ITIN must be residents of the USA. Beginning in 2018, the child's SSN must have been obtained by the due date of the return (including extensions). No Advanced Child Tax Credit.

- **Premium Tax Credit:** The PTC was expanded so that more people may be eligible – and so the IRS is sending out Letter 6534 to this effect. I received one even though I live outside the USA but use a US mailing address. I suspect many of my clients will have received this letter, too. Please be aware that if you reside outside the USA, then you are not eligible for ACA and so the PTC does not pertain to you – no matter where your mailing address is located.

- **Individual tax-free gift limit**: Remains $16,000. The 2022 annual exclusion to a foreign spouse is $164,000. The lifetime gift and estate tax exemption is $12.06 million.

- **IRA contribution limits:** $6000, or $7000, if over age 50. Remember, that spouses who are retired, can still contribute to an IRA, if their spouse is working (and has enough unexcluded income to contribute for both).

- **Itemized Deductions:** Of the few remaining itemized deductions, we have the following changes in 2021:
  - Medical: **7.5% of AGI threshold for all** and this threshold has been made permanent. The **Long-term care insurance premiums** maximum deductions **rose slightly depending on age**. Flexible Spending Accounts annual dollar limit will be **$2,850**. For Health Savings Accounts, the annual deductible amounts will be **$7,300** for families and for singles will be **$3,650**. Catch-up amount for those over 50 years old is $1000.
  - State & Local (Sales, Income & Property) Taxes: Limited to $5000 per person (MFJ: $10,000) and foreign property taxes are no longer deductible on Schedule A. However, property taxes are deductible for rental properties (Schedule E), businesses (Schedule C), and farms (Schedule F).
  - Job Expenses and Miscellaneous Deductions subject to 2% Floor: Miscellaneous deductions which exceed 2% of your AGI were eliminated for the tax years 2018 through 2025. This includes deductions for unreimbursed employee expenses, tax preparation expenses, and some investment expenses. *If, as a business owner, you typically file a Schedule C, your business-related deductions are not affected by the elimination of Schedule A deductions. Similarly, rental expenses are not affected.*
  - Overall Itemized Deductions Limit: There will be no limit to total itemized deductions for years 2018 – 2025.

- **QBI Deduction: It's important to note that the QBI deduction is not taken on your business return nor Schedule C, so it does not reduce your self-employment tax.** Income limits are for businesses that are not a Specified Service Business (defined by the IRS as any business involving the performance of services in the fields of health, law, consulting, athletics, financial services, brokerage services, or "any trade or business where the principal asset of such trade or business is the reputation or skill of one or more of its employees or owners). Also, this is only a deduction for *domestic* business income, **so foreign income does not count.** There are income limits for taking this deduction and phaseouts for specified service trades or businesses. Those with pass-thru business income from partnerships and S Corps may benefit from this deduction (but not for foreign income). The calculation of this deduction is too complex to detail here. Rentals are generally passive income and so do not qualify. Foreign businesses are not eligible. I generally have no client that is eligible for this, except through a K-1.

- **Alternative Minimum Tax (AMT):** Now tied to inflation. Exemption amounts are $75,900 for S & HOH taxpayers and $118,100 for those filing MFJ. The phaseout thresholds are $539,900 for unmarried taxpayers and $1,079,800 for MFJ.

- **ACA still in effect for the premium tax credit.** Forms 1095 (A, B, or C) must be issued by March 31st and 1095-A's are required for the return.

- **Standard Mileage Rates**:
  - Business miles **(period 1 Jan – 30 June): 58.5 cents/mile (higher)**
  - **Business miles (period 1 July – 31 Dec): 62.5 cents/mile (even higher)**
  - Medical or moving miles **(period 1 Jan – 30 June)**: **18 cents/mile (higher)**
  - **Medical miles ((period 1 Jan – 30 June): 22 cents/mile (even higher)**
  - Charitable miles: 14 cents/mile (unchanged)
  - Depreciation miles: 26 cents/mile (unchanged)

- **Meals deduction**: In mid-2020, the IRS clarified that meals expense for taking out potential clients, for example, is still deductible, but entertainment expenses (eg. tickets to a ball game) are no longer deductible. Previously, they had stated meals and entertainment were no longer deductible.

- **Foreign-earned income exclusion is $112,000** (adjusts annually to inflation).

- **Social Security tax (6.2%).** The maximum earnings subject to this tax **increase to $144,000**. **The COLA was 5.9% for benefits received beginning January 2022**. If under full retirement age for the entire year, SSA deducts $1 from benefit payments for every $2 earned above the annual limit. For 2022, that limit was $19,560. In the year you reach full retirement age, we deduct $1 in benefits for every $3 you earn above a different limit.

- **401Ks.** The maximum allowable contribution to 401K pension plans without the need to pay upfront taxes remained $20,500 in 2022. Those over 50 years old will have an increased catch-up contribution bonus of $6,500 for a maximum of $27,000 total. Foreign-earned income excluded from income tax cannot be used to make a contribution.

- **Estate Tax Exclusion** increases to $12,060,000. This is for the one-time estate reporting (Form 706). For the reporting of annual estate income (Form 1041), the tax rate is 24% starting with just $2651, 35% for $9,551, and 37% for $13,051.

- **Required Minimum Distributions**: not required until age 72 in 2022, and in 2023 this is increased to age 73. If you turned 72 during 2022, then you will have to take an

RMD by 1 Apr 2023 and then another by 31 Dec 2023. These changes can allow you to "grow" your IRA an additional year (or two) and a half before having to draw from it, but it can also mean that your annual RMD's will be greater, so your taxes in those future years could be greater. For 2020 and later, there is no age limit on making regular contributions to traditional or Roth IRAs, as long as you have earned income.

- **Form 1040NR removed the naming of the spouse, making the ITIN for a spouse unnecessary in this situation.**
- **ITIN renewals must now be accompanied by a tax return to prove that the ITIN continues to be of benefit to the holder or the family. Unfortunately, for those filing MFS with a foreign spouse on a Form 1040, the foreign spouse is not of tax benefit, so the spouse is no longer eligible for an ITIN and so the returns can no longer be e-filed.**
- **Due Diligence:** The IRS continues to require due diligence statements for EITC, Child Tax Credits, and Head of Household filing status. For the latter, the IRS is requiring each taxpayer claiming head of household to verify they are paying at least ½ of the household living expenses. **I will need the HOH worksheet filled out (downloadable from my website). I will also need the birth certificate and passport for each dependent.**

Tax Changes in 2023 (e.g. to consider when planning 2022 and estimating 2023 taxes):

Some tax legislation seems likely during 2023, so it is possible that some information could change for 2023, but more likely to impact the years after 2023.

2023 Tax Rates									
Tax Rate		**Single**		**Head of Household**		**Married Filing Separately**		**Married Filing Jointly / Qualifying Widow or Widower**	
Ordinary Income	*Long Term Capital Gains and Qualified Dividends*	*Taxable Income over*	*to*	*Taxable Income over*	*to*	*Taxable Income over*	*to*	*Taxable Income over*	*to*
10%	0%	$0	$11,000	$0	$15,700	$0	$11,000	$0	$22,000
12%	0%	11,001	44,625	15,701	59,750	11,001	44,625	22,001	89,250
12%	15%	44,626	44,725	59,751	59,850	44,626	44,725	89,251	89,450
22%	15%	44,726	95,375	59,851	95,350	44,726	95,375	89,451	190,750
24%	15%	95,376	182,100	95,351	182,100	95,376	182,100	190,751	364,200
32%	15%	182,101	231,250	182,101	231,250	182,101	231,250	364,201	462,500
35%	15%	231,251	492,300	231,251	553,050	231,251	276,900	462,501	553,850
35%	20%	492,301	578,125	553,051	578,100	276,901	346,875	553,851	693,750
37%	20%	578,126	--	578,101	--	346,876	--	693,751	--

This table reports both the ordinary income and the capital gains rates. Under TCJA these rates no longer match up perfectly.

- **Standard deductions** for a married couple filing jointly (MFJ) will be $27,700 and for head of household will be $20,800. For single filers and married couples filing separately (MFS), the standard deduction will be $13,850. The additional deductions for those over 65 or blind are $1500 when filing MFJ or $1850 for Single or HOH.
- **Child Tax Credit:** remains maximum child tax credit is $2,000 per child.
- Individual tax-free **gift limit**: **Increases to $17,000**. The lifetime gift and estate tax exemption is $12.92 million. Foreign spouse gift limit will be $173,000.
- **IRA Contribution limits:** $6500, or $7500 if over age 50. There is no age limit for making an IRA contribution, as long as you have earned income that is not excluded.

- **Itemized Deductions:** Of the few remaining itemized deductions, the deductions are unchanged for 2023.
- **Qualified Business Income Deduction (Section 199A; aka 20% pass-through deduction):** If the business earns more than $182,100 for unmarried people or $364,200 for MFJ. Not relevant for SSB's, foreign income, and foreign businesses.
- **AMT** (Alternative Minimum Tax): Those exempted from this tax will have income below these amounts: Single $81,300; MFJ $126,500, and MFS $63,250.
- **Standard Mileage Rates**:
    - Business miles: **65.5 cents/mile (higher)**
    - Medical or moving miles: 22 cents/mile (unchanged)
    - Charitable miles: 14 cents/mile (unchanged)
- **Foreign-earned income exclusion is $120,000**. Earned income does **not** include rental income nor investment income, which are passive.
- **Social Security tax (6.2%).** The maximum earnings subject to this tax **increased to $160,200**. The COLA is **8.7%.** If under full retirement age for the entire year, SSA deducts $1 from benefit payments for every $2 earned above the annual limit. For 2023, that limit is $21,240. In the year you reach full retirement age, we deduct $1 in benefits for every $3 you earn above a different limit.
- **401Ks.** The maximum allowable contribution to 401K pension plans without the need to pay upfront taxes is $22,500 in 2022. Those over 50 years old will have the same $7,500 catch-up contribution bonus for a maximum of $30,000. One cannot use foreign-earned income that has been excluded for income taxes to make this or any retirement plan contribution.
- **Due Diligence**: The IRS continues to require due diligence statements for EITC, Child Tax Credits, and Head of Household filing status.

Continuing issues to keep in mind each year

The IRS has made progress in reducing cyberattacks and tax fraud, but both tax preparers and taxpayers must remain vigilant. I have been coding sensitive documents for years (which is now required of all tax professionals) but **the passcode requirements have stiffened – at least 12 digits and must contain both cases, special characters and numbers and must be random (no formulas). Please be aware that your own documents need to be coded and protected as well for your security. If you passcode your documents sent to me, please don't forget to let me know the passcode! Also, as previously mentioned, the IRS is now offering ID Protection PINs for all taxpayers, which you must request from the IRS. If you get one, please notify me so we can e-file successfully.**

The IRS has of course updated their main individual tax publication (Pub. 17) for 2022. You can access it, and all other IRS publications and information, on their website at www.irs.gov. But if you do not want to read the ridiculously long Publication 17 or have a specific question, please contact me.

FATCA went into effect on 1 July 2014. In January 2015, the IRS opened up the IDES registration for financial institutions and foreign countries to begin reporting to the IRS on their account holders who are US persons (individuals, corporations, partnerships, etc.) with highest balances of more than USD 50,000. If you have any non-USA accounts that may have had a value of more than USS 50,000 over the last year (or a sum of your highest balances for each foreign account of USD10,000 for FBAR), you will need to report it where appropriate on the tax return (Schedule B, Part III and possibly Form 8938) and FBAR (Form 114). If in prior years, you have not reported such financial accounts on an FBAR or have not reported any income (interest, dividends, or capital gains) earned from such accounts or on the Form 8938 if required, then please contact me to discuss your options to come back into compliance.

Another form which is getting serious attention by the IRS is **Form 8621**. It is for any shareholder or owner of a passive foreign investment company (PFIC = foreign mutual funds, ETFs, REITs, etc.). This means that if you have such investments in a foreign account, then you have special reporting to do averaging three years' worth of investment activity for each investment. **I am no longer doing this reporting.** The reporting of the interest and dividends continues to be done on the Schedule B, but the reporting of capital gains/losses of these kind of investments are more complex and taxation is punitive. **If you believe that you had such investments and the year-end balance of all of them summed together was more than $25,000, then you have a PFIC (Form 8621) reporting obligation. I am no longer doing this PFIC reporting and you will need to find another tax preparer.** However, if you own stock in foreign corporations or businesses directly (eg. Shell Oil, but not in a foreign mutual fund that includes Shell Oil), this form does not pertain to you.

Kimberly E. Morris
Enrolled Agent, Certified Acceptance Agent