EisnerAmper

2023 Year End Update

DECEMBER 6, 2023

Year End Federal Legislative Update

Individual Planning

Individual Tax Planning Considerations – Goals

- Reduce current year's tax liability.
- Defer current year's tax liability to future years, increasing current year cash flow for investment, business or personal needs.
- Maximize tax savings from allowable deductions or take advantage of available tax credits.
- Minimize capital gains tax.
- Reduce or mitigate penalties for underpayment of estimated taxes.
- Maximize amount of money available to fund your children's education as well as your retirement.

Get Organized

- Check paystubs and tax withholding.
- Establish IRS Online account.
- Review income sources and timing of receipts.
- Review expenditures incurred and pending for possible deductions or credits.
- Before 12/31
  - Consider gifting (charitable and family)
  - Maximize retirement contributions
  - Complete HSA contributions
  - Zero out Flexible Spending or Dependent Spending Accounts

Cash Flow Management – Estimated Tax Penalty

- Determine estimated tax liability for 2023.
- Mitigate estimated tax penalties. You will not owe a penalty for the underpayment of estimated taxes if the amount of taxes you pay (through withholding or estimated tax payments) is the lesser of:
  - 90% of the actual tax shown on 2023 return, or
  - 110% of the tax on prior year's tax return (100% if the AGI on prior year tax return was $150,000 or less, or $75,000 if married filing separately), or
  - 90% of your actual tax for 2023 based on annualized income installment method.
- For 2023, the "interest" rate used for the penalty has doubled from 4% to 8% in 2023.

Income

Facts	Planning Idea
Regular tax rate will be the same or lower next year.	Defer Income
Regular tax rate will be higher next year.	Accelerate income
You have net realized capital losses this year or loss carry forwards from last year.	Consider recognizing capital gains by selling appreciated securities to offset realized losses and loss carryforwards
You have net realized capital gains this year.	Sell securities with unrealized loss to offset gains (be careful of wash sale rules).

Miscellaneous Items – 1099-K Changes

- Form 1099-K, Payment Card and Third Party Network Transactions, is an IRS form used to report credit/debit card transactions and third party network payments.
- For tax year 2022 and 2023, the reporting threshold was $20,000 and 200 transactions.
- For tax year 2024, the reporting threshold decreases to $600. This was originally scheduled to begin in 2023, but IRS recently issued guidance deferring the reduced threshold to 2024.
- 1099s should be received for taxable goods and services, not for personal transactions. If 1099-Ks are received for personal items, the taxpayer is advised to report the incorrect amount on the 1099-Ks on Form 1040 Schedule 1 Part I, Line 8z and the adjustment on Schedule 1 Part II, Line 24z. Taxpayers may also receive a Form 1099-Misc from the seller and a 1099-K from the third-party processor for the same transaction, and should be careful not to double-count the amounts on the tax return.

Deductions

Facts	Planning Idea
Regular tax rate will be the same or lower next year.	Prepay deductions
Regular tax rate will be higher next year.	Defer deductions
The regular tax rate applies this yar and is higher than the AMT rate that you expect next year.	Consider bunching charitable contributions in the year with the higher tax rate.
This year you are in AMT and next year will be subject to a higher regular tax rate.	Consider bunching charitable contributions in the year with the higher tax rate.

Individual Tax Planning Considerations – Charitable Giving

- Charitable Giving
  - Appreciated Property held for more than one year – pay attention to substantiation/appraisal requirements
  - Opening a donor advised fund to spread out contributions over multiple years
  - Qualified charitable distributions for older taxpayers who may not itemize tax deductions or receiving required minimum distributions.

- It is important to have adequate documentation of all donations, including a letter from the charity for donations of $250 or more.

Individual Tax Planning Considerations – Charitable Giving

- Background: individuals who itemize can deduct charitable contributions to the extent of a certain percentage of AGI (Adjusted Gross Income)
  - The percentage depends upon the type of property donated and the exempt status of the charity.
  - Prior to TCJA, the percentage limitation for cash donations to public charities was 50% of AGI.
    - For tax years beginning after December 31, 2017, TCJA increased the percentage limitation for cash gifts to public charities to 60%. This will revert back to 50% after 2025.
    - Also included are private foundations, donor-advised funds and supporting organizations.
  - Donations of appreciated long-term capital gain property to public charities is 30% of AGI.
  - Cash contributions to grant-making private foundations is 30% of AGI. Gifts of appreciated long-term capital gain property is limited to 20% of AGI.
  - Contributions in excess of these limitations are carried forward for five years.

Individual Tax Planning Considerations – Retirement Planning

- RMDs
  - Starting January 1, 2023, RMD age increased to 73.
  - Starting January 1, 2033, RMD age increases to 75.
- QCD
  - Can make a qualified charitable distribution up to $100,000 and exclude from income.
  - Cannot use strategy with donor-advised fund, supporting organization or private foundation.

- New for 2023: Penalty for RMD that has been missed or not fully taken has not been reduced from 50% to 25% and possibly 10% if RMD is corrected within two years. Can request to have penalty removed.

Individual Tax Planning Considerations – Retirement Planning

- ROTH IRA
  - Consider converting IRA to ROTH IRA if income to be less in 2023 than in the future.
    - Taxpayer is required to report the conversion as income for 2023, however future RMDs will be reduced or eliminated.
- Backdoor ROTH
  - Consider a “back door” ROTH if you are unable to make deductible contributions to traditional IRAs.
  - For 2023, the max contribution to a traditional IRA (non-deductible or deductible) is $6,500 or $7,500 if age 50 or older. Similar amounts may be contributed for spouses, even if they have no earned income.
  - Shortly after the contribution, the traditional IRA can be converted into a ROTH IRA.

Individual Tax Planning Considerations – Gifting

- Make annual exclusion gifts before year end
  - $17,000 ($34,000 for a married couple) for 2023
- Gift and estate lifetime exemption amount
  - $12.92M for 2023 and $13.61M for 2024
- Unlimited if payment to medical or education institution on behalf of someone

2023 – Fun with numbers

Filing Status	2022	2023	2024
Single	$12,950	$13,850	$14,600
Married Filing Jointly	$25,900	$27,700	$29,200
Surviving Spouse	$25,900	$27,700	$29,200
Head of Household	$19,400	$20,800	$21,900
Married Filing Separately	$12,950	$13,850	$14,600

Retirement Plans	2022	2023	2024
401(k)	$20,500	$22,500	$23,000
401(k) Catch Up Contributions	$6,500	$7,500	$7,500
IRA	$6,000	$6,500	$7,000
IRA Catch Up Contributions	$1,000	$1,000	$1,000

2023 – Fun with Numbers

- Social Security Wage Base:
  - 2023 - $160,200
  - 2024 - $168,600

- Estate and Gift Lifetime Exemption Limits
  - 2023 - $12,920,000
  - 2024 - $13,610,000

- Annual Gift Tax Exclusion:
  - 2023 - $17,000
  - 2024 - $18,000

- Meals revert to 50% deductibility in 2023

Business Planning

Miscellaneous Items – 2023 Depreciation Changes

- Bonus deprecation is phasing out as detailed below:

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

- Consider accelerated depreciation using §179
  - Deduction limitation of $1,160,000 for 2023
  - Investment limitation of $2,890,000

- Consider state implications

2023 – Fun with Numbers

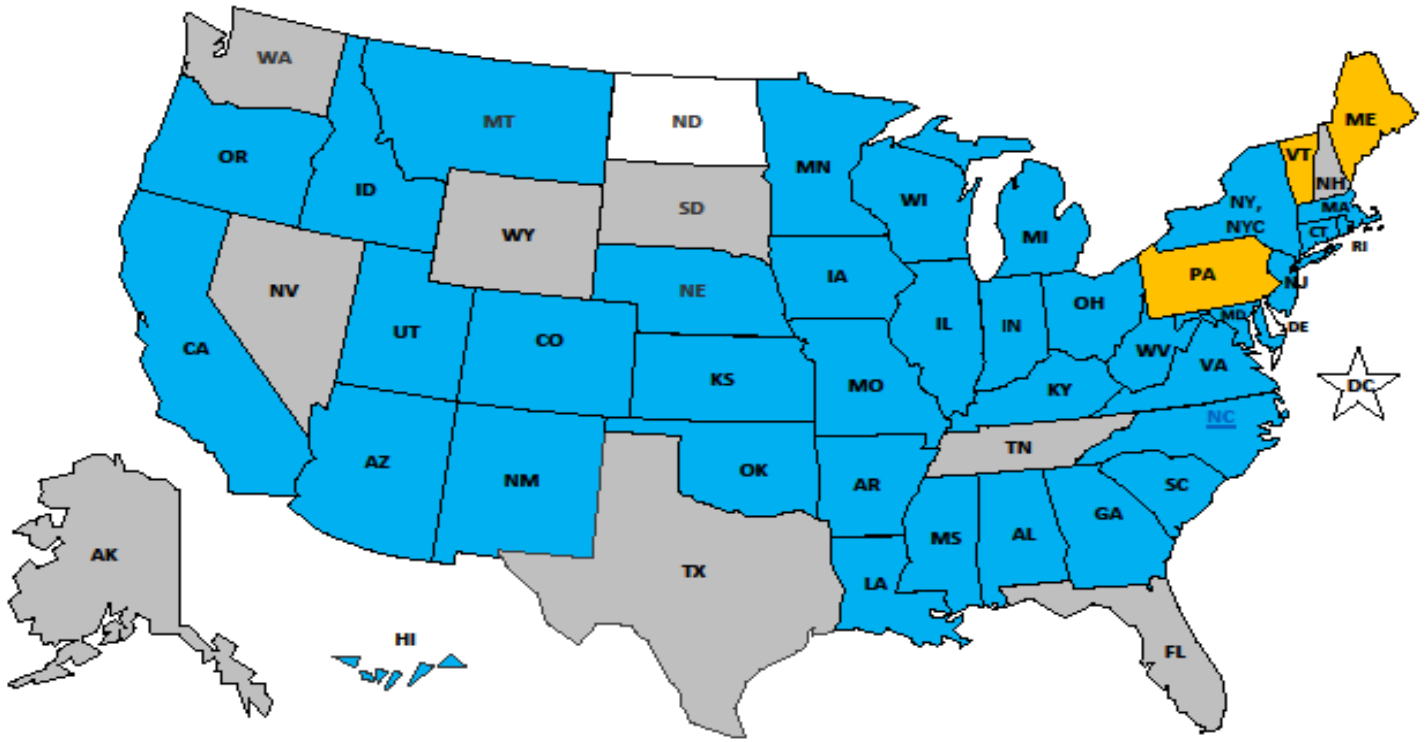
- IRC 448(c) gross receipts test is $29,000,000 for 2023. This figure impacts:
  - Accrual vs Cash
  - Requirement to capitalize costs under 263A
  - Requirement to use percentage of completion
  - Business interest expense deduction under 163(j)

- For 2023, specified service businesses qualify for the QBI deduction if their taxable income is less than $182,100 for single and head of household filers, and $364,200 for joint filers and $182,100 for separate filers. (For 2024 projected to be $191,900 for $383,850 for joint filers, and $191,925 for married filing separate returns).

Miscellaneous Items – Pass-Through Entity (PTE) Level Tax

States with Enacted or Proposed Pass-Through Entity (PTE) Level Tax

As of July 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
PA – SB 659 referred to Finance
VT – SB45 passed Senate, in House

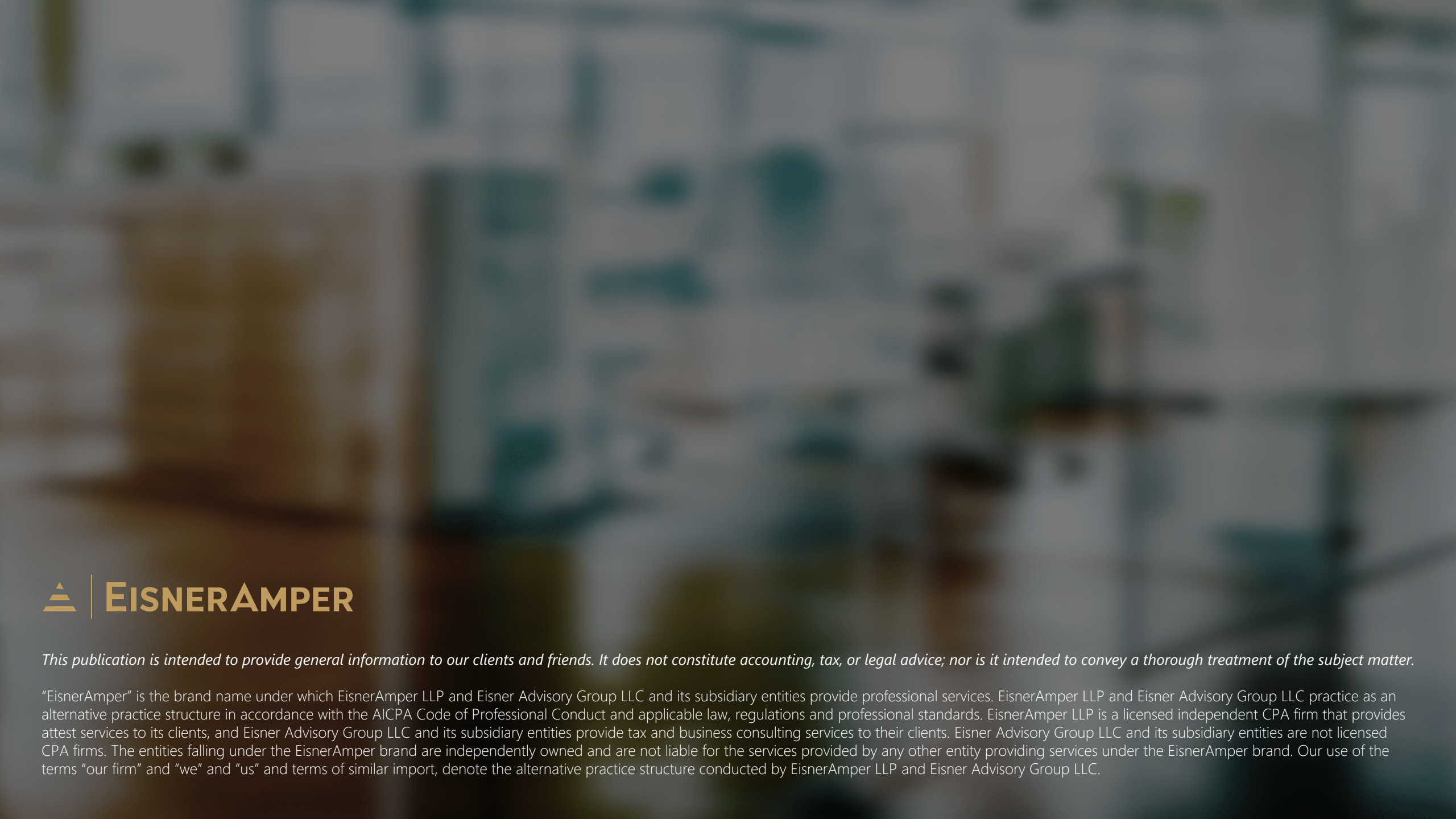
9 states with no owner-level personal income tax on PTE income:
AK, FL, NH, NV, SD, TN, TX, WA, WY

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

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Questions?





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