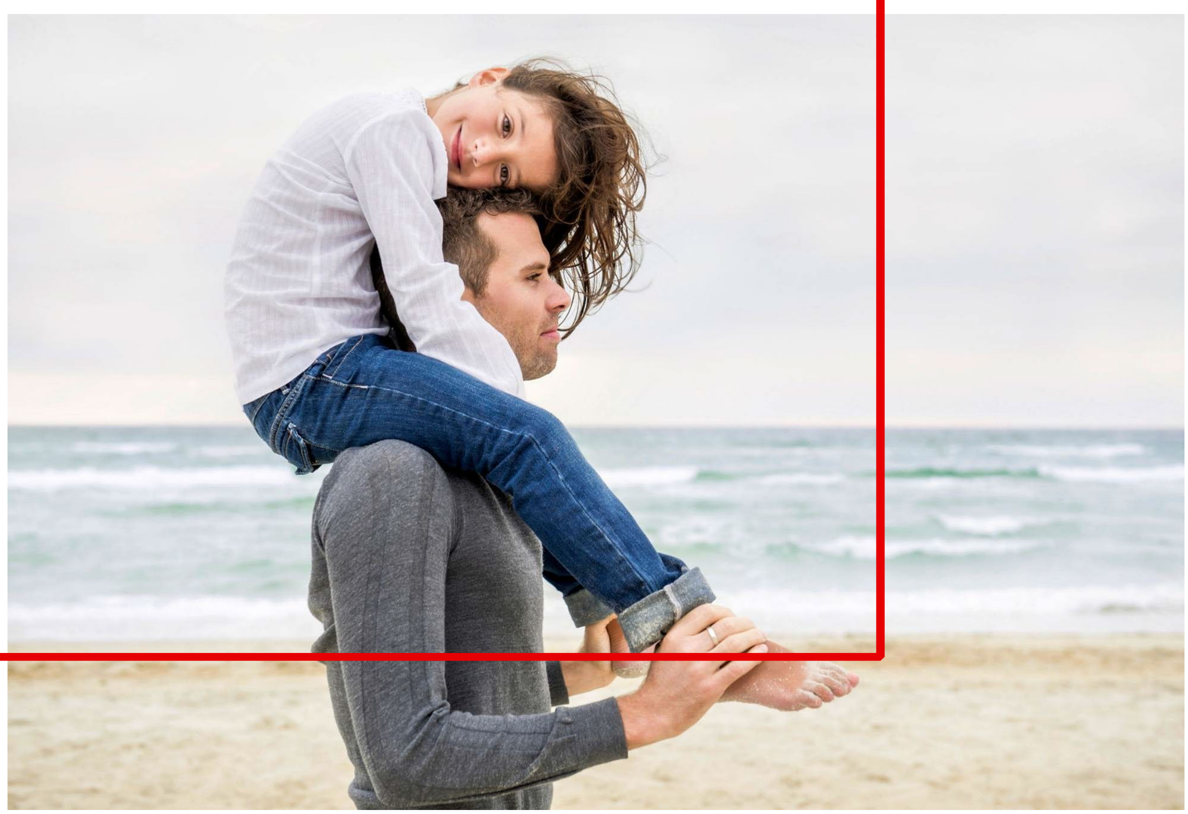
UBS

2022 planning guide

An overview of income tax, retirement, and estate planning ideas.



Advanced Planning Group

Foreward

Early last year, just after President Biden was sworn into the Oval office and the Democrats narrowly secured the majority in the Senate, most of us thought we were in for some significant changes to federal tax laws.

After all, President Biden had campaigned on raising taxes for corporations and the wealthy, and the Democrats seemed nearly united in agreement with his campaign promises to raise taxes on the wealthy and corporations.

Indeed, the bulk of 2021 was spent under the specter of seemingly inevitable changes: in May of 2021, the Administration released its wish list of tax proposals, then the House released a draft bill in September that proposed serious changes—some even retroactive—to income tax, capital gains, and corporate tax rates, as well as wide-ranging changes to the estate and gift tax regime, retirement planning, and international corporate taxation. Yet, despite the House passing legislation in November to make significant tax changes, we are now into 2022 without any changes to the tax landscape passed into law, other than some moderate inflation adjustments. This doesn't mean that tax changes are not still possible sometime this year.

The purpose of this guide is to summarize some key aspects of tax laws affecting ultra-high net worth (UHNW) individuals and families and is organized into three sections:

– Income tax planning
– Retirement planning, and
– Estate planning.

The first of these sections deals primarily with income tax planning and lists updated figures for applicable rates and brackets, as well as a discussion of key concepts in income tax planning. The second section discusses retirement planning, including an outline of the tax rules for IRAs, Roth IRAs, and required minimum distribution rules, before concluding with a discussion of Social Security and Medicare benefits. Finally, the section on estate planning outlines key concepts and changes to the gift and estate taxes in 2022.

Ann Bjerke
Head of Advanced Planning

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Author

Brad Dillon
Senior Wealth Strategist
Advanced Planning Group

Contributors

Hunter Peek
Associate Wealth Strategist
Advanced Planning Group

Vicki Montellano
Associate Wealth Strategist
Advanced Planning Group

Laura Stahlhut
Associate Wealth Strategist
Advanced Planning Group

Income tax planning

The United States government imposes an income tax on your taxable income each year, which includes income derived from nearly any source, including wages, investment income, and other types of unearned income. Despite this broad definition of income, federal tax law allows for a range of deductions, credits, and exclusions that may reduce the amount of income that is ultimately taxed. Furthermore, federal tax law delineates between different types of income (e.g., income from wages versus income from gains on passive investments), and these income types can be taxed at different rates based on a range of factors, such as the marriage status of the taxpayer, the type of income, and the amount of income earned in a given tax year. These type of income, deductions, and exclusions, are discussed below.

Determining filing status

The income tax rates and brackets, as well as the application of certain deductions, are different depending on your filing status, which must be chosen at the outset on your annual tax return. There are five different statuses. Here's who would qualify for each status in 2022:

– *Unmarried individual.* As of December 31, 2022, you were not married (unless your spouse is deceased and you qualify as a married individual filing jointly or a surviving spouse), you were legally separated or divorced, you were widowed before 2022 and did not remarry by the end of 2022, or you qualify as an abandoned spouse.

- *Married individual filing jointly.* As of December 31, 2022, you were married, or your spouse died in 2022 and you did not remarry in 2022. (A married couple filing jointly report their combined incomes and deduct their combined allowable expenses on one return, regardless of whether the spouses lived together or if only one spouse had income.)

- *Married individual filing separately.* You and your spouse elect to be treated as separate taxpayers, or either you or your spouse is not a US citizen. (Filing separately may mean you cannot claim certain benefits.)

- *Head of household.* As of December 31, 2022, you were unmarried, your home served as a principal place of abode for more than half of the year for certain dependents, and you contributed to more than half the costs of maintaining the household.

- *Surviving spouse.* Your spouse died in 2020 or 2021, you did not remarry before the end of 2022, you have a child or stepchild that you claimed or could claim as a dependent, the child or stepchild lived in your home for all of 2022, you paid over half the cost of keeping up your home, and you could have filed a joint return with your deceased spouse for the year in which the deceased spouse died.

Types of income

After determining your filing status, you must now account for all of your income for the year. This includes income from wages, salaries, tips, tax-exempt interest, qualified dividends, IRA distributions, pensions, annuities, social security benefits, capital gains, and other kinds of income. Not all of these types of income or all of the income of each type will necessarily be taxed, as certain deductions, credits, exemptions, or exclusions may apply. Furthermore, different types of income may be subject to different tax rates and brackets.

Ordinary income

The bulk of Americans' income is taxed as ordinary income, which includes wages, tips, salaries, commissions, bonuses, rents, interest, and royalties. These types of income are taxed at the federal level at varying rates, ranging from 10% to 37%. (See Table 1.) These rates are progressive and apply to a taxpayer's taxable income, which is gross income after certain adjustments and less either the standard deduction or certain other specified and allowable deductions called itemized deductions (discussed below). These different rates are levied on income in different ranges (called brackets) depending on the taxpayer's filing status. Tax brackets are typically adjusted annually for inflation. For example, in 2021, the 37% rate applied to taxable income over $523,600 for an unmarried individual; that amount was increased for inflation in 2022, such that the 37% rate applies to taxable income over $539,900 this year.

Table 1. Ordinary income tax rates in 2022.

Unmarried individual (other than a surviving spouse or head of household)

If taxable income is:		*The tax is:*		
	Not over $10,275			10% of taxable income
Over $10,275	but not over $41,775	$1,027.50 plus	12%	of the excess over $10,275
Over $41,775	but not over $89,075	$4,807.50 plus	22%	of the excess over $41,775
Over $89,075	but not over $170,050	$15,213.50 plus	24%	of the excess over $89,075
Over $170,050	but not over $215,950	$34,647.50 plus	32%	of the excess over $170,050
Over $215,950	but not over $539,900	$49,335.50 plus	35%	of the excess over $215,950
Over $539,900		$162,718.00 plus	37%	of the excess over $539,900

Married individual filing jointly or a surviving spouse

If taxable income is:		*The tax is:*		
	Not over $20,550			10% of taxable income
Over $20,550	but not over $83,550	$2,055.00 plus	12%	of the excess over $20,550
Over $83,550	but not over $178,150	$9,615.00 plus	22%	of the excess over $83,550
Over $178,150	but not over $340,100	$30,427.00 plus	24%	of the excess over $178,150
Over $340,100	but not over $431,900	$69,295.00 plus	32%	of the excess over $340,100
Over $431,900	but not over $647,850	$98,671.00 plus	35%	of the excess over $431,900
Over $647,850		$174,253.50 plus	37%	of the excess over $647,850

Married filing separately

	If taxable income is:			*The tax is:*
	Not over $10,275			10% of taxable income
Over $10,275	but not over $41,775	$1,027.50 plus	12%	of the excess over $10,275
Over $41,775	but not over $89,075	$4,807.50 plus	22%	of the excess over $41,775
Over $89,075	but not over $170,050	$15,213.50 plus	24%	of the excess over $89,075
Over $170,050	but not over $215,950	$34,647.50 plus	32%	of the excess over $170,050
Over $215,950	but not over $323,925	$49,335.50 plus	35%	of the excess over $215,950
Over $323,925		$87,126.75 plus	37%	of the excess over $323,925

Head of household

	If taxable income is:			*The tax is:*
	Not over $14,650			10% of taxable income
Over $14,650	but not over $55,900	$1,465.00 plus	12%	of the excess over $14,650
Over $55,900	but not over $89,050	$6,415.00 plus	22%	of the excess over $55,900
Over $89,050	but not over $170,050	$13,708.00 plus	24%	of the excess over $89,050
Over $170,050	but not over $215,950	$33,148.00 plus	32%	of the excess over $170,050
Over $215,950	but not over $539,900	$47,836.00 plus	35%	of the excess over $215,950
Over $539,900		$161,218.50 plus	37%	of the excess over $539,900

Capital gains and losses

Assets that you own for personal or investment purposes (other than for a trade or business) are capital assets. The stocks you own in your investment portfolio, for example, are capital assets. Depending on whether the capital asset is sold for more or less than its basis (typically its cost when purchased[1]), the sale will result in a capital gain or loss. To determine how the gain or loss will be taxed, you must also consider your holding period (that is, how long you held the asset before selling). If you held the asset for one year or less before selling, then it is a short-term capital gain or loss. If you held the asset for more than a year, it is a long-term capital gain or loss.

Certain gains and losses from the sale or disposition of property that is used in a trade or business and held for more than one year may also qualify as long-term capital gains and long-term capital losses.

In some cases, the gain or loss from a sale or disposition isn't recognized (i.e., taken into account for purposes of calculating taxable income). These nonrecognition events include tax-free corporate reorganizations, like-kind exchanges, and involuntary conversions. In addition, certain losses aren't allowable. There are several loss limitation rules that can disallow or otherwise limit losses.

You must net your gains and losses. Specifically, you must net your short-term capital gains and short-term capital losses. If your short-term capital gains exceed your short-term capital losses, you will have a net short-term capital gain. Otherwise, you will have a net short-term capital loss. Similarly, you must net your long-term capital gains and long-term capital losses. If your long-term capital gains exceed your long-term capital losses, you will have a net long-term capital gain. Otherwise, you will have a net long-term capital loss.

If you have a net long-term capital gain and that gain exceeds your net short-term capital loss, the excess is your net capital gain, which is taxed at lower preferential rates than ordinary income. (See Table 2.) In contrast, if you have a net short-term capital gain and that gain exceeds your net long-term capital loss, the excess is taxed as ordinary income. (See Table 1.)
If your capital losses exceed your capital gains, you can deduct up to $3,000 (or $1,500 if you are a married individual filing separately) of the excess against ordinary income. You can carry the nondeductible losses forward to offset gains and ordinary income in future years indefinitely. The losses that you carry forward retain their character as short-term or long-term capital losses.

[1] If you received the asset as a gift or inheritance, then the basis may be different.

Table 2. Long-term capital gains and qualified dividend rates in 2022.

Rate	*Unmarried individual*	*Married filing jointly*	*Married filing separately*	*Head of household*
0%	$0 to $41,674	$0 to $83,349	$0 to $41,674	$0 to $55,799
15%	$41,675 to $459,749	$83,350 to $517,199	$41,675 to $258,599	$55,800 to $488,499
20%	$459,750 or more	$517,200 or more	$258,600 or more	$488,500 or more

There are a few notable exceptions to the 20% capital gains rate. These include:

– The taxable part of the gain from selling section 1202 qualified small business stock is taxed at 28%.
– Net capital gains from selling collectibles (such as coins or art) is taxed at a rate of 28%.
– The portion of any unrecaptured section 1250 gain from selling section 1250 real property is taxed at 25%.

Worthless securities

If a security that is a capital asset becomes worthless at any time during the tax year, it is treated as if it were sold on the last day of the tax year in which it became worthless, and a tax loss may be claimed in the year in which it became worthless. A security that became worthless in a prior year may not be claimed as a capital loss in the current year (but the loss potentially may be claimed by amending the tax return for the year the loss occurred). Generally, you must claim a refund within three years, but you may be able to claim a refund with respect to worthless securities within seven years in certain situations. The taxpayer must have evidence that the security is worthless.

Wash sales

A wash sale occurs when an individual sells or disposes of securities (such as stock) at a loss and—within the 61-day period beginning 30 days prior to the sale or disposition date and ending 30 days after the sale or disposition date—the individual, the individual's spouse, or a corporation that the individual controls acquires substantially similar securities (including a contract or option to buy substantially similar securities). Losses from the sale or disposition of securities that constitute a wash sale are not deductible. The disallowed losses are added to the cost basis of the newly purchased securities, resulting in a postponement of the loss recognition until the sale of the new securities. These rules also apply to assets in a traditional or Roth IRA. The holding period for the newly purchased securities begins on the same day the original stock or securities were purchased.

Planner's note

If you incur a loss selling an actively managed fund, you can generally replace it with a passively managed fund without triggering the wash-sale rule. If you incur a loss selling a fund that tracks an index, you should avoid buying another one that tracks the same index, or be careful about buying one tracking a substantially similar index, within the 30-day period, because you might trigger the wash sale.

Exclusions from capital gains

Certain types of gains on the sale of stock or real estate may be excluded from income tax altogether; in other cases, the gain may be deferred for a number of years.

Qualified small business stock

Founders, early investors, and employees of companies may be able to reduce their tax liability upon the sale of qualified small business stock (QSBS).To qualify as QSBS, the shareholder generally must have received the stock from a qualifying corporation in exchange for money or other property or for services provided to the corporation, and the shareholder generally must have held the stock for more than five years. There are other qualifications and rules that apply. Subject to an array of limitations, capital gains from the sale or disposition of

QSBS may be excluded from income up to the greater of $10 million or 10 times the shareholder's adjusted basis of the stock.

For a more in-depth discussion of QSBS, see Todd D. Mayo, *Qualified Small Business Stock* (a publication of the UBS Advanced Planning Group.)

Home sale gain exclusion

A taxpayer may exclude up to $250,000 ($500,000 for certain married indivdiuals filing jointly) of gain from the sale or exchange of property that the taxpayer has owned and used as the taxpayer's principal residence for periods of two years or more during the five-year period ending on the date of the sale or exchange.

Qualified opportunity funds

You may be able to defer capital gains by reinvesting those gains in a qualified opportunity fund. Any qualifying gains are deferred until the investment is sold or exchanged or until December 31, 2026, whichever is earlier. To be eligible, any qualifying gains must be reinvested within 180 days of the sale or exchange into a qualifying fund, which must invest the proceeds in a qualifying property or business located in a qualified opportunity zone. If you hold the investment in such a qualifying fund for 10 years or more, any gain on your investment may be tax-free. Importantly, state income tax rules may differ and may not allow deferral or exclusion from gain on the state level.

For a more in-depth discussion of these funds, see Todd D. Mayo, *Qualified Opportunity Zones* (a publication of the UBS Advanced Planning Group.)

Qualified dividends

Qualified dividends are entitled to a preferential tax rate. (See Table 2.) A dividend is considered qualified if it is paid by a US corporation or a qualified foreign corporation. A qualified foreign corporation includes a foreign corporation incorporated in a US possession, a foreign corporation whose dividend-paying security is readily traded on an established securities market in the United States, and a foreign corporation entitled to the benefits of a tax treaty with the United States. that includes an exchange of information requirement. Passive foreign investment companies (PFICs) are not qualified foreign corporations. A foreign-based corporation is classified as a PFIC if either 75% or more of the corporation's income is passive or at least 50% of the company's assets are investments that produce interest, dividends, or capital gains.

To be eligible for the lower qualified dividend tax rate, you must have held the dividend-paying stock for more than 60 days during the 121-day period that began 60 days prior to the ex-dividend date. For dividends received on certain preferred stock (generally dividends that represent an earnings period of more than one year), you must have held the stock for more than 90 days during the 181-day period that began 90 days before the ex-dividend date.

Net investment income tax

Individuals, estates, and trusts with income above certain thresholds are subject to an additional 3.8% tax on their net investment income, which includes non-business, unearned income, such as income from interest, dividends, capital gains, annuities, rents, royalties, and certain passive activities. It, however, does not include income from an active trade or business, so, if you materially participate in the operations of a trade or business, the income therefrom is generally excluded from this additional tax. For example, income derived from real estate activities may be excluded from net investment income for purposes of calculating the tax if you qualify as a real estate professional. Similarly, certain investment income earned by a trader in financial instruments is exempt from the tax.

The tax is 3.8% of the lesser of: (1) net investment income and (2) the excess of modified adjusted gross income (MAGI) over the threshold amount. The net investment income tax will be assessed on taxpayers with MAGI exceeding the following threshold amounts for various tax filers:

- $250,000 for taxpayers who are married filing jointly or surviving spouses,
- $125,000 for taxpayers who are married filing separately; or
- $200,000 for all other taxpayers.

For a more in-depth discussion of the net investment income tax, see Ann Bjerke, *Net Investment Income Tax* (a publication of the UBS Advanced Planning Group.)

Employee stock options

Whether the founder or an early employee of a Silicon Valley startup or a corporate executive at a Fortune 500 company, equity compensation is a significant means of wealth creation for many individuals. Most often, equity compensation takes the form of grants of stock options or restricted stock. The income taxation of stock options and restricted stock awards are very different. There are two different types of stock options, nonqualified stock options (NSOs) and incentive stock options (ISOs). ISOs provide employees with more favorable tax treatment if shares are held for a specified period of time. However, ISOs are subject to greater restrictions, including a limitation on the value of options that may vest annually and restrictions on transfer. NSOs are not afforded the same favorable tax treatment as ISOs, but they are subject to fewer restrictions. All stock options are NSOs, unless the option grant award specifies that they are ISOs. The tax treatment of each is discussed briefly below.

For a more in-depth discussion of employee stock options, see Todd D. Mayo, *Equity Compensation* (a publication of the UBS Advanced Planning Group.)

Nonqualified stock options

As a rule, the grant of an NSO is not a taxable event. In addition, when an NSO vests there is no immediate income tax consequence to you. Upon exercise of the NSO, the difference between the amount paid (the strike price) and the fair market value at exercise is immediately recognized as compensation, regardless of whether the stock is sold. (That difference is called the spread.) If the company is publicly traded, the fair market value is usually determined by taking the market average between the high and the low price on the date of exercise. If the company is not publicly traded, the fair market value is determined by an appraisal obtained by the company—widely called the 409A valuation (after Section 409A of the Internal Revenue Code), which requires the company to obtain a qualified appraisal for this purpose. The spread is taxed to you as wages at ordinary income tax rates (see Table 1) and is subject to social security and Medicare taxes.

The stock acquired as a result of the exercise of an NSO is taxed as any other share of stock would be. Your cost basis in the stock is the fair market value on the date of exercise. The holding period begins on the date the NSO is exercised. And the tax rate on any future capital gains or losses will depend on the time period the stock is held post-exercise.

Incentive stock options

Like NSOs, ISOs are not taxable upon grant, but that is where the similarities end. To qualify as an ISO, the stock option award must meet specific statutory requirements, including that the ISOs may only be granted to employees, the strike price for the option must equal or exceed the fair market value on the date of the grant, the ISOs cannot be transferrable other than by will or the laws of descent and distribution, and only $100,000 of stock (based on the strike price) may become exercisable in any calendar year.

If these requirements are met, the exercise of ISOs is not a taxable event for regular income tax purposes (though it may be taxable for AMT purposes[1]). If you exercise an ISO and hold the stock for more than two years from the date of grant and one year from the date of exercise, then the spread is taxed as capital gain rather than ordinary income and is not realized until the stock is subsequently sold. Your cost basis in the stock is the strike price that you paid for it.

If shares acquired by exercising ISOs are sold or disposed of before satisfying the holding period requirements, those shares will lose their favorable tax treatment. (In tax parlance, this early sale or disposition is called a disqualifying disposition.) If you held the stock for one year or less from exercise, the spread is treated as compensation income, and any post-exercise gain is a short-term capital gain or capital loss. If you held the stock for more than one year from exercise but not two years from grant, the spread is compensation income, and any post-exercise gain is considered a long-term capital gain or capital loss.

[1] The spread when exercising an ISO is a preference item for AMT purposes. This means that while the spread between the strike price and the fair market value upon exercise of an ISO is not taxed under the regular tax system, it is tax under AMT. Before exercising ISOs, an employee should understand whether the exercise will subject them to AMT and what that exposure will be.

Income tax deductions

To arrive at taxable income, you must first consider your available deductions from your gross income. Deductions are expenses or losses that can be used to offset your gross income, which decreases your ultimate tax liability. Most taxpayers have a choice between deducting a specified amount—the standard deduction—from their income or itemizing or specifying a list of deductions from their income.

Standard deduction

The amount of the deduction is based on your filing status, age, and whether you are disabled or claimed as a dependent on another taxpayer's return. You are not entitled to the standard deduction if you are not a US citizen or resident for the full year, you are a married taxpayer who files separately and whose spouse itemizes their deductions, or if you file for a period of less than 12 months due to a change of accounting period. The deduction is indexed for inflation each year.

Table 3. Standard deduction in 2022.

Filing status	*Standard deduction*
Unmarried individual	$12,950
Married individuals filing jointly	$25,900
Head of household	$19,400
Married individual filing separately	$12,950
Unmarried individual	$12,950

Itemized Deductions

If your deductions exceed the standard deduction, you should consider itemizing those deductions to further offset your income tax liability. There are a number of deductions that may be relevant in considering, each discussed in turn below.

State and local income, sales, and property taxes

In 2022, itemized deductions for state and local income, sales, and property taxes (otherwise known as state and local taxes or SALT for short) paid are limited to a total of $10,000 per taxpayer. In response to this limitation, a number of states have enacted legislation that may allow greater deductibility for these state and local, sales, and property taxes through the use of a pass-through entity. For a more in-depth discussion of the workarounds, see Todd D. Mayo, *SALT Cap Workarounds* (a publication of the UBS Advanced Planning Group).

Mortgage interest

You may deduct interest amounts paid on a home mortgage, though how much may be deducted depends on the date you obtained the mortgage, the amount of the mortgage, and how you used the mortgage proceeds. Mortgages taken out prior to December 16, 2017, to buy, build, or substantially improve your home (called acquisition debt) may be deducted up to the first $1 million of acquisition indebtedness.[1] Mortgages taken out on or after December 16, 2017, for acquisition debt may be deducted up to the first $750,000 of acquisition indebtedness. These figures are halved for married couples who file separately.

Home equity loans

Interest is not deductible on a home equity loan unless the proceeds are used to substantially improve a home and therefore meet the definition of acquisition debt.

Student loan interest

Up to $2,500 of interest paid on a student loan is deductible for certain taxpayers. The deduction is gradually reduced and eventually eliminated by phaseout when your modified adjusted gross income reaches the annual income limit for your filing status. If you are an unmarried individual, head of household, or surviving spouse, the phase-out begins when your MAGI reaches $70,000; the deduction is eliminated if your MAGI exceeds $85,000. For married individuals who file jointly, the deduction is phased out when MAGI reaches $145,000 and is eliminated when MAGI reaches or exceeds $175,000.

Medical expenses

Generally, you may only deduct unreimbursed medical expenses that exceed 7.5% of your adjusted gross income in 2022. It may

[1] A taxpayer who entered into a written binding contract before December 15, 2017, to close on the purchase of a principal residence before January 1, 2018, and who purchased such residence before April 1, 2018, is considered to have incurred the home acquisition debt prior to December 16, 2017.

therefore be more tax efficient to bunch medical expenses together in a single tax year where possible.

Qualified business income

The Tax Cuts and Jobs Act of 2017 provides some owners of sole proprietorships, partnerships, S corporations, and some trusts and estates a deduction on income from a qualified trade or business. Qualified trades and businesses include all trades and businesses other than those involving the performance of services of an employee and other specified trades and businesses, such as those involved in the performance of services in law, accounting, financial services, health, performing arts, and various other service businesses. The deduction allows those taxpayers to deduct up to 20% of their qualified business income (QBI), plus up to 20% of qualified real estate investment trust (REIT) dividends and qualified publicly traded partnership income.

The deduction is limited to the greater of (1) 50% of W-2 wages earned with respect to the trade or business and (2) the sum of 25% of the W-2 wages, plus 2.5% of the unadjusted basis immediately following acquisition of certain qualified property. These limitations do not apply to taxpayers whose total taxable income is below a certain threshold amount ($340,100 for married individuals filing jointly, $170,050 for married individuals filing separately, and $170,050 for all other filers) that is adjusted for inflation annually and is phased in for taxpayers whose income exceeds those amounts. In addition, the income from the specified services businesses noted above will not be excluded from QBI. If your income exceeds those thresholds, the limitations are gradually phased in and are fully phased in when they meet a top threshold amount ($440,100 for married couples filing jointly and 220,050 for all other filers).

Charitable contributions

Generally, contributions of money or property to qualified charitable organizations are tax deductible for the year in which you make the contribution. The deduction is generally limited to the amount of cash or the fair market value of the property at the time of the contribution, though the deduction may be limited based on the type of property you contribute (e.g. cash versus appreciated property) and the type of organization that receives the contribution (e.g., a public charity, a donor advised fund, or private foundation).

For itemizers, the deduction is typically limited to a percentage of your adjusted gross income for the tax year in which you made the contribution. (More precisely, these limits are based on the donor's contribution base, which is the donor's adjusted gross income calculated without regard to any net operating loss carrybacks.) Any deductible contributions in excess of that amount generally may be carried forward to offset income for the subsequent five years. In 2022, the percentage limitations that apply in selected situations.

Table 4. Selected percentage limitations on charitable contributions made in 2022.

Type of charitable donee	*Cash contribution*	*Long-term publicly traded securities*
Public charity	60%	30%
Private foundation	30%	20%

For 2020 and 2021 only, non-itemizers could deduct up to $300 ($600 for joint filers in 2021) for cash donations made to public charities, excluding supporting organizations or donor advised funds.

You should make sure that you obtain proper substantiation of your charitable gifts. You must obtain a receipt for any gift in excess of $250, even if you make the gift to your own private foundation. You must obtain the receipt before you file your income tax return on which you claim the income tax charitable deduction. The receipt must be in writing, state the amount donated, describe any non-cash property that you donated, and indicate the value of any goods or services provided by the charity as consideration for your gift. A canceled check does not meet these requirements. For a gift of property (other than publicly traded securities) having a value of more than $5,000, you generally must obtain a qualified appraisal. In recent years, several court cases have denied taxpayers a charitable deduction for failing to comply strictly with these substantiation requirements.

Planner's note

If you hold a low-basis concentrated position, would like to diversify your holding in a tax-efficient manner, and would like to benefit charity in the future, you might consider establishing a **charitable remainder trust** and contributing the appreciated securities to it.

A charitable remainder trust generally is tax-exempt, so the trustee can sell trust assets without paying any capital gains tax. You retain the right to receive a fixed amount from the trust each year—either an annuity or a unitrust payment—of at least 5% but not more than 50% of the trust assets. The present value of the remainder interest must equal at least 10% of the fair market value of contributed property at the time of contribution.

Although the trust is generally tax-exempt, the payments you receive will be taxable to you upon receipt, allowing you to defer the capital gains tax associated with the sale of the appreciated assets inside the trust. At the end of the trust term (typically either upon your death or after a fixed term of up to 20 years), the trust assets will pass to one or more charitable organizations that you or your trustee designate. You are also entitled to an income tax charitable deduction when you establish the trust for the present value of the charitable beneficiaries' remainder interest.

If you wish to support charity (possibly including your own donor advised fund or private foundation) over a number of years while potentially transferring the future appreciation in a pool of assets to children (or others) gift tax-free, you might consider creating a **charitable lead annuity trust**.

A charitable lead annuity trust is a trust that annually pays an annuity amount (that is, a fixed dollar amount) to one or more charities for a period of time (often, 10 or 20 years), after which the remaining property is distributed (either outright or in trust) to one or more non-charitable beneficiaries (typically, the donor's children).

In this low interest rate environment, a charitable lead annuity trust can be an attractive means for supporting charity, possibly receiving a substantial income tax charitable deduction in the year of the gift, and possibly transferring wealth to children (or others) free of gift and estate taxes.

For a more in-depth discussion of these types of trusts, see Benjamin C. Trayes, *Charitable Remainder Trusts* (a publication of the UBS Advanced Planning Group) and Jennifer Lan, *Charitable Lead Annuity Trusts* (a publication of the UBS Advanced Planning Group).

Alternative minimum tax

Once you've accounted for your income, subtracted any losses, and tallied your deductions, you may very well be ready to tabulate your income tax liability. Some taxpayers, however, may need to complete the additional step of calculating their alternative minimum tax (AMT). The AMT is a kind of parallel tax system that tries to ensure that the tax benefits of certain deductions and credits do not push any high income earner's tax liability below a certain threshold. Similar to the regular income tax regime, the AMT has a standard deduction-like exemption, so as not to apply to lower income taxpayers. You can deduct this amount from your other AMT income before calculating your AMT liability, if any. These amounts, however, are subject to phase-out thresholds, such that for every four dollars of AMT income, the exemption is reduced by one dollar when the AMT income exceeds the below thresholds.

There are only two tax rates for AMT income: 26% and 28%. The higher rate applies to AMT income in excess of $206,100 for all taxpayers other than those married individuals filing separately, in which case the AMT income is taxable after $103,050; AMT income under these amounts is subject to the 26% rate.

Table 5. Alternative minimum tax exemption in 2022.

Filing Status	*Exemption*	*Phase-Out on Excess Over*
Unmarried individual or head of household	$75,900	$539,900
Married individuals filing jointly or surviving spouse	$118,100	$1,079,800
Married individual filing separately	$59,050	$539,900
Trust or estate	$26,500	$88,300

Kiddie tax

Children under the age of 19 or children aged 19 to 24 who are full-time students with investment and other unearned income, including dividends and capital gains exceeding $2,200 may be subject to their parents' tax rates or their own, whichever is higher. Parents may elect to report their child's income on their own tax returns. If this election is made, the child will not need to file a separate return, unless the child has a capital gain or loss on the sale of securities. Parents can make this election only if certain conditions are met:

– The individual making the election is the parent whose return must be used when applying the special tax rules for children
– The child was under age 19 (or under age 24 if a full-time student) at the end of the year
– The child's only income was comprised entirely of interest and dividends (including capital gain distributions and Alaska Permanent Fund dividends)
– The child's gross income was more than $1,100 and less than $11,000
– But for this election, the child would be required to file a return
– The child does not file a joint return for the year
– No estimated tax payment was made for the year and no overpayment from the previous year (or from any amended return) was applied to this year under the child's name and Social Security number
– No federal income tax was withheld from the child's income under the backup withholding rules

Tax filing deadlines

The tax filing deadline for 2021 income taxes for most individuals is Monday, April 18, 2022, which is the same date that any extensions to file are due. (Because of state holidays, individuals who reside in Massachusetts and Maine have until April 19.) Individuals who are on extension will have until October 17, 2022, to file. You may be required, however, to make estimated tax payments throughout the year if you have income that is not subject to withholding, such as income derived from self-employment. These payments, which are due on April 15, June 15, September 15, and January 15 each year, must be made if you expect to owe at least $1,000 in tax for 2022 (after subtracting the credit for taxes withheld) and you expect withholding and credits to be less than the lesser of:

– 90% of the tax to be shown on your 2022 tax return, or
– either
– 100% of the tax shown on your 2021 tax return, or
– 110% of the tax shown on your 2021 tax return if (1) your 2021 AGI exceeded $150,000 or (2) your 2021 exceeded $75,000 and you are a married individual filing separately.

A penalty may be assessed if sufficient payment is not made through withholding estimated tax payments.

Retirement planning

Retirement planning entails navigating a complex and often confusing legal landscape. Just in the last few years, retirement planning has shape-shifted a number of times. First, the SECURE Act completely changed both the age at which minimum distributions are required from most plans and the way in which distributions to an owner's designated beneficiaries are calculated once the plan owner dies. Just a few months after getting acquainted with those new rules, some of the pandemic relief allowed those required distributions to be halted entirely for tax year 2020. Then last year, again, Congress took aim at retirement planning in a bill that passed the House Ways and Means Committee but failed to gain enough traction in the Senate. This section will provide an overview of where things currently stand.

Saving for retirement

Saving for retirement can be done in two different ways: a tax advantaged way and a non-tax advantaged way. There are lots of ways to save in a non-tax advantaged way, but typically it involves marshalling assets in non-tax advantaged accounts that you set aside and invest during your working years and drawing from it only once you've stopped working. This straightforward approach has many advantages, but tax savings is not one of them. In order to reap any tax advantages from saving for retirement, you have to contribute to special kinds of accounts, and even then you can only contribute up to certain specified limits as discussed below.

Contribution limits for traditional and Roth IRAs

For 2022, the total contributions you make to all of your traditional IRAs and Roth IRAs can't exceed the lesser of:
– $6,000 ($7,000 if you're age 50 or older), or
– your taxable compensation for the year.

These contribution limits are unchanged from 2021. Your contributions to traditional IRAs may be tax-deductible, but your deduction may be limited if you or your spouse is covered by a workplace retirement plan and your income exceeds certain levels. (See Table 6.) Your contributions to Roth IRAs may be limited if your income exceeds certain levels. (See Table 7.)

Contribution limits for 401(k), 403(b), 457, Roth 401(k), and Roth 403(b) plans

For 2022, the total elective salary deferrals that you make to 401(k), 403(b), 457, Roth 401(k), and Roth 403(b) plans can't exceed:
– $20,500 if you're under age 50, or
– $27,000 if you're age 50 or older.

In 2021, these contributions limits were $19,500 if you were under age 50 or $26,000 if you were age 50 or older. An elective salary deferral is a contribution that, as an employee, you make to certain retirement plans out of the salary that you otherwise would receive. When applying the contribution limits, you generally must aggregate all of your contributions to the plans in which you participate.

Traditional IRA versus Roth IRA

Traditional IRAs have two important tax-advantaged features. First, contributions to IRAs may be tax deductible up to certain amounts. Second, the assets in the IRA are not taxed until a distribution from the account is taken. These distributions are taxed at ordinary income rates. (See Table 1.) In contrast, contributions to a Roth IRA are not tax deductible but instead are made on an after-tax basis, and distributions from a Roth IRA potentially are tax-free. Both accounts provide for tax-free growth.

Table 6. Limits on the deductibility of contributions to traditional IRAs in 2022.

	Unmarried individual covered by a workplace retirement plan	*Married individual filing jointly if both spouses participate in a workplace retirement program*	*Married individual filing jointly if only one spouse participates in a workplace retirement program*
Full deduction allowed	Below $68,000	Below $109,000	Below $204,000
Phase-out range	$68,000 to $78,000	$109,000 to $129,000	$204,000 to $214,000
No deduction allowed	Above $78,000	Above $129,000	Above $214,000

Table 7. Limits on contributions to Roth IRAs in 2022.

	Unmarried individual	*Married individual filing jointly*	*Married individual filing separately*
Full contribution allowed	Below $129,000	Below $204,000	
Phase-out range	$129,000 to $144,000	$204,000 to $214,000	Up to $10,000
No contribution allowed	Above $144,000	Above $214,000	Above $10,000

Because of these meaningful differences, you should consider which type of account may be best for you. If you believe that your tax rate will be higher during your retirement years, then a Roth IRA may make more sense, so that you can receive your distributions tax-free. Another consideration is the timing of distributions. A traditional IRA requires distributions beginning at age 72, while Roth IRAs do not have any mandatory distribution requirements during the account owner's life. There may be penalties on early withdrawals (i.e., withdrawals before age 59½).

If neither you nor your spouse participates in a workplace retirement program, you may receive a full deduction for your contributions to a traditional IRA (generally up to $6,000 if you are under age 50 or $7,000 if you are age 50 or older), regardless of your income level. However, if you or your spouse is covered by a workplace retirement program, the deductibility of your contribution may be phased out depending on your modified adjusted gross income (MAGI). (See Table 6.)

Contributions directly to Roth IRAs are only allowed for individuals and married couples who have earned income and MAGI below certain thresholds. (See Table 7.)

Required minimum distributions

You must begin taking required minimum distributions (RMDs) from IRAs and profit sharing, 401(k), 403(b), and 457(b) plans once you attain a certain age. These RMD rules do not apply to Roth IRAs during your life if you are the original account holder. You generally must begin taking RMDs by April 1 of the year after the year you attain age 72. If, however, you attained 70½ years of age before January 1, 2020, you were required to begin taking RMDs beginning April 1 of the year after the year you attained age 70½ (and continuing regardless of when you attain 72 years of age). You may defer taking RMDs from an employer-sponsored qualified retirement plan if you are still employed, you are not a 5% owner of the employer maintaining the plan, and the plan permits RMDs to begin at the later of an employee attaining 72 years of age or retiring.

You generally must take each year's RMD by the last day of the year. You, however, can defer the first year RMD, taking it on or before April 1 of the year after you attain 72 years of age (or after you attain 70½ years of age if you are subject to the earlier starting age). If you delay taking your first RMD, you will have to take two distributions in the same calendar year—your first distribution by April 1 and your second by the end of the same year. There are severe penalties for IRA owners who fail to take some or all of their RMDs in any given year.

If you have more than one IRA (of which you are the original account owner), you can take the RMDs for multiple IRAs from one account. The same holds true for 403(b) plans, but not for other types of employer-sponsored retirement plans like 401(k) and 457(b) plans (i.e., you cannot aggregate RMDs from these plans). Also, if you inherited an IRA as a non-spousal beneficiary, you may have separate RMD requirements for the inherited IRA and cannot aggregate those distributions with those from your own IRA. For inherited IRAs, the decedent's RMD for the year of death must be distributed to you if the decedent did not take it before death. RMDs from the inherited IRA, if required, must be calculated separately from any RMDs that you may have from your own IRAs.

Inherited IRAs and Roth IRAs

Retirement accounts generally pass to the beneficiaries listed on the retirement plan's designated beneficiary form, which should be reviewed periodically to confirm your desired beneficiaries are listed. When such accounts are inherited, both traditional and Roth IRAs are subject to required distribution rules. These rules vary based on the relationship of the individual or entity inheriting the account and when the account was inherited. For non-spouses and certain other specified individuals who inherited IRAs after January 1, 2020, the SECURE Act, which became effective on that date, effectively eliminated the "stretch" IRA strategy, where a designated beneficiary inheriting an IRA could take RMDs based on the beneficiary's life expectancy. The SECURE Act instituted a new rule whereby most beneficiaries of an IRA or Roth IRA are required to take out the balance of the retirement account in full by the end of the 10th calendar year following the account owner's death. Certain eligible IRA beneficiaries may be able to wait until the last day of the 10-year period and withdraw the full amount.

Conversions and rollovers

Assets held in a traditional IRA can be converted to a Roth IRA. The taxable portion of the amount converted is subject to tax in the year the conversion takes place. Amounts converted to a Roth IRA are not subject to the 10% early distribution penalty if the amount distributed from the Roth IRA has been held by the Roth IRA for at least five years.

> **Planner's note**
>
> If your income is too high to make a Roth IRA contribution directly, you may be able to make a nondeductible contribution to a traditional IRA and then convert the funds in the traditional account to a Roth IRA. This strategy is often referred to as a "backdoor Roth conversion." There are several factors to be considered when determining whether to make a conversion, including that you may have to pay income tax on the converted amount.

You may forego the five-year waiting period and take distributions exempt from the 10% early distribution penalty (distributions of earnings are still taxable) from Roth IRA accounts at any time, at any age, and from any source for the following reasons:

– making a down payment on a first home (so long as the distributions for this purpose don't exceed $10,000),
– paying for higher education for yourself, your spouse, your children, or your grandchildren),
– paying for health insurance premiums if you become unemployed, or
– paying for medical expenses that exceed 7.5% of your AGI.

If you have pre-tax assets in any traditional IRA, SEP-IRA, SIMPLE IRA, or rollover IRA, a portion of these Roth IRA conversions will be taxable as ordinary income in the year converted but are not subject to the additional 3.8% net investment income tax.

When rolling a traditional IRA to a different traditional IRA, funds must be transferred to the new account within 60 days of receipt of the funds; otherwise, the distribution will be taxable. You may only make one nontaxable 60-day IRA rollover within any 12-month period. All of your IRAs, including SEP, SIMPLE, Roth, and traditional IRAs, are aggregated for these purposes. These rules do not apply to direct trustee-to-trustee transfers or Roth conversions.

Provision for IRA distributions donated to charity

A qualified charitable distribution (QCD) from a traditional IRA is any otherwise taxable distribution that is made directly from the IRA trustee to a qualified charity after the IRA owner has attained the age of 70½. A qualified charity is a public charity other than a donor advised fund or supporting organization. A private foundation isn't a public charity and thus isn't a qualified charity.

QCDs are limited to $100,000 each year, count towards satisfying a traditional IRA owner's required minimum distribution, and are excluded from gross income. These distributions are not tax-deductible as it is viewed as a nontaxable distribution as opposed to a charitable distribution. Deductible contributions made by IRA owners for tax years beginning with the year the IRA owner turns 70½ may reduce the amount of future QCDs. This can be a tax efficient strategy for those with larger taxable incomes who are also charitably inclined.

Social Security and Medicare taxes

The Social Security and Medicare taxes are federal taxes levied on both employers and employees to fund the Social Security program and the Medicare insurance program. These taxes are collected in the form of a payroll tax or self-employment tax. Different rates apply to these taxes and vary based on whether you are employed or self-employed.

Table 8. Social Security, Medicare, and self-employment taxes in 2022.

	Social security tax	*Medicare tax*	*Total tax*
Employee	6.2% on first $147,000	1.45% on all earnings	7.65%
Self-Employed	12.4% on first $147,000	2.9% on all earnings	15.3%

An additional 0.9% Medicare tax will be assessed on earned income over $200,000 for single taxpayers ($250,000 for married taxpayers filing jointly or $125,000 for married taxpayers filing separately). This 0.9% surtax, combined with the ordinary 2.9% Medicare tax, equals a total 3.8% Medicare tax on earned income over the threshold amount. Self-employed individuals are responsible for paying the full 3.8% tax. Non-self-employed taxpayers must add the 0.9% to their portion of the Medicare tax (1.45%); they are therefore responsible for paying a 2.35% tax on income over the threshold.

Social Security retirement earnings test

The earnings test applies to people below the full retirement age of 67. The Social Security Administration (SSA) withholds benefits if your earnings exceed a certain level and you have not yet reached age 67. The SSA withholds $1 in benefits for every $2 of earnings if the earnings are in excess of $19,560 in 2022; for earnings in excess of $51,960, the SSA withholds $1 in benefits for every $3 of earnings. There is no reduction in benefits when a worker reaches age 67.

Maximum monthly benefit

The maximum monthly benefit you can receive depends on the age at which you retire. The maximum benefit for an individual who reaches the full retirement age of 67 in 2022 is $3,345. If, however, you retire at age 62 in 2022, the maximum benefit drops to $2,364. Retire at age 70, and the benefit increases to $4,194 in 2022.

Social Security income thresholds

Social Security benefits may be taxable up to 85% of the benefit amount when provisional income exceeds specified threshold amounts, noted below. Provisional income is adjusted gross income, plus tax-exempt interest, plus one-half of Social Security benefits.

Table 9. Social Security income thresholds in 2022.

	50% taxable threshold	*85% taxable threshold*
Married individual filing jointly	$32,000-$44,000	Over $44,000
Unmarried individual	$25,000-$34,000	Over $34,000

Estate planning

While income tax and retirement planning focus on liquidity needs during your lifetime, estate planning has a longer-term, generational focus. Proper estate planning can provide financial security for your family while minimizing the impact of taxes during generational wealth transfers. In 2022 and perhaps for just a few more years, the opportunity to reduce transfer taxes by shifting wealth out of your estate during your lifetime is greater than it ever has been.

Gift tax annual exclusion amount

In 2022, you may transfer up to $16,000 (up from $15,000 in 2021) per person every year to as many beneficiaries as you wish without paying gift tax or decreasing your lifetime exemption (i.e., gift and estate tax exemption). These gifts may be made to the donees either outright or in trust (with proper terms) for the benefit of the donees.

In 2022, the first $164,000 of gifts to a spouse who is not a US citizen is excluded from the amount of taxable gifts made during the year.

Lifetime exemption

Taxes are imposed on transfers by gift during life, or at death, above a threshold amount, called the applicable exclusion amount. The exemption amount increases annually with inflation and for 2022 is $12.06 million (or $24.12 million for a married couple).[1] Making gifts of assets during life or leaving assets at death to non-charitable individuals or entities above that threshold will incur a 40% tax on the amount in excess of the threshold. This current exemption amount is historically high, as it was temporarily increased under the Tax Cuts and Jobs Act of 2017, though that temporary increase is set to expire on December 31, 2025, after which point it will be cut approximately in half, meaning there may be only a few years left to take advantage of the increased threshold amount.

Generation-skipping transfer tax exemption

The generation-skipping transfer (GST) tax is a separate and additional layer of tax on transfers to recipients who are two or more generations younger than the donor (known as "skip-persons"). It is important to note that the tax may be imposed on transfers that may or may not also be subject to gift or estate tax.

The GST tax exemption increases annually with inflation and is $12.06 million in 2022. The GST tax is a flat tax applied at the highest estate tax rate in effect at the time of the transfer (40% in 2022) and applies to both direct transfers and transfers in trust. Certain trusts that were irrevocable on September 25, 1985, however, are generally exempt from the GST tax, and distributions from those trusts are not subject to the tax.

Paying tuition

If you pay tuition directly to the school on behalf of another individual, that payment is a non-taxable gift. It doesn't affect your ability to make annual exclusion gifts to that individual, and it doesn't use up any of your lifetime exemption. This exclusion applies only to tuition and doesn't apply to room, board, books, and other educational expenses.

Paying healthcare expenses

If you pay healthcare expenses directly to the healthcare provider on behalf of another individual, that payment is a non-taxable gift. It doesn't affect your ability to make annual exclusion gifts to that individual, and it doesn't use up any of your lifetime exemption. For purposes of this exclusion, healthcare insurance generally is treated as a healthcare expense.

Income tax considerations for gifts and inheritances

Lifetime transfers typically result in the donee acquiring the gift with the same basis as it was in the hands of the donor at the time of the gift. Therefore, any unrealized appreciation may be taxed to the donee (or trust for the donee's benefit if it is a nongrantor trust) if the gifted asset is later sold or exchanged. However, if the gifted property has a fair market value less than the donor's basis, the donee's basis depends on whether a gain or loss results when the property is ultimately sold or exchanged. If the gifted property is sold at a gain, then the donee's basis will be the donor's basis at the time of the gift; if the gifted property is sold at a loss, the donee's basis will instead be the fair market value at the time of the gift.

By contrast, for assets included in a decedent's gross estate, the income tax basis of property acquired from a decedent at death (via their estate plan) is generally stepped up (or stepped down) to its value as of the date of the decedent's death (or the estate tax alternate valuation date, if elected). Therefore, a beneficiary of the decedent's estate could potentially sell the inherited assets with no income tax liability (assuming there has been no appreciation between the date of the decedent's death and the date the beneficiary sells the inherited asset).

Trust income tax issues

A trust will be classified for income tax purposes as either a grantor trust or a nongrantor trust. After the grantor has died,

[1] This assumes that each spouse is a US citizen. For a discussion of the gift and estate taxation of non-US persons, see Carrie Larson, *Planning for Non-US Citizens* (a publication of the UBS Advanced Planning Group). For a US person, the gift and estate tax exemption is indexed annually for inflation and currently includes a temporary increase. This increase expires after 2025, at which time the gift and estate tax exemption will be cut roughly in half.

trusts generally are classified as nongrantor trusts. A grantor trust is generally ignored for income tax purposes, so all items of income, loss, deduction, or credit flow directly to the grantor's personal income tax return and are taxed at the grantor's highest marginal rate of tax. (In some cases, a trust is a grantor trust with respect to a beneficiary, so the beneficiary reports the trust's income, deductions, and credits on the beneficiary's personal income tax return.) A nongrantor trust is not ignored for income tax purposes and is its own separate tax payer that must use its own trust assets to satisfy any income tax liability each year. Nongrantor trusts are subject to much more compressed income tax brackets, where the highest marginal rate of income tax (currently 37%) is reached on income over just $13,451 in 2022. Since nongrantor trusts may qualify for a deduction by passing some or all of its income out to the beneficiaries in the form of a distribution, it may make sense to pass out trust income to beneficiaries in lower income tax brackets than the trust is subject to in any given year.

About the author

Brad Dillon
Senior Wealth Strategist
Advanced Planning Group

Brad works with ultra-high net worth families, helping them achieve their tax, estate planning, and philanthropic objectives. Brad focuses on developing and implementing creative and comprehensive wealth transfer strategies that align with clients' wishes. He reviews clients' tax and estate planning documents to ensure that each plan accurately and holistically reflects the family's philosophy and needs while maximizing tax efficiency.

Prior to joining UBS in January 2020, Brad worked at Brown Brothers Harriman, where he advised families on their tax and estate planning objectives. Brad began his career in private legal practice, most recently at Milbank in New York City, where he practiced in the firm's trusts and estates department.

Outside of UBS, Brad is an adjunct professor at Fordham Law School, where he teaches courses on trusts and estates. In addition, Brad is on the writing staff of *Estate Planning*, an industry-leading journal, where he is a regular contributor for the current developments column. Brad earned a B.A. in mathematics and philosophy from Indiana University (summa cum laude), a J.D. from UCLA School of Law, where he was an editor of the UCLA Law Review, and an LL.M. (Master of Laws) in Taxation from NYU School of Law.

About the Advanced Planning Group

The Advanced Planning Group consists of former practicing estate planning and tax attorneys with extensive private practice experience and diverse areas of specialization, including estate planning strategies, income and transfer tax planning, family office structuring, business succession planning, charitable planning, and family governance.

The Advanced Planning Group provides comprehensive planning and sophisticated advice and education to ultra-high net worth (UHNW) clients of the firm. The Advanced Planning Group also serves as a think tank for the firm, providing thought leadership and creating a robust intellectual capital library on estate planning, tax, and related topics of interest to UHNW families.

Thank you

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Isaac Chota
529 & DAF Product Manager

Matthew Fleming
Structured Solutions Consultant, Family Office Solutions Group

Trisha Knake
Head of SBL Product Management

Andrew Lee
Head of Sustainable & Impact Investing, CIO

Serena Robles
Mortgage Product Messaging Manager

Shane Lieberman
Federal Affairs Manager, US Office of Public Policy

David Perlman
ETF Strategist, CIO

George Walsh
IRA Product Manager

Jonathan Woloshin
Equity Strategist, US Real Estate & Lodging, CIO

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With respect to plan assets eligible to be rolled over or distributed, you should review the IRA Rollover Guide UBS provides at ubs.com/irainformation which outlines the many factors you should consider (including the management of fees and costs of your retirement plan investments) before making a decision to roll out of a retirement plan. Your UBS Financial Advisor will provide a copy upon request.

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General economic risks of investing in opportunity zones.
Qualified opportunity zones include low income urban, suburban or rural communities that were nominated for that designation by each state and possession based on 2010 US Census data, and which were certified by the secretary of the United States Treasury via his delegation authority to the Internal Revenue Service ("IRS"). The purpose of the legislation is to encourage economic growth and investment in these distressed communities by providing federal income tax benefits to taxpayers who invest within these zones. Investors should understand that an investment in these distressed economic areas is subject to the risk that the anticipated economic growth may not materialize and could result in a loss of some or all of their investment.

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