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Rev. Proc. 2022-38: Inflation adjustments for 2023, individual taxpayers

The IRS today released an advance version of Rev. Proc. 2022-38 providing the annual inflation adjustments for more than 60 tax provisions to be used by individual taxpayers on their 2023 returns (that is, the returns that are generally filed in 2024).

Today’s revenue procedure also includes inflation adjustments of interest to exempt organizations (discussed at the end of this report).

Read **Rev. Proc. 2022-38** [PDF 211 KB]

New for 2023

The “Inflation Reduction Act” extended certain energy-related tax breaks and indexed for inflation the energy efficient commercial buildings deduction beginning with tax year 2023. For tax year 2023, the applicable dollar value used to determine the maximum allowance of the deduction is $0.54 increased (but not above $1.07) by $0.02 for each percentage point by which the total annual energy and power costs for the building are certified to be reduced by a percentage greater than 25%. The applicable dollar value used to determine the increased deduction amount for certain property is $2.68 increased (but not above $5.36) by $0.11 for each percentage point by which the total annual energy and power costs for the building are certified to be reduced by a percentage greater than 25%.

Tax rates for individual taxpayers, adjusted for inflation

With the inflation adjustment, Rev. Proc. 2022-38 provides that for tax year 2023:

- The top income tax rate remains 37% for individual single taxpayers with incomes greater than $578,125, $693,750 for married couples filing jointly.
- The other income tax rates for single taxpayers will be:
  - 35% for incomes over $231,250 ($462,500 for married couples filing jointly)
  - 32% for incomes over $182,100 ($364,200 for married couples filing jointly)
  - 24% for incomes over $95,375 ($190,750 for married couples filing jointly

  - 22% for incomes over $44,725 ($89,450 for married couples filing jointly
  - 12% for incomes over $11,000 ($22,000 for married couples filing jointly)
- The lowest rate is 10% for incomes of single individuals with incomes of $11,000 or less ($22,000 for married couples filing jointly).

Standard deduction

The standard deduction amounts for 2023 will be increased, as follows:

- For married couples filing jointly—$27,700 [an increase of $1,800 from the prior year]
- For single taxpayers and married individuals filing separately—$13,850 [an increase of $900]
- For heads of households—$20,800 [an increase of $1,400]

The personal exemption for tax year 2023 remains at $0 (the personal exemption was suspended for tax years 2018 through 2025 by the U.S. tax law enacted in 2017 (Pub. L. No. 115-97, or the law that is often referred to as the "Tax Cuts and Jobs Act" (TCJA)).

For 2023, as in 2022, 2021, 2020, 2019 and 2018, there is no limitation on itemized deductions (referred to as the "Pease" limitation under prior law), because that limitation was also suspended by the TCJA for years 2018-2025.

International amounts

- An individual is a covered expatriate if the individual's "average annual net income tax" for the five tax years ending before the expatriation date is more than $190,000.

- The amount that would be includible in the gross income of a covered expatriate is reduced (but not below zero) by $821,000.

- The foreign earned income exclusion for 2023 is $120,000 [up from $112,000 for tax year 2022].

- The first $175,000 of gifts to a spouse who is not a citizen of the United States (other than gifts of future interests in property) are not included in the total amount of taxable gifts made during that year.

Other items

- The alternative minimum tax (AMT) exemption amount is increased* for tax year 2023 to $81,300 and begins to phase out at $578,150—for married couples filing jointly, the AMT exemption amount will be $126,500 and the exemption begins to phase out at $1,156,300).

  *For 2022, the AMT exemption amount was $75,900 and began to phase out at $539,900 ($118,100 for married couples filing jointly and began to phase out at $1,079,800).

- The maximum earned income tax credit amount for 2023 is $7,430 [up from $6,935 for 2022] for qualifying taxpayers who have three or more qualifying children.

- The qualified transportation fringe benefit for tax year 2023 will have a monthly limitation of $300 for certain commuter transportation, transit passes, and qualified parking [up from $280 for 2022].

- The modified adjusted gross income amount used by joint filers to determine the reduction in the Lifetime Learning Credit is not adjusted for inflation for tax years beginning after December 31, 2020. The Lifetime Learning Credit is phased out for taxpayers with modified adjusted gross income in excess of $80,000 ($160,000 for joint returns).

- The maximum credit allowed for adoptions is the amount of qualified adoption expenses up to $15,950 [up from $14,890 for 2022].

Estate, gift, and generation-skipping transfer tax exemption

- The lifetime exemption amount for transfers during 2023 is $12,920,000 [up from $12,060,000 for transfers in 2022].

Gift tax annual exclusion

- The annual exclusion for gifts is $17,000 for calendar year 2023 [up from $16,000 for 2022].

Medical and health-related amounts

- The dollar limitation for employee salary reductions for contributions to health flexible spending arrangements (FSA) is $3,050 [up $200 from 2022]. For cafeteria plans that permit the carryover of unused amounts, the maximum carryover amount is $610 [up $40 from 2022].

- Concerning medical savings accounts (MSAs), for tax year 2023, participants who have self-only coverage in an MSA, the plan must have an annual deductible that is not less than $2,650 [up $200 from tax year 2022], but not more than $3,950 [up $250 from 2022].

    - For self-only coverage, the maximum out-of-pocket expense amount is $5,300 [up $350 from 2022].
    - Participants with family coverage for 2023, the annual deductible is not less than $5,300 [up from $4,950 for 2022]; however, the deductible cannot be more than $7,900 [up $500 from the limit for 2022].
    - For family coverage, the out-of-pocket expense limit is $9,650 [up $600 from 2022].

Read a related IRS release—**IR 2022-182** (October 18, 2022)

Inflation adjustments for 2023—items of interest to exempt organizations

- Dues required to be paid to be a member of an agricultural or horticultural organization described in section 501(c)(5) will be treated as not derived from an unrelated trade or business if they do not exceed $191.

- For purposes of defining the term “unrelated trade or business,” the unrelated business income of certain exempt organizations will not include a “low cost article” of $12.50 or less.

- The $5, $25, and $50 guidelines for disregarding insubstantial benefits received by a donor in return for a fully deductible charitable contribution under section 170, as set forth in Rev. Proc. 90-12 (as amplified by Rev. Proc. 92-49, and modified by Rev. Proc. 92-102) will be $12.50, $62.50, and $125, respectively.

- For tax years beginning in 2023, the annual per person, family, or entity limitation to qualify for the reporting exception for nondeductible lobbying expenses under section 6033(e)(3) will be $132 or less.

- Rev. Proc. 2022-38 provides the daily and maximum penalty amounts for returns required to be filed in 2024, including for failure to file a return required under section 6033(a)(1) (relating to returns by exempt organizations) or section 6012(a)(6) (relating to returns by political organizations)

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