TaxBrief

Keeping you informed Summer 2023

Monument Financial Services, Inc.
661 E. M-55
Tawas City, MI 48763

We're only halfway through 2023, and there has already been a great deal of tax news coming out of Washington, DC. Keeping up with the changes can be time-consuming. That's why we've assembled this newsletter, which includes brief explanations of the top tax changes that may impact you or your businesses. Feel free to reach out to us for more information on any of the items you believe will affect your tax situation.

IRS resuming collection activities

During the early days of the COVID-19 pandemic, the IRS generally paused its enforcement activities, which included almost all actions to collect unpaid taxes. In May, IRS officials announced the agency will soon resume tax collection activities, and won't simply continue where it left off.

The IRS plans to communicate with taxpayers and their tax preparers about plans to restart collection actions that were already underway. For example, officials said that someone who was set to receive a final Notice of Intent to Levy would likely receive notice from the IRS of its planned action, thereby giving the taxpayer a chance to pay. The Notice of Intent to Levy is the last step the IRS must take before it can start seizing property.

Additionally, the IRS said it planned on resuming its collection activities in phases to keep the agency's resources from being overwhelmed. As a result, if the IRS notified you that you owed money before the COVID pause, you may still have some time to try to work out a deal before you start receiving new collection notices.

Funding for IRS enforcement

Even though the recent debt ceiling agreement between the White House and Republican leaders in the House of Representatives has cut the amount from $80 billion to roughly $59 billion, the IRS will still receive a significant funding boost over the next few years. It plans on spending some of that money on improving taxpayer services, but the bulk will be spent on enforcement. The agency says it intends to focus on tax avoidance by high-net-worth taxpayers. Families making under $400,000 annually are less likely to face an audit.

It's unclear how much of an impact the $21 billion cut to IRS funding will have on the agency's enforcement activities, but the IRS still plans to increase its audit rates for high-income individuals, partnerships and corporations.

AI may make scams harder to spot

A group of U.S. senators is pushing the IRS to use everything at its disposal to protect taxpayers from scams using artificial intelligence (AI). Recent breakthroughs in AI, like chatbots and deep fakes, will make it much more difficult for taxpayers to detect tax scams. That's because next-generation AI can generate official-sounding letters, emails and texts targeted to specific taxpayers. In addition, AI isn't prone to making grammatical errors and misspellings, both of which made it easier for individuals to spot tax scams in the past.

Early filers take note

Recent IRS guidance on the taxability of certain state payments related to general welfare and disaster relief during the COVID-19 pandemic has the agency recommending that some early filers should consider amending their returns. The guidance was issued Feb. 10 to address questions regarding whether the payments should be treated as taxable income.

Though the state payments were not taxable, many taxpayers who filed before the guidance was issued included the payments in their income. This led to the call for taxpayers to review their returns for possible amendment.

Clean vehicle credits available

The IRS has released a list of plug-in and fuel-cell vehicles that may be eligible for new clean vehicle tax credits if purchased by a qualifying taxpayer in 2023. The list includes vehicles produced by 19 manufacturers and includes the limit on the manufacturer's suggested retail price (MSRP) that applies to each. However, the vehicles on the list do not automatically qualify. They also must have undergone final assembly in North America and cannot exceed the MSRP of:

- $80,000 for vans, SUVs and pickup trucks
- $55,000 for all other vehicles

Visit irs.gov for an updated list of eligible vehicles.

Energy efficient home improvement

A new credit is available for energy efficient home improvements that began after Jan. 1, 2023. The credit is equal to 30% of qualified expenses, including:

- Energy efficient home improvements
- Residential energy property expenses
- Home energy audits

The maximum credit that can be claimed each year is:

- $1,200 for energy property costs, including certain energy efficient home improvements
- $250 per door, up to $500
- $600 for windows
- $150 for home energy audits
- $2,000 per year for heat pumps, biomass stoves or biomass boilers

There's no lifetime dollar limit for the credit, so a taxpayer can claim the maximum amount each year until the credit expires in 2033.

Saving for retirement

In late 2022, Congress passed a legislative package that included a series of bills known as SECURE 2.0, providing incentives for U.S. workers to save for retirement and making it easier for small businesses to offer retirement plans. The new law:

- Raises the age for starting required minimum distributions (RMDs) to 73 for 2023 (and 75 in 2033)
- Removes the requirement that owners of Roth IRAs take RMDs beginning in 2024
- Reduces the penalties for account holders who fail to take the required RMDs
- Allows defined contribution retirement plans to add an emergency savings account
- Requires businesses that start new 401(k) and 403(b) retirement plans to automatically enroll eligible employees beginning in 2025
- Allows employers to match employee contributions to Roth IRAs

Tax treatment of NFTs

For tax purposes, the IRS is planning to treat nonfungible tokens (NFTs) as collectibles—not as capital assests—when the rights associated with an NFT fall under the definition of collectibles. The distinction is important for investors deciding whether to invest in NFTs or other digital assets, like Bitcoin. Treating NFTs as collectibles would result in profits from their sale being subject to the 28% tax on collectibles rather than capital gains subject to a maximum 20% tax rate.

Until the agency issues additional guidance, the IRS said it plans on using a look-through analysis to assess whether an NFT should be treated as a collectible. Under that analysis, if the rights a taxpayer owns in an NFT fall under the definition of a collectible, it will be treated as one.

Generally, when digital assets are held for more than one year before they are sold, any profits are treated as a capital gain subject to the maximum 20% rate. Plus, any losses from the sale of a digital asset are usually treated as deductible capital losses. However, collectibles held for more than one year are always taxed at the 28% rate. Additionally, the IRS generally does not allow taxpayers to claim a loss on the sale of a collectible held for personal use.

Beneficial ownership reporting

The *Corporate Transparency Act* (CTA) was enacted in 2021 and requires that millions of entities report their beneficial ownership information (BOI) to the Financial Crimes Enforcement Network (FinCEN) by the end of 2024. A beneficial owner is an individual who directly or indirectly controls the reporting company or at least 25% of its company's ownership interests.

All existing domestic and foreign entities that filed formation or registration documents in the U.S. must file the information by Jan. 1, 2025. Entities created or registered after Dec. 31, 2023, must file within 30 days. Some large entities are exempt from the reporting requirements if they have:

- A physical office in the U.S.
- More than 20 full-time employees and
- More than $5 million in income for the previous reporting year

FBAR penalties curtailed

In February, the U.S. Supreme Court issued a decision that drastically reduced the penalties the IRS can impose on individuals for non-willful failure to file a Report of Foreign Bank and Financial Accounts (FBAR) each April 15. The high court ruled that the $10,000 statutory penalty for non-willful failure to file an FBAR accrues for each report not filed, not per account. As a result, some people who have paid penalties for non-willful failure to file an FBAR may be eligible for a refund.

The IRS had been imposing the penalty based on each foreign account, which led to far higher penalty amounts. For example, the IRS said the individual in the Supreme Court case was facing $2.72 million in FBAR penalties for failing to report a number of accounts over five years. However, under the court's reasoning, the IRS could only impose a $50,000 penalty for those five years. This could lead to the IRS refunding millions in penalties that had previously been assessed.

Contact us with questions

If you have questions on how the current tax laws, rules and regulations may impact your tax situation, please feel free to contact us. We're here to help!