# COLE, EVANS & PETERSON

CERTIFIED PUBLIC ACCOUNTANTS

FIFTH FLOOR TRAVIS PLACE
624 TRAVIS STREET
SHREVEPORT, LOUISIANA 71101-3013

www.cepcpa.com

WILLIAM JEFFERSON COLE, C.P.A.
STEVEN W. HEDGEPETH, C.P.A.
STEVEN R. BAYER, C.P.A.
BAILEY B. BAYNHAM, C.P.A.
ROBERT A. BUSBY, C.P.A.
ANNE-MARIE COLE, C.P.A.
TIMOTHY W. BORST, C.P.A.
ERIC D. SMITH, C.P.A.
KYLE S. DOBBINS, C.P.A.
MATTHEW R. HAHN, C.P.A.
FAYE D. BARFIELD, C.P.A.
KELLY B. NELSON, C.P.A.
GEORGE D. FAUBER III, C.P.A.
R. SCOTT MOORE, C.P.A.
ADAM JEFFERSON CAIN, C.P.A.
JONATHAN B. WEST, C.P.A.

J. AMY HEMMINGS, C.P.A.
JANA JOHNSTON COX, C.P.A.
MADISON PAIGE LAIRD, C.P.A
BONNIE C. PESNELL, C.P.A.
MANDI ROSE KILLIAN, C.P.A.
MARY HANNAH WILLIAMS, C.P.A.
SARA E. HEDGEPETH, C.P.A.
CHRISTOPHER A. WILLIAMS, C.P.A.
JACOB A. TADLOCK, C.P.A.

M. ALTON EVANS, JR. (2022)
TIMOTHY R. DURR (2023)

OF COUNSEL
BARRY S. SHIPP, C.P.A.
CAROL T. BARNES, C.P.A.
AUSTIN G. ROBERTSON, JR., C.P.A.

TELEPHONE (318) 222-8367
TELECOPIER (318) 425-4101

MAILING ADDRESS:
POST OFFICE DRAWER 1768
SHREVEPORT, LOUISIANA 71166-1768


FEBRUARY 2024

## WHAT IS DIFFERENT ABOUT 2023 INDIVIDUAL INCOME TAX RULES

"Not much" is an accurate and short answer. Although the limitations on many deductions, credits, etc. have increased as a result of inflation indexing, we had almost no tax legislation (none of broad interest or significance) in 2023. As a result, federal 2023 individual income tax returns will be prepared under almost identical rules to the 2022 returns. Return due dates remain unchanged as pass-through entities (partnerships, LLCs, subchapter S corporations, etc.) are due on Friday, March 15, 2024 and individual, corporate, and trust returns are due on Monday, April 15, 2024. With payment of the estimated tax due, extensions are available, generally, for six months.

Louisiana tax rules also did not change significantly for 2023 returns and continue with a maximum rate of 4.25 percent with no deduction for federal income taxes and are due by May 15, 2024. The first quarterly installment of 2024 estimated Louisiana income tax, the accuracy of which is enhanced by completion of the 2023 return, is due on April 15, 2024.

## IRS VS. GAO

Do you think that the IRS sometimes might be too aggressive in its enforcement of rules that are overly burdensome to taxpayers? Well, the United States Government Accountability Office (GAO, an independent agency that works for Congress) believes that the IRS is not tough enough when it comes to sole proprietorship small businesses. In its October 2023 report to Congressional Requesters (Senators Tom Carper and Jon Ossoff), the GAO states that approximately $80 billion of the $496 billion in estimated annual uncollected federal tax (averages for years 2014 to 2016) was attributed to sole proprietors who underreported income or over-claimed deductions. A sole proprietor is an individual operating a business and reporting the income and deductions on Schedule C of the individual income tax return (i.e., not in the corporate form nor in a partnership or LLC with other owners).

Among the GAO's recommendations for the IRS are the following: (1) Implement voluntary tax withholding from nonemployee (independent contractor) compensation that is reported on Forms 1099-NEC; (2) Require sole proprietors to use a business bank account to conduct all business; (3) Expand its capacity to send notices to sole proprietors when it sees potential compliance issues; and (4) For a first-time sole proprietor who did not use a professional tax return preparer, send a notice that their tax returns are now more complex and have a higher risk of noncompliance.

(*Continued on reverse*)

After reviewing a draft of the GAO's report, the IRS thanked the GAO for the opportunity to respond and disagreed that "the compliance challenges associated with sole proprietors are separate and distinct from those facing other small business taxpayers." The IRS told the GAO that its existing programs adequately address the compliance needs for sole proprietors. From this public written exchange between two federal agencies, one senses a bit of rivalrous contention, and, for once, we side with the IRS that more intrusive rules and tax reporting would not be a welcomed development.

## Civil Fraud of Others

Generally, the Internal Revenue Service (IRS) has three years from the filing of a federal income tax return to assess additional tax. However, where the IRS has received a "false or fraudulent return with the intent to evade taxes" (Internal Revenue Code Section 6501(c)), the three-year limit does not apply. A recent Tax Court case demonstrates that fraud by someone other than the taxpayer can indefinitely extend the statute of limitations.

Mr. and Mrs. Murrin relied on a tax return preparer, Duane Howell, to prepare their joint federal income tax returns as well as two partnership returns. Without the knowledge of the Murrins, Mr. Howell added fraudulent deductions to these returns with the intent to evade tax. The Murrins did not provide any false or fraudulent information to Mr. Howell for inclusion in their returns nor did they have any intent to evade tax. They filed timely returns prepared by Mr. Howell for 1993 through 1999. The IRS did not discover that Mr. Howell was producing fraudulent returns until after the expiration of the usual three-year statute of limitation period. In 2019 (19 years after filing the last of the returns that Mr. Howell prepared), the IRS notified the Murrins that they owed back taxes, interest, and penalties for 1993 through 1999.

The Tax Court opined that "limitations statutes barring the collection of taxes otherwise due and unpaid are strictly construed in favor of the government." The Court concluded that the limitation provisions do not restrict their application to cases where the taxpayer personally had the intent to evade taxes. The Court stated "nothing in the plain meaning of the statute suggests the limitation period is to be extended only in the case of taxpayer fraud" and, accordingly, concluded that Mr. Howell's preparation of the false and fraudulent returns with the intent to evade taxes is sufficient to allow the IRS to assess tax to the Murrins at any time after the filing of fraudulent returns.

While imposing additional tax and penalties on taxpayers seems unfair in this case, it does instruct taxpayers that they are indefinitely liable for the civil fraud of their tax preparer and possibly of managers, appraisers, and others who furnish information through Schedules K-1 for pass-through entities.

# Cole, Evans & Peterson, CPAs

www.cepcpa.com

624 Travis Street Shreveport, Louisiana 71101 (318) 222-8367



Tax & Business Alert

FEBRUARY 2024


## TRAVELING FOR BUSINESS IN 2024? WHAT'S DEDUCTIBLE?

If you and your employees will be traveling for business this year, there are many factors to keep in mind. Under the tax law, certain requirements for out-of-town business travel within the United States must be met before you can claim a deduction. The rules apply if the business conducted reasonably requires an overnight stay.

Note: Under the Tax Cuts and Jobs Act, *employees* can't deduct their unreimbursed travel expenses through 2025 on their own tax returns. That's because unreimbursed employee business expenses are "miscellaneous itemized deductions" that aren't deductible through 2025. Self-employed individuals can continue to deduct business expenses, including away-from-home travel expenses.

### RULES THAT COME INTO PLAY

The actual costs of travel (for example, plane fare and cabs to the airport) are generally deductible for out-of-town business trips. You're also allowed to deduct the cost of lodging. And a percentage of your meals is deductible even if the meals aren't connected to a business conversation or other business function. For 2024, the law allows a 50% deduction for business meals.

No deduction is allowed for meal or lodging expenses that are "lavish or extravagant," a term that generally means "unreasonable." Also, personal entertainment costs on trips aren't deductible, but business-related costs such as those for dry cleaning, phone calls and computer rentals can be written off.

### MIXING BUSINESS WITH PLEASURE

Some allocations may be required if the trip is a combined business/pleasure trip; for example, if you fly to a location for four days of business meetings and stay on for an additional three days of vacation. Only the costs of meals, lodging and so on incurred during the business days are deductible — not those incurred for the personal vacation days.

On the other hand, with respect to the cost of the travel itself (for example, plane fare), if the trip is primarily for business purposes, the travel cost can

### IS YOUR SPOUSE JOINING YOU?

The rules for deducting the costs of a spouse who accompanies you on a business trip are very restrictive. No deduction is allowed unless the spouse is an employee of yours or of your company. If that isn't the case, then even if there's a bona fide business purpose for having your spouse make the trip, you probably won't be able to fully deduct his or her travel costs (though you can deduct some costs).

Specifically, the restrictions apply only to additional costs incurred by having your non-employee spouse travel with you. For example, the expense of a hotel room or for traveling by car would likely be fully deductible since the cost to rent the room or to travel alone or with another person would be the same, even in a rented car.

be deducted in its entirety and no allocation is required. Conversely, if the trip is primarily personal, none of the travel costs are deductible. An important factor in determining if the trip is primarily business or personal is the amount of time spent on each (though this isn't the sole factor).

Suppose a trip isn't for the actual conduct of business, but is for the purpose of attending a convention or seminar. The IRS may check the nature of the meetings carefully to make sure they aren't vacations in disguise, so retain all material helpful in establishing the business or professional nature of this travel.

Also, personal expenses you incur at home related to the trip aren't deductible. This might include costs such as boarding a pet while you're away.

### BEFORE YOU HIT THE ROAD

Contact us with any questions you may have about travel deductions. We can help you stay in the right lane. ■

## HOW TO SECURE A TAX BENEFIT WITH THE QBI DEDUCTION

QBI may sound like the name of a TV quiz show. But it's actually the acronym for "qualified business income," which can trigger a tax deduction for some small business owners or self-employed individuals. The QBI deduction was authorized by the Tax Cuts and Jobs Act (TCJA), and it took effect in 2018.

### HOW IT WORKS

The deduction is still available to owners of pass-through entities — such as S corporations, partner-ships and limited liability companies — as well as self-employed individuals. But it is scheduled to expire after 2025 unless Congress acts to extend it.

The maximum deduction is equal to 20% of QBI. Generally, QBI refers to your net profit, excluding capital gains and losses, dividends and interest income, employee compensation and guaranteed payments to partners. The deduction can be claimed whether or not you itemize.

Notably, the QBI deduction is subject to a phaseout based on your income. If your total taxable income is below the lowest threshold, you may be entitled to the full 20% deduction although other limitations do apply.

- For 2023, the thresholds are $182,100 for single filers and $364,200 for joint filers.
- For 2024, the thresholds are $191,950 for single filers and $383,900 for joint filers.

But things get tricky if your income exceeds the applicable threshold. In that case, your ability to claim the QBI deduction depends on the nature of your business.

Specifically, the rules are different for regular business owners of pass-through entities, sole proprietors and those who are in "specified service trades or businesses"

(SSTBs). This covers most business people who provide personal services to the public, such as physicians, attorneys, financial planners and accountants. (Engineers and architects are excluded). Professionals in this group forfeit the QBI deduction entirely if income exceeds another set of limits.

- For 2023, these upper limits are $232,100 for single filers and $464,200 for joint filers.
- For 2024, these upper limits are $241,950 for single filers and $483,900 for joint filers.

If your income falls between the thresholds stated above, your QBI deduction is reduced, regardless of whether you're in an SSTB or not. For taxpayers who *are* in SSTBs, the deduction is phased out until it disappears at the upper income threshold. For other taxpayers, the deduction is limited to the lesser of 20% of QBI or the greater of 1) 50% of the wages paid to employees on W-2s, or 2) 25% of wages plus 2.5% of the unadjusted basis of the qualified property owned by the business.

### AVAILABLE FOR A LIMITED TIME

The QBI deduction provides a valuable tax break for small business owners, so if it expires, their taxes are likely to go up. It's unclear at this time whether the deduction has a chance of being extended. Contact us for guidance in determining the best strategy for your personal situation. ■

## TRACKING DOWN DONATION SUBSTANTIATION

If you're like many Americans, your mailbox may have been filling up in recent weeks with letters from your favorite charities acknowledging your 2023 donations. But what happens if you haven't received such a letter for a contribution? Can you still claim a deduction on your 2023 income tax return for the gift? It depends.

### WHAT'S REQUIRED

To support a charitable deduction, you need to comply with IRS substantiation requirements. This generally includes obtaining a contemporaneous written acknowledgment from the charity stating the amount of the donation if it's cash. If the donation is property, the acknowledgment must describe the property, but the charity isn't required to provide a value. The donor must determine the property's value.

"Contemporaneous" means the earlier of the date you file your tax return or the extended due date of your return. So, if you donated in 2023 but haven't yet received substantiation from the charity, it's not too late — as long as you haven't filed your 2023 return. Contact the charity and request a written acknowledgment.

Keep in mind that, if you made a cash gift of under $250 with a check or credit card, generally a canceled check, bank statement or credit card statement is sufficient to support your donation. However, if you received something in return for the donation, you generally must reduce your deduction by its value — and the charity is required to provide you a written acknowledgment as described earlier, listing the value of the item you received.

### ITEMIZED DEDUCTIONS OR STANDARD?

You may remember that in recent tax years – 2020 and 2021 – there was a special provision of tax law that

allowed taxpayers who take the standard deduction on their tax returns to claim a limited deduction.

Many people don't realize that this provision wasn't reauthorized for subsequent years. Since the tax break has expired, it's no longer available to non-itemizers. So, to deduct your charitable donations, you must opt to itemize deductions on your tax return, rather than taking the standard deduction.

### ASK QUESTIONS

If you aren't sure about some of your donations, we can answer your questions and help you determine whether you have sufficient substantiation for the donations you hope to deduct on your 2023 return. We can also guide you on the substantiation you'll need for charitable gifts you're planning this year to ensure you can enjoy the desired deductions when you file this year's return. ■

COLE, EVANS & PETERSON
CERTIFIED PUBLIC ACCOUNTANTS
POST OFFICE DRAWER 1768
SHREVEPORT, LA 71166-1768

## THERE MAY STILL BE TIME TO LOWER YOUR 2023 TAX BILL

If you're preparing to file your 2023 tax return and expecting a tax bill, you may still be able to lower it — or even claim a refund. If you qualify, you can make a deductible contribution to a traditional IRA right up until the original filing deadline, April 15, 2024, and see tax savings on your 2023 return.

For eligible taxpayers, the 2023 contribution limit has increased to $6,500, or $7,500 for taxpayers aged 50 and up. If you're a small business owner, you can establish and contribute to a Simplified Employee Pension (SEP) plan up to the extended due date of your return. The maximum SEP contribution you can make for 2023 is $66,000.

What determines eligibility? To make a deductible contribution to a traditional IRA, you (and your spouse) must not be active participants in an employer-sponsored retirement plan, unless your 2023 modified adjusted gross income falls within these limits:

- For single taxpayers covered by a workplace plan, the income phaseout range is $73,000 to $83,000.
- For a married couple filing jointly, where the spouse making IRA contributions is covered by a workplace plan, the income phaseout range is $116,000 to $136,000. If the spouse making the IRA contributions isn't covered by a workplace plan but his or her spouse is, the phaseout range is $218,000 to $228,000.
- For a married individual, filing separately, with you or your spouse covered by a workplace plan, the phaseout range is $0 to $10,000.

Contact us if you want more information about this important topic. We can help you save the maximum tax-advantaged amount for retirement. ■

This publication is distributed with the understanding that the author, publisher and distributor are not rendering legal, accounting or other professional advice or opinions on specific facts or matters, and, accordingly, assume no liability whatsoever in connection with its use. The information contained in this newsletter was not intended or written to be used and cannot be used for the purpose of (1) avoiding tax-related penalties prescribed by the Internal Revenue Code or (2) promoting or marketing any tax-related matter addressed herein. © 2024